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August 20, 2026

ENTERED
Office of Chief Counsel
August 20, 2026
Part of
Public Record

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Re: Henry Posner, III – Continuance in Control Exemption – Morristown & Erie Railway, Inc. STB Finance Docket No. 36948

Supplement and Clarification

Dear Chief of Case Administration:

In response to a request from the Board for clarification and supplementary information in the above-referenced docket, Mr. Henry Posner, III, is providing the enclosed information.

Maps: 49 C.F.R. §1180.6(a)(6)

Included within the Notice of Exemption, Mr. Posner submitted a map of the Iowa Interstate Railroad, LLC ("Iowa Interstate"). As a point of clarification, the Iowa Interstate does not extend into Nebraska.

Mr. Posner also submitted maps of the Morristown & Erie, Inc. ("M&E"). Enclosed as a supplement to Exhibit A is a map of the M&E which may better place the M&E in geographical context to its surroundings compared to the maps previously submitted.

Explanation of the Transaction: 49 CFR § 1180.6(a)(7)(ii)

The Board's regulations at 49 CFR § 1180.6(a)(7)(ii)require the submission of a "copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction." The proposed transaction in this notice of exemption is the control of two railroads by Mr. Posner.

In the notice of exemption, Mr. Posner did not provide any agreements as stipulated by the Board's regulations at section 1180.6(a)(7)(ii) because no agreements exist contemplating Mr. Posner's control of both the M&E and the Iowa Interstate.

However, in the interest of compliance with the Board's request for supplemental information, enclosed as a supplement to the Notice of Exemption is a draft of the stock purchase agreement for Mr. Posner's acquisition of shares of the M&E. This agreement is filed under seal and Mr. Posner is also filing a motion for protective order.

Also enclosed is a draft copy of the stockholders' agreement for the management of the M&E. This agreement stipulates that the M&E will be managed by 4 directors. *See* Article II, Section 2.01(a)(g).[1]

If you have any questions related to this filing, please let me know.

Sincerely,

Justin J. Marks

Justin J. Marks
Counsel to Henry Posner, III

Enclosure

[1] On page 2 of the motion to dismiss submitted contemporaneously with the notice of exemption, the motion incorrectly states that the M&E will be managed by 8 directors with each ownership consortium selecting four. As stated, the correct number of directors is 4 and each ownership consortium will select 2.

Supplemental Exhibit A

M&E Map

Morristown & Erie System Map

M&E Lines, Routes, & Sidings

All items

M&E Offices

All items

Interchanges

All items

Transload Facilities

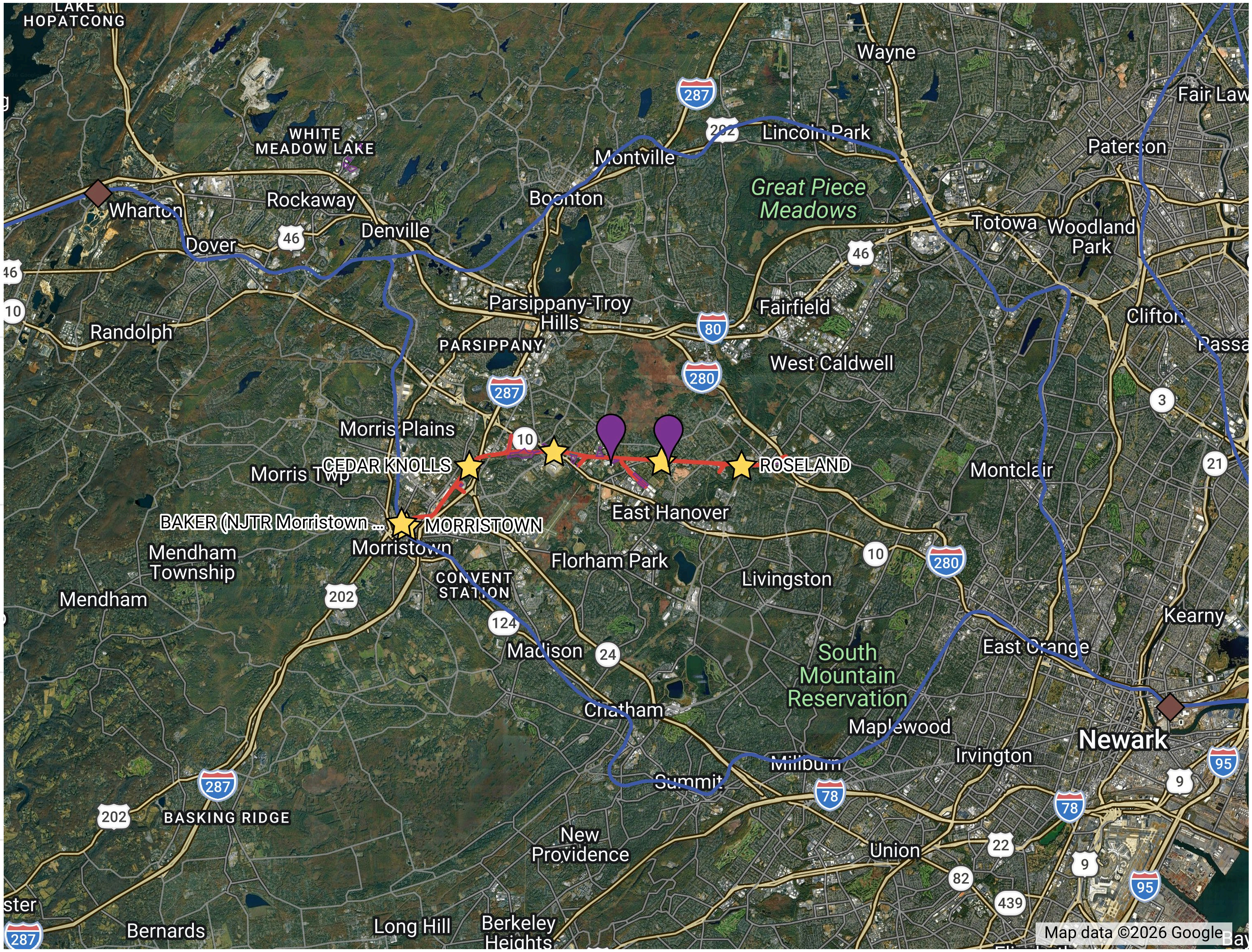
All items

M&E Trackage Rights

All items

Industrial Development Sites

All items



Locations and routes of the Morristown & Erie Railway.

Supplemental Exhibit B

Stock Purchase Agreement

Redacted

Supplemental Exhibit C

Stockholders’ Agreement

SECOND AMENDED AND RESTATED
STOCKHOLDERS' AGREEMENT

THIS SECOND AMENDED AND RESTATED STOCKHOLDERS' AGREEMENT (this "**Agreement**") is entered into as of [______ __], 2026 (the "**Effective Date**"), by and among (i) MORRISTOWN & ERIE RAILWAY, INC., a New Jersey corporation (the "**Company**"); and (ii) HENRY POSNER III, an individual residing in the Commonwealth of Pennsylvania ("**Henry**"), IDA MOLLOY POSNER, an individual residing in the State of Illinois ("**Ida**"), ALAIN L. KORNHAUSER, an individual residing in the State of New Jersey ("**Alain**"), CRAIG E. PHILIP, an individual residing in the State of Tennessee ("**Craig**"), MARGARET E. RICHARDS, an individual residing in the Commonwealth of Pennsylvania ("**Margaret**"), WEIS EXEMPTION TRUST, a trust created under the laws of the State of New Jersey (the "**Weis Trust**"), and CHOO CHOO, LLC, a Delaware limited liability company ("**Choo Choo**") (each of the foregoing a "**Stockholder**" and collectively, the "**Stockholders**").

Witnesseth:

WHEREAS, the Corporation, Wesley R. Weis ("**Wesley**"), David Mandelbaum ("**Mandelbaum**") and Gordon Fuller ("**Fuller**") are or were parties to that certain Amended and Restated Stockholders' Agreement dated on or around December 14, 2006 (the "**Prior Agreement**");

WHEREAS, prior to the Effective Date, (i) Fuller died and all of his Shares (as defined below) were transferred by operation of law to the Estate of Gordon Fuller (the "**Fuller Estate**"), (ii) Mandelbaum transferred all of Shares to Choo Choo, and (iii) Wesley died and all of his Shares were transferred to the Weis Trust;

WHEREAS, on the Effective Date, the Fuller Estate sold all of its Shares, and the Weis Trust and Choo Choo sold a portion of their Shares, to Henry, Ida, Alain, Craig and Margaret, pursuant to that certain Stock Purchase Agreement dated as of the Effective Date (the "**Stock Purchase Agreement**"); and

WHEREAS, the Stockholders desire to amend and restate the Prior Agreement in its entirety to reflect the transactions contemplated by the Stock Purchase Agreement and to update certain governance, transfer and other provisions, all on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and intending to be legally bound, the parties hereto hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Defined Terms. Capitalized terms used herein, and not otherwise defined, shall have the following meanings:

"**67% Supermajority Approval**" means (a) the affirmative vote of Stockholders holding at least 67% of the issued and outstanding Shares or (b) the written consent of the Stockholders holding at least 67% of the issued and outstanding Shares.

"**95% Supermajority Approval**" means (a) the affirmative vote of Stockholders holding at least 95% of the issued and outstanding Shares or (b) the written consent of the Stockholders holding at least 95% of the issued and outstanding Shares.

"**Affiliate**" means, with respect to any Person, any other Person who, directly or indirectly (including through one or more intermediaries), controls, is controlled by, or is under common control with, such Person. For purposes of this definition, "**control**," when used with respect to any specified Person, shall mean the power, direct or indirect, to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities or partnership or other ownership interests, by contract or otherwise; and the terms "**controlling**" and "**controlled**" shall have correlative meanings.

"**Agreement**" has the meaning set forth in the preamble.

"**Alain**" has the meaning set forth in the preamble.

"**Applicable Law**" means all applicable provisions of (a) constitutions, treaties, statutes, laws (including the common law), rules, regulations, decrees, ordinances, codes, proclamations, declarations, or orders of any Governmental Authority; (b) any consents or approvals of any Governmental Authority; and (c) any orders, decisions, advisory or interpretative opinions, injunctions, judgments, awards, decrees of, or agreements with, any Governmental Authority.

"**Board**" has the meaning set forth in Section 2.01(a).

"**Business**" means the business of the Company as conducted as of the Effective Date, consisting primarily of short-line freight and passenger railroad operations, switching services, car storage, industrial track service, transloading, and related maintenance-of-way and locomotive services, together with reasonable extensions thereof; provided any material change is subject to Section 2.03(a).

"**Business Day**" means a day other than a Saturday, Sunday, or other day on which commercial banks in the State of New Jersey are authorized or required to close.

"**By-Laws**" means the by-laws of the Company, as amended, modified, supplemented, or restated from time to time in accordance with the terms of this Agreement.

"**Call Right**" has the meaning set forth in Section 3.03(a).

"**Certificate of Incorporation**" means the certificate of incorporation of the Company, as filed on September 8, 1981 with the Secretary of State of the State of New Jersey, and as amended, modified, supplemented, or restated from time to time.

"**Choo Choo**" has the meaning set forth in the preamble.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Company**" has the meaning set forth in the preamble.

"**Competitive Business**" means any short-line railroad business which is competitive with the Business, conducted in a radius of 100 miles of the railroad tracks of the Company existing as of the Effective Date, and within the State of New Jersey, New York, or Pennsylvania.

"**Confidential Information**" has the meaning set forth in Section 5.04(a).

"**Corporate Opportunity**" has the meaning set forth in Section 5.03.

"**Craig**" has the meaning set forth in the preamble.

"**Director**" has the meaning set forth in Section 2.01(a).

"**Effective Date**" has the meaning set forth in the preamble.

"**Fair Market Value**" means the per-Share value of the Shares determined in good faith by the Board, taking into account the Company's financial performance, prospects, market conditions, and any relevant recent arm's length transactions. If any Stockholder whose Shares are to be purchased disputes the Board's determination within ten (10) Business Days of notice of such determination, then Fair Market Value shall be determined by an independent valuation firm of national standing experienced in valuing railroads or transportation businesses jointly selected by the Board and such Stockholder within ten (10) Business Days thereafter; failing agreement, each shall select a firm within five (5) Business Days, and those two firms shall jointly select a third firm within five (5) Business Days, whose determination shall be final and binding and shall constitute Fair Market Value. Fees of the independent firm shall be borne 50% by the Company and 50% by such Stockholder unless the final valuation differs by more than 10% from the Board's initial determination, in which case the non-prevailing party shall bear 100% of such fees. Fair Market Value shall be adjusted for stock splits, stock dividends, recapitalizations, and similar events between the valuation date and closing.

"**Family Member**" means, with respect to any Stockholder that is a natural person, such Stockholder's Spouse, parent, sibling, descendant (including adoptive relationships and stepchildren), and the Spouses of each such natural persons.

"**Financing Equity**" any Shares issued to lenders or other institutional investors that are eligible shareholders of an S corporation under Section 1361(b)(1) of the Code, excluding the Stockholders and their Affiliates, in any arm's length transaction providing debt financing to the Company. For the avoidance of doubt, Financing Equity shall not include warrants, options, convertible instruments, or any other rights to acquire Shares, the issuance of which is prohibited by Section 2.06.

"**Fiscal Year**" means, for financial accounting purposes, January 1 to December 31.

"**Fuller**" has the meaning set forth in the Recitals.

"**Fuller Estate**" has the meaning set forth in the Recitals.

"**GAAP**" means United States generally accepted accounting principles in effect from time to time.

"**Government Approval**" means any authorization, consent, approval, waiver, exception, variance, order, exemption, publication, filing, declaration, concession, grant, franchise, agreement, permission, permit, or license of, from, or with any Governmental Authority, the giving of notice to, or registration with, any Governmental Authority, or any other action in respect of any Governmental Authority.

"**Governmental Authority**" means any federal, state, local, or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations, or orders of such organization or authority have the force of law), or any arbitrator, court, or tribunal of competent jurisdiction.

"**Group**" means either the M&E Group or the RDC Group, as applicable.

"**Group Stockholder**" has the meaning set forth in Section 3.02(a).

"**Henry**" has the meaning set forth in the preamble.

"**Ida**" has the meaning set forth in the preamble.

"**Initial Public Offering**" means any offering of Shares pursuant to a registration statement filed in accordance with the Securities Act.

"**Joinder Agreement**" means the joinder agreement in form and substance of Exhibit A attached hereto.

"**Lien**" means any lien, claim, charge, mortgage, pledge, security interest, option, preferential arrangement, right of first offer, encumbrance, or other restriction or limitation of any nature whatsoever.

"**M&E Group**" means, collectively, the Weis Trust and Choo Choo, together with their respective Permitted Transferees.

"**Mandelbaum**" has the meaning set forth in the Recitals.

"**Margaret**" has the meaning set forth in the preamble.

"**Marital Relationship**" means a civil union, domestic partnership, marriage, or any other similar relationship that is legally recognized in any jurisdiction.

"**NJBCA**" means the New Jersey Business Corporation Act, as amended from time to time and including any successor legislation thereto and any regulations promulgated thereunder.

"**Non-Group Stockholder**" has the meaning set forth in Section 3.02(e).

"**Offered Shares**" has the meaning set forth in Section 3.02(a).

"**Offering Stockholder**" has the meaning set forth in Section 3.02(a).

"**Offering Stockholder Notice**" has the meaning set forth in Section 3.02(b).

"**Organizational Documents**" means the Certificate of Incorporation and the By-Laws.

"**Permitted Transferee**" means, (a) with respect to any Stockholder who is an individual, (i) such Stockholder's Family Member who is an individual eligible to be a shareholder of an S corporation; (ii) such Stockholder's executors, administrators, testamentary trustees, legatees, distributees, or beneficiaries by will or by the laws of intestate succession, in each case only if such transferee is eligible to be a shareholder of an S corporation; and (iii) any trust or entity that is eligible to be a shareholder of an S corporation under Applicable Laws, including a grantor trust treated as wholly owned by the transferring Stockholder, a qualified subchapter S trust (QSST), an electing small business trust (ESBT), or a wholly owned disregarded entity, in each case to the extent permitted by Section 2.06(b) and Applicable Laws and (b) with respect to any Stockholder who is not an individual, (i) any member, stockholder, partner, equity holder, trustee, or beneficiary of such Stockholder, or (ii) any Person described in subclause (a) with respect to any Person described in subclause (b)(i), in each case so long as such transferee is eligible to be a shareholder of an S corporation.

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association, or other entity.

"**Prior Agreement**" has the meaning set forth in the Recitals.

"**Purchasing Group Stockholder**" has the meaning set forth in Section 3.02(d).

"**Purchasing Non-Group Stockholder**" has the meaning set forth in Section 3.02(e).

"**Purchasing Stockholders**" has the meaning set forth in Section 3.02(e).

"**RDC Group**" means, collectively, Henry, Ida, Alain, Craig and Margaret, together with their respective Permitted Transferees.

"**Related Party Agreement**" means any agreement, arrangement, or understanding between the Company and any Stockholder or any Affiliate of a Stockholder or any Director, officer, or employee of the Company, as such agreement may be amended, modified, supplemented, or restated in accordance with the terms of this Agreement.

"**Remaining Offered Shares**" has the meaning set forth in Section 3.02(e).

"**Representative**" means, with respect to any Person, any and all directors, managers, members, partners, officers, employees, consultants, financial advisors, counsel, accountants, and other agents of such Person.

"**ROFR Notice**" has the meaning set forth in Section 3.02(d).

"**ROFR Notice Period**" has the meaning set forth in Section 3.02(d).

"**Secondary ROFR Notice Period**" has the meaning set forth in Section 3.02(e).

"**Securities Act**" means the Securities Act of 1933, as amended, or any successor federal statute, and the rules and regulations thereunder, which shall be in effect at the time.

"**Shares**" means shares of common stock, no par value, of the Company and any securities issued in respect thereof, or in substitution therefor, in connection with any share split, dividend, or combination, or any reclassification, recapitalization, merger, consolidation, exchange, or similar reorganization.

"**Spousal Consent**" has the meaning set forth in Section 9.19.

"**Spouse**" means a spouse, a party to a civil union, a domestic partner, a same-sex spouse or partner, or any individual in a Marital Relationship with a Stockholder.

"**Stock Purchase Agreement**" has the meaning set forth in the Recitals.

"**Stockholders**" has the meaning set forth in the preamble.

"**Subsidiary**" means, with respect to any Person, any other Person of which a majority of the outstanding shares or other equity interests having the power to vote for directors or comparable managers are owned, directly or indirectly, by the first Person.

"**Third-Party Purchaser**" means any Person who, immediately prior to the contemplated transaction: (a) does not, directly or indirectly, own or have the right to acquire any outstanding Shares; or (b) is not a Permitted Transferee of any Person who, directly or indirectly, owns or has the right to acquire any Shares.

"**Transfer**" means to, directly or indirectly, sell, transfer, assign, gift, pledge, encumber, hypothecate, or similarly dispose of, either voluntarily or involuntarily, by operation of law or otherwise, or to enter into any contract, option, or other arrangement or understanding with respect to the sale, transfer, assignment, gift, pledge, encumbrance, hypothecation, or similar disposition of, any Shares owned by a Person or any interest (including a beneficial interest) in any Shares owned by a Person. "Transfer" when used as a noun shall have a correlative meaning.

"**Waived ROFR Transfer Period**" has the meaning set forth in Section 3.02(f).

"**Weis Trust**" has the meaning set forth in the preamble.

"**Wesley**" has the meaning set forth in the Recitals.

ARTICLE II
MANAGEMENT AND OPERATION OF THE COMPANY

Section 2.01 Board of Directors.

(a) Subject to Sections 2.02 and 2.03, the business and affairs of the Company shall be managed through a board of directors (the "**Board**") consisting of four (4) members (each, a "**Director**"). The M&E Group shall have the right to designate two (2) Directors, and the RDC Group shall have the right to designate two (2) Directors. Each Director shall hold office until the earlier of (i) the next annual meeting of Stockholders at which the applicable Group designates such Director's successor; or (ii) such Director's earlier removal or resignation. As of the Effective Date, the M&E Group has designated Brian Weis and Mandelbaum as its directors, and the RDC Group has designated Henry and John F. Hensler as its directors.

(b) If either Group ceases, together with its Permitted Transferees, to own at least 25% of the issued and outstanding Shares, then (i) such Group shall cease to have the right to designate any Directors; (ii) each Stockholder shall vote all Shares over which such Stockholder has voting control and take all other actions within such Stockholder's control to remove any Director(s) designated by such Group; and (iii) the Company, the Stockholders, and the remaining Directors shall take all actions within their control to decrease the size of the Board to eliminate resulting vacancies.

(c) Each Stockholder shall vote all Shares over which such Stockholder has voting control and take all other actions within such Stockholder's control to elect to the Board each individual designated by the M&E Group and the RDC Group pursuant to Section 2.01(a).

(d) Each Group shall have the right at any time to remove (with or without cause) any Director designated by such Group, and each other Stockholder shall vote all Shares over which such Stockholder has voting control and take all other actions within such Stockholder's control to remove such Director upon the designating Group's request.

(e) In the event of any vacancy on the Board, the Group that designated the vacating Director shall have the right to designate a replacement Director, and the Stockholders shall take all actions within their control to elect such replacement. If any Group fails to designate a replacement Director, such seat shall remain vacant until the applicable Group designates a replacement.

(f) The Board shall have the right to establish any committee of Directors as the Board shall deem appropriate from time to time. Any committee of Directors shall be composed of an equal number of Directors designated by each of the M&E Group and the RDC Group. Any delegation of authority to a committee of Directors to take any action must be approved in the same manner as would be required for the Board to approve such action directly.

(g) The chair of the Board shall rotate annually between a Director designated by the M&E Group and a Director designated by the RDC Group, commencing with a chair designated by the M&E Group for the first year following the Effective Date. The chair shall have no additional voting rights and shall not possess any tie-breaking authority.

Section 2.02 67% Supermajority Voting Arrangements. In addition to any vote or consent of the Board or the Stockholders of the Company required by the Organizational Documents or Applicable Laws, including the NJBCA, the Company shall not, and shall not enter into any commitment to, take any of the following actions without 67% Supermajority Approval:

(a) incur any indebtedness for borrowed money, pledge or grant Liens on any assets, or guarantee, assume, endorse, or otherwise become responsible for the obligations of any other Person; provided, that no 67% Supermajority Approval shall be required for (i) borrowings, renewals, or refinancings under facilities approved in the annual budget approved by the Board; (ii) indebtedness, capital leases, or equipment financings not exceeding, in the aggregate, $250,000 outstanding at any time and consistent with past practice; or (iii) Liens securing the foregoing; provided further, that no indebtedness shall be incurred on terms that include any right to convert into Shares or any other equity interest in the Company, any payment contingent on the Company's profits or revenues, or any other feature that could reasonably be expected to cause such indebtedness to be treated as a second class of stock under Section 1361(b)(1)(D) of the Code and the regulations thereunder;

(b) make any loan or advance to, or a capital contribution or investment in, any Person, other than (i) advances for expenses to employees in the ordinary course not exceeding $50,000 outstanding in the aggregate at any time, or (ii) deposits or prepayments to vendors in the ordinary course consistent with past practice;

(c) appoint or remove the Company's auditors or make any changes in the accounting methods or policies of the Company (other than as required by GAAP);

(d) purchase or redeem or pay or declare any dividend or make any distribution on, any shares of capital stock of the Corporation other than redemptions of or dividends or distributions on the Shares as expressly authorized herein (including Tax Distributions);

(e) enter into, amend in any material respect, waive, or terminate any Related Party Agreement other than the entry into a Related Party Agreement that is on an arm's length basis and on terms no less favorable to the Company than those that could be obtained from an unaffiliated third party (provided that, for purposes of this subclause (e), the vote or consent of any Stockholder who is, or is affiliated with, such Related Party shall not be counted with respect to such 67% Supermajority Approval);

(f) enter into or effect any transaction or series of related transactions involving the sale, lease, license, exchange, or other disposition of assets by the Company, individually having a value in excess of $250,000 or, when aggregated with all such dispositions in the same Fiscal Year, in excess of $500,000, other than sales of inventory in the ordinary course of business consistent with past practice;

(g) establish or own a Subsidiary or enter into any joint venture, strategic alliance, or similar business arrangement;

(h) enter into or amend any material term of (i) any stock option, employee stock purchase, or similar equity-based plans; (ii) any benefit, severance, or other similar plan, other than in the ordinary course of business consistent with past practice; or (iii) any management equity plan;

(i) settle any lawsuit, action, dispute, or other proceeding involving more than $100,000, or otherwise assume any liability or agree to the provision of any equitable relief by the Company; or

(j) permit any Subsidiary to do any of the foregoing.

Section 2.03 95% Supermajority Voting Arrangements. In addition to any vote or consent of the Board or the Stockholders of the Company required by the Organizational Documents or Applicable Laws, including the NJBCA, the Company shall not, and shall not enter into any commitment to, take any of the following actions without 95% Supermajority Approval:

(a) (i) make any material change to the nature of the Business conducted by the Company; or (ii) enter into any business other than the Business;

(b) amend, modify, restate, waive or repeal any provisions of the Certificate of Incorporation or By-Laws;

(c) authorize, create, or issue any capital stock, or increase or decrease the number of authorized shares of common stock; provided further, that without unanimous Stockholder approval, the Company shall not authorize, create, or issue any class of stock other than the common stock currently authorized, and any purported issuance of a second class of stock without such approval shall be void ab initio as inconsistent with the Company’s S corporation election under Section 2.06;

(d) enter into or effect any transaction or series of related transactions involving the purchase, lease, license, exchange, or other acquisition (including by merger, consolidation, acquisition of shares of stock or acquisition of assets) by or to the Company of any assets and/or equity interests of any Person, other than in the ordinary course of business consistent with past practice;

(e) enter into or effect any transaction or series of related transactions involving the sale, lease, license, exchange, or other disposition (including by merger, consolidation, sale of shares of stock, or sale of assets) by the Company and/or the Stockholders of all or substantially all of the assets or all of the Shares of the Company;

(f) initiate or consummate an Initial Public Offering or make a public offering and sale of Shares or any other securities, it being understood that any public offering shall be conditioned on prior termination of the Company's S corporation election in accordance with Section 2.06 and Applicable Law, and no offering shall be made of any securities that would, if issued, violate the requirements of Section 2.06;

(g) wind up, dissolve, liquidate, or terminate the Company or initiate a bankruptcy proceeding involving the Company; or

(h) permit any Subsidiary to do any of the foregoing.

Section 2.04 Subsidiaries. With respect to any Subsidiary of the Company that exists as of the Effective Date or is established in accordance with the terms of this Agreement, the Stockholders shall have the same management, voting, and board of director representation rights with respect to such Subsidiary as the Stockholders have with respect to the Company. The Stockholders and the Company shall, and the Stockholders shall cause their Director designees to, take all such actions as may be necessary or desirable to give effect to this provision.

Section 2.05 CRISI Grant Funding.

(a) **Allocation.** With respect to the Company's required cash contributions, matching funds, or other funding obligations of [$1,000,000] in connection with the Consolidated Rail Infrastructure and Safety Improvements ("**CRISI**") grant which was granted to the Company on or around [______ __], 2026 in the amount of [$1,000,000] (the "**2026 CRISI Grant**"), each Stockholder shall advance funds to the Company in proportion to its respective Share ownership. With respect to any CRISI grant made to the Company (other than the 2026 CRISI Grant) which is approved by the Board, any required matching funds will be provided by the Stockholders in proportion to their respective Share ownership.

(b) **Reimbursement/Equalization.** The Board may, with the approval of at least one Director designated by each Group, or with 67% Supermajority Approval, including at least one consenting Stockholder from each Group, authorize reimbursements or reallocations among Groups, with respect to a CRISI Grant, to equalize contributions in light of subsequent developments; provided, that no such action shall adversely affect the Company's S corporation status.

Section 2.06 S Corporation Election and Maintenance.

(a) **Election and Maintenance.** The Company and the Stockholders shall take all actions reasonably necessary to elect, maintain, and preserve treatment of the Company as an 'S' corporation for U.S. federal and applicable state income tax purposes, including executing and timely filing all required consents and forms.

(b) **Eligible Shareholders Only.** Shares may be held only by U.S. citizens or resident individuals, or by entities eligible to be shareholders of an S corporation under Applicable Laws (including certain grantor trusts, QSSTs, ESBTs, and wholly-owned disregarded entities), in each case to the extent permitted under Applicable Laws. In making any determination under this Agreement with respect to any transferee's eligibility to be a shareholder of an S corporation, the Board shall act reasonably and in good faith.

(c) **Protective Transfers.** The Board may refuse to register, and the Company shall not give effect to, any Transfer that would reasonably be expected to terminate or otherwise adversely affect the Company's S corporation status.

Section 2.07 Stockholder Information. Schedule A hereto sets forth with respect to each Stockholder, as of the Effective Date, (a) the name and address of such Stockholder, (b) the Group to which such Stockholder is a member, (c) the Shares held by such Stockholder and (d) such Stockholder's ownership percentage of the Company. The Company shall update Schedule A hereto from time to time to reflect any changes thereto in accordance with this Agreement.

ARTICLE III
TRANSFER OF INTERESTS

Section 3.01 General Restrictions on Transfer.

(a) Except as permitted pursuant to Section 3.01(b) or in accordance with the procedures described in Section 3.02, Section 3.03 and Section 3.04, each Stockholder agrees that such Stockholder will not, directly or indirectly, voluntarily or involuntarily, Transfer any of his, her or its Shares.

(b) The provisions of Section 3.01(a) and Section 3.02 shall not apply to any of the following Transfers by any Stockholder of any of his, her or its Shares:

(i) to a Permitted Transferee;

(ii) pursuant to a merger, consolidation, or other business combination of the Company with a Third-Party Purchaser that has been approved in compliance with Article 2; or

(iii) a transfer by a Stockholder in one Group to another Stockholder in such Group, provided that (A) such transferee is an eligible shareholder of an S corporation under Section 2.06(b), (B) such transferee executes a Joinder Agreement and, if applicable, Spousal Consent in accordance with Section 3.01(d), and (C) such Transfer would not reasonably be expected to adversely affect the Company's S corporation status.

(c) In addition to any legends required by Applicable Laws, each certificate representing the Shares now owned or that may hereafter be acquired by the Stockholders shall bear a legend substantially in the following form:

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A STOCKHOLDERS' AGREEMENT AMONG THE COMPANY AND ITS

STOCKHOLDERS, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL EXECUTIVE OFFICE OF THE COMPANY. NO TRANSFER, SALE, ASSIGNMENT, PLEDGE, HYPOTHECATION, OR OTHER DISPOSITION OF THE SHARES REPRESENTED BY THIS CERTIFICATE MAY BE MADE EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF SUCH STOCKHOLDERS' AGREEMENT.

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS AND MAY NOT BE TRANSFERRED, SOLD, ASSIGNED, PLEDGED, HYPOTHECATED, OR OTHERWISE DISPOSED EXCEPT (A) PURSUANT TO A REGISTRATION STATEMENT EFFECTIVE UNDER SUCH ACT AND LAWS, OR (B) PURSUANT TO AN EXEMPTION FROM REGISTRATION THEREUNDER."

(d) A Stockholder shall provide advance written notice to the Company and the other Stockholders of any Transfer of Shares, including Transfers to a Permitted Transferee or Transfers by a Stockholder in one Group to another Stockholder in such Group. Prior to consummation of any Transfer by any Stockholder of any of his, her or its Shares, including a Transfer to a Permitted Transferee or a Third-Party Purchaser, such Stockholder shall cause: (i) any transferee who is not already a party to this Agreement to execute and deliver to the Company a Joinder Agreement in which such transferee agrees to be bound by the terms and conditions of this Agreement; and (ii) if the transferee is an individual, any Spouse of such transferee to execute and deliver to the Company a Spousal Consent.

(e) Notwithstanding any other provision of this Agreement, each Stockholder agrees that it will not, directly or indirectly, Transfer any of his, her or its Shares: (i) except as permitted under the Securities Act and other applicable federal or state securities laws, and then, if requested by the Company, only upon delivery to the Company of an opinion of counsel in form and substance satisfactory to the Company to the effect that such Transfer may be effected without registration under the Securities Act; (ii) if it would cause the Company or any of its Subsidiaries to be required to register as an investment company under the Investment Company Act of 1940, as amended; (iii) if it would cause the assets of the Company or any of its Subsidiaries to be deemed plan assets as defined under the Employee Retirement Income Security Act of 1974, as amended, or its accompanying regulations or result in any "prohibited transaction" thereunder involving the Company; or (iv) if it would reasonably be expected to terminate the Company's S corporation status. In any event, the Board may refuse the Transfer to any Person if such Transfer would have a material adverse effect on the Company as a result of any regulatory or other restrictions imposed by any Governmental Authority, as reasonably determined by the Board in good faith.

(f) Any Transfer or attempted Transfer of any Shares in violation of this Agreement shall be null and void, no such Transfer shall be recorded on the Company's books, and the purported transferee in any such Transfer shall not be treated (and the purported transferor shall continue to be treated) as the owner of such Shares for all purposes of this Agreement and the Organizational Documents of the Company.

(g) This Agreement shall cover all of the Shares now owned or hereafter acquired by the Stockholders while this Agreement remains in effect.

Section 3.02 Right of First Refusal.

(a) If at any time a Stockholder (such Stockholder, an "**Offering Stockholder**") receives a bona fide offer in writing from any Third-Party Purchaser to purchase all or any portion of the Shares (the "**Offered Shares**") owned by the Offering Stockholder and the Offering Stockholder desires to Transfer the Offered Shares (other than Transfers that are permitted by Section 3.01(b)), then the Offering Stockholder must first make an offering of the Offered Shares to each other Stockholder in such Offering Stockholder's Group (each, a "**Group Stockholder**") in accordance with the provisions of this Section 3.02.

(b) The Offering Stockholder shall, within ten (10) Business Days of receipt of the offer from the Third-Party Purchaser, give written notice (the "**Offering Stockholder Notice**") to the Company and the applicable Group Stockholders stating that it has received a bona fide offer from a Third-Party Purchaser, enclosing a copy of the written offer, and (to the extent not apparent on the face of the written offer) specifying:

(i) the number of Offered Shares to be Transferred by the Offering Stockholder;

(ii) the name of the Third-Party Purchaser;

(iii) the per share purchase price and the other material terms and conditions of the Transfer, including a description of any non-cash consideration in reasonably sufficient detail to permit the valuation thereof; and

(iv) the proposed date, time, and location of the closing of the Transfer, which shall not be less than sixty (60) days from the date of the Offering Stockholder Notice.

The Offering Stockholder Notice shall constitute the Offering Stockholder's offer to Transfer the Offered Shares to the applicable Group Stockholders, which offer shall be irrevocable until the end of the ROFR Notice Period.

(c) By delivering the Offering Stockholder Notice, the Offering Stockholder represents and warrants to the Company and to each other Stockholder that (i) the Offering Stockholder has full right, title, and interest in and to the Offered Shares; (ii) the Offering Stockholder has all the necessary power and authority and has taken all necessary action to Transfer such Offered Shares as contemplated by this Section 3.02; and (iii) the Offered Shares are free and clear of any and all Liens other than those arising as a result of or under the terms of this Agreement, or restrictions on transfer arising under applicable state or federal securities laws.

(d) Upon receipt of the Offering Stockholder Notice, each applicable Group Stockholder shall have fifteen (15) Business Days (the "**ROFR Notice Period**") to elect to purchase up to its pro rata portion of the Offered Shares, determined based on the number of Shares held by such Group Stockholder relative to the total number of Shares held by all Group Stockholders, by delivering a written notice (a "**ROFR Notice**") to the Offering Stockholder and the Company stating that it agrees to purchase such Offered Shares on the terms specified in the Offering Stockholder Notice, and indicating whether such Group Stockholder (each, a "**Purchasing Group Stockholder**") would like to purchase additional Offered Shares in the event other Group Stockholders do not elect to purchase their pro rata portion, and in such case, the maximum number of Offered Shares such Purchasing Group Stockholder would be willing to purchase. Any ROFR Notice shall be binding upon delivery and irrevocable by the applicable Purchasing Group Stockholder. If more than one Group Stockholder delivers a ROFR Notice, the Offered Shares shall be allocated among the Purchasing Group Stockholders pro rata based on the number of Shares owned by each such Purchasing Group Stockholder as of the date of the Offering Stockholder Notice, but taking into account any indicated interests from Purchasing Group Stockholders to purchase Offered Shares in excess of their pro rata portion where not all Group Stockholders agreed to purchase their pro rata portions.

(e) If the applicable Group Stockholders do not purchase all of the Offered Shares pursuant to Section 3.02(d), the Offering Stockholder shall deliver an Offering Stockholder Notice, which shall also include the number of shares not being purchased by Purchasing Group Stockholders pursuant to Section 3.02(d) ("**Remaining Offered Shares**"), to each Stockholder that is not a member of such Offering Stockholder's Group (each a "**Non-Group Stockholder**"). The Offering Stockholder Notice shall be delivered to the Non-Group Stockholders within ten (10) Business Days of the expiration of the ROFR Notice Period and shall constitute the Offering Stockholder's offer to Transfer the Remaining Offered Shares to the applicable Non-Group Stockholders, which offer shall be irrevocable for fifteen (15) Business Days (the "**Secondary ROFR Notice Period**"). Each Non-Group Stockholder may elect to purchase up to its pro rata portion (determined based on the number of Shares held by such Non-Group Stockholder relative to the total number of Shares held by all Non-Group Stockholders) of the Remaining Offered Shares by delivering a ROFR Notice to the Offering Stockholder and the Company stating that it agrees to purchase such Remaining Offered Shares on the terms specified in the Offering Stockholder Notice, and indicating whether such Non-Group Stockholder (each, a "**Purchasing Non-Group Stockholder**" and, together with the Purchasing Group Stockholders, the "**Purchasing Stockholders**") would like to purchase additional Remaining Offered Shares in the event other Non-Group Stockholders do not elect to purchase their pro rata portion, and in such case, the maximum number of Remaining Offered Shares such Purchasing Non-Group Stockholder would be willing to purchase. Any ROFR Notice shall be binding upon delivery and irrevocable by the applicable Purchasing Non-Group Stockholder. If more than one Non-Group Stockholder delivers a ROFR Notice, the Remaining Offered Shares shall be allocated among the Purchasing Non-Group Stockholders pro rata based on the number of Shares owned by each such Purchasing Non-Group Stockholder as of the date of the Offering Stockholder Notice, but taking into account any indicated interests from Purchasing Non-Group Stockholders to purchase Remaining Offered Shares in excess of their pro rata portion where not all Non-Group Stockholders agreed to purchase their pro rata portions.

(f) Each Stockholder that does not deliver a ROFR Notice during the ROFR Notice Period or Secondary ROFR Notice Period, as applicable, shall be deemed to have waived all of such Stockholder's rights to purchase the Offered Shares under this Section 3.02.

(g) If no Stockholder delivers a ROFR Notice in accordance with Section 3.02(d) or Section 3.02(e), or if Purchasing Stockholders agree to purchase fewer than all of the Offered Shares, the Offering Stockholder may, during the sixty (60)-day period immediately following the expiration of the Secondary ROFR Notice Period, which period may be extended for a reasonable time not to exceed ninety (90) days following expiration of the Secondary ROFR Notice Period, to the extent reasonably necessary to obtain any required Government Approvals (the "**Waived ROFR Transfer Period**") (and subject to the requirements of Section 3.01(d) and Section 3.01(e)), Transfer any Offered Shares not purchased by Purchasing Stockholders to the Third-Party Purchaser on terms and conditions no more favorable in the aggregate (including as to price, form of consideration, conditionality, escrow, indemnity, and financing conditions) than those set forth in the Offering Stockholder Notice. If the Offering Stockholder does not Transfer such Offered Shares within the Waived ROFR Transfer Period, the rights provided hereunder shall be deemed to be revived and the Offered Shares shall not be Transferred to any Third-Party Purchaser unless the Offering Stockholder sends a new Offering Stockholder Notice in accordance with, and otherwise complies with, this Section 3.02.

(h) Each Stockholder shall take all actions as may be reasonably necessary to consummate the Transfers to the Purchasing Stockholder contemplated by this Section 3.02, including entering into agreements and delivering certificates, instruments, and consents as may be deemed necessary or appropriate.

(i) At the closing of any Transfer pursuant to this Section 3.02, the Offering Stockholder shall deliver to the Purchasing Stockholders a certificate or certificates representing the Offered Shares to be purchasing by Purchasing Stockholders (if any), accompanied by stock powers and all necessary stock transfer taxes paid and stamps affixed, if necessary, against receipt of the purchase price therefor from such Purchasing Stockholders by certified or official bank check or by wire transfer of immediately available funds.

Section 3.03 Company/Stockholder Call Rights.

(a) **Call Right; Triggers and Priority.** The Company shall have the right (the "**Call Right**"), but not the obligation, to purchase all or any portion of the Shares then held by any Stockholder upon the occurrence of any of the following events (each, a "**Call Trigger**"): (i) a Transfer or attempted Transfer of Shares in violation of this Agreement; (ii) a material breach by such Stockholder of this Agreement that remains uncured for thirty (30) days after written notice; or (iii) the bankruptcy of such Stockholder. The Company's Call Right shall have priority over any rights of other Stockholders under this Section 3.03; provided, that if the Company declines or fails to timely exercise the Call Right, the other Stockholders, pro rata based on ownership, shall have a successive right to purchase such Shares on the same terms within the periods specified in this Section 3.03 (the "**Secondary Call Right**"). The foregoing does not limit the Company's rights under Section 3.01(f) to void Transfers not in compliance with this Agreement. Any purchase by the Company pursuant to this Section 3.03 is hereby approved for purposes of Article 2.

(b) **Call Price.** The purchase price per Share for a Call Right shall be the Fair Market Value per Share determined in accordance with the definition of Fair Market Value as of the Call Trigger date; provided, that if the Call Trigger is clause (i) (invalid Transfer), the price shall be the lesser of the Fair Market Value and the per-Share consideration received or to be received by the purported transferor.

(c) **Exercise; Notices; Timing.** The Company may exercise the Call Right by delivering written notice to the affected holder(s), and the other Stockholders, within 60 days after the applicable Call Trigger, specifying the aggregate Shares to be purchased, the Call Price, and the proposed closing date (not earlier than 20 days nor later than 60 days after such notice, subject to reasonable extension up to 90 days to obtain any required Government Approvals). If the Company does not elect to purchase all such Shares, the Company shall so state, and the other Stockholders shall have 15 days thereafter to elect their Secondary Call Right, allocated pro rata by ownership as of the notice date, by delivering notice thereof to the Company and the affected holder(s). The closings of any sales to the Stockholders pursuant to this Section 3.03(c) shall be concurrent with the Company's closing date.

(d) **Conditions; Joinders; Consents.** Closings under this Section 3.03 shall be consummated against payment by wire transfer of immediately available funds and delivery of certificates (if certificated) duly endorsed or with stock powers, free and clear of Liens other than those arising under this Agreement and Applicable Laws. Section 3.01(d) shall apply to any purchaser that is not already a party to this Agreement; provided, that no Spousal Consent or Joinder shall be required from a decedent's Spouse or estate as seller solely to consummate a Call Right purchase, but any purchaser must execute a Joinder (and Spousal Consent, if applicable) prior to or at closing. All purchases under this Section 3.03 are subject to Applicable Laws, debt covenants, solvency requirements, and preservation of the Company's S corporation status (collectively, the "**Applicable Conditions**"). Failure to close in whole or in part due to the foregoing shall not constitute a breach; provided, that the Company shall use reasonable efforts to seek any required approvals, waivers, or consents, including any Government Approvals.

(e) **Exclusivity via ROFR**. A purchase of Shares under this Section 3.03 is not subject to Section 3.02, which applies to Transfers to a Third-Party Purchaser. For clarity, if the Company or Stockholders do not exercise rights under this Section 3.03, any subsequent sale to a Third-Party Purchaser remains subject to Section 3.02.

Section 3.04 Death of a Stockholder; Transfers by Operation of Law.

(a) **Estate Transfers Permitted; Subject to Agreement.** Upon the death of any Stockholder, legal and beneficial title to such Stockholder's Shares may pass by operation of law or pursuant to such Stockholder's estate planning documents (including by will or trust), in each case subject to this Agreement, including Sections 2.06, 3.01(d), 3.01(e), and 3.04(c)–(f).

(b) **No Death-Triggered Right of First Refusal.** No death of a Stockholder shall, by itself, trigger any right of first refusal or similar purchase right in favor of any Stockholder or Group. Any subsequent Transfer by an estate, personal representative, trustee, beneficiary, or other transferee remains subject to the general Transfer restrictions and rights set forth in this Agreement, including Section 3.02.

(c) **Transfer by Operation of Law; Joinders.** Any Person that becomes a holder of Shares by reason of a Stockholder's death (including an estate, personal representative, trustee, or beneficiary) must execute a Joinder Agreement (and, if applicable, Spousal Consent) within thirty (30) days after the later of (i) written request from the Company, and (ii) the date that the executor (or equivalent) is affirmed under Applicable Law; failure to do so shall constitute a Call Trigger under Section 3.03. No such holder shall Transfer any such Shares except in compliance with this Agreement.

(d) **Eligibility; S Status.** Any disposition of Shares upon death (including to trusts or beneficiaries) must comply with Section 2.06(b). Any proposed disposition that would reasonably be expected to terminate the Company's S corporation status shall be void and shall constitute a Call Trigger under Section 3.03.

(e) **Funding; Insurance.** If the Company maintains key person or buy-sell insurance on the life of any Stockholder, the net proceeds may be used to fund any purchase of Shares under this Agreement. The existence or absence of insurance does not affect the Company's obligations hereunder, subject to the Applicable Conditions.

(f) **Continuity; Board/Management Rights Unaffected.** Any Transfer pursuant to this Section shall not expand or preserve any Stockholder's designation rights under Section 2.01 if the ownership thresholds in Section 2.01(b) are not satisfied after such Transfer.

ARTICLE IV
[RESERVED]

ARTICLE V
NON-COMPETE, NON-SOLICITATION AND OTHER AGREEMENTS

Section 5.01 Non-Compete and Non-Solicitation. Each Stockholder, and any Permitted Transferee to whom such Stockholder has transferred his, her or its Shares to, shall not, directly or indirectly, at any time while such Person (or any of such Person's Permitted Transferees) holds Shares:

(a) invest in, lends funds to, own, manage, advise, render services to, guarantee the obligations of, or in any manner assist, any Person engaged in any Competitive Business (*provided, however*, that such Stockholder or Permitted Transferee shall not be in default of this Section 5.01(a) by virtue of owning less than two percent (2%) of the outstanding capital stock of a Person that is listed on any national securities exchange);

(b) solicit, induce or otherwise cause (or attempt to solicit, induce or otherwise cause) any customer or supplier (or any prospective customer or supplier that has been contacted or targeted for contact by the Company) or any other Person engaged in a business relationship with the Company, to terminate, curtail or otherwise modify its relationship therewith or engage in any Competitive Business; or

(c) solicit, hire or engage (or attempt to solicit, hire or engage) any employee or independent contractor of the Company or any Person who was an employee or independent contractor of the Company at any time during the one (1)-year period prior to the date on which such hiring or engagement would take place; *provided* that the making of any general advertisement not targeted at any such employee or independent contractor shall not constitute a breach of this Section 5.01(c); *provided further* that neither such Stockholder nor Permitted Transferee knowingly hires or engages any such employee or independent contractor who responds to such advertisement.

Each Stockholder agrees that this Section 5.01, including the provisions relating to duration, geographical area and scope, is reasonable and necessary to protect and preserve the Company's, and each other Stockholder's, legitimate business interests and the value of the Shares and the Company, and to prevent an unfair advantage from being conferred on any Stockholder.

Section 5.02 Blue-Pencil. If any court determines that any of the covenants set forth in Section 5.01, or any part thereof, is unenforceable because of the duration or geographic scope of such provision, the court shall have the power to reduce the duration or scope of such provision, as the case may be, and, in its reduced form, such provision shall then be enforceable.

Section 5.03 Corporate Opportunities. Except as otherwise provided in the second sentence of this Section 5.03 and subject to each Stockholder's (and any Permitted Transferee to whom such Stockholder has transferred his, her or its Shares) obligations under Section 5.01, (a) no Stockholder nor any of its Permitted Transferees or any of their respective Representatives shall have any duty to communicate or present an investment or business opportunity or prospective economic advantage to the Company in which the Company may, but for the provisions of this Section 5.03, have an interest or expectancy (a "**Corporate Opportunity**"); and (b) to the fullest extent permitted by Applicable Law, no Stockholder or any of its Permitted Transferees or any of their respective Representatives (even if such Person is also an officer or Director of the Company) shall be deemed to have breached any fiduciary or other duty or obligation to the Company (other than obligations under Section 5.01) by reason of the fact that any such Person pursues or acquires a Corporate Opportunity for itself or its Permitted Transferees or directs, sells, assigns, or transfers such Corporate Opportunity to another Person or does not communicate information regarding such Corporate Opportunity to the Company. The Company renounces any interest in a Corporate Opportunity and any expectancy that a Corporate Opportunity will be offered to the Company; *provided*, that the Company does not renounce any interest or expectancy it may have in any Corporate Opportunity that (i) is offered to an officer or Director of the Company whether or not such individual is also a Director or officer of a Stockholder, if such opportunity is expressly offered to such Person in his or her capacity as an officer or Director of the Company, or (ii) constitutes or arises out of Confidential Information. The Stockholders hereby recognize that the Company reserves such rights.

Section 5.04 Confidentiality.

(a) Each Stockholder acknowledges that during the term of this Agreement, it will have access to and become acquainted with trade secrets, proprietary information, and confidential information belonging to the Company and its Affiliates that are not generally known to the public, including, but not limited to, information concerning business plans, financial statements, and other information provided pursuant to this Agreement, operating practices and methods, expansion plans, strategic plans, marketing plans, contracts, customer lists, or other business documents that the Company treats as confidential, in any format whatsoever (including oral, written, electronic, or any other form or medium) (collectively, "**Confidential Information**"). In addition, each Stockholder acknowledges that: (i) the Company has invested, and continues to invest, substantial time, expense, and specialized knowledge in developing its Confidential Information; (ii) the Confidential Information provides the Company with a competitive advantage over others in the marketplace; and (iii) the Company would be irreparably harmed if the Confidential Information were disclosed to any Person engaged in a Competitive Business or made available to the public. Without limiting the applicability of any other agreement to which any Stockholder is subject, each Stockholder shall, and shall cause its Representatives to, keep confidential and not, directly or indirectly, disclose or use (other than in connection with the conduct of the Company's business or for the purposes of such Stockholder monitoring and analyzing its investment in the Company) at any time, including, without limitation, use for personal, commercial, or proprietary advantage or profit, either during its association with the Company or thereafter, any Confidential Information of which such Stockholder is or becomes aware. Each Stockholder in possession of Confidential Information shall, and shall cause its Representatives to, take reasonable measures to safeguard such information and to protect it against disclosure, misuse, espionage, loss, and theft.

(b) Nothing contained in Section 5.04(a) shall prevent any Stockholder from disclosing Confidential Information (i) upon the order of any court or administrative agency; (ii) upon the request or demand of any regulatory agency or authority having jurisdiction over such Stockholder or the Company; (iii) to the extent required by Applicable Law (including as required to file any tax return applicable to such Stockholder), or required or requested pursuant to subpoena, interrogatories, or other discovery requests; (iv) to the extent necessary in connection with the exercise of any remedy hereunder; (v) to other Stockholders; (vi) to such Stockholder's Representatives who, in the reasonable judgment of such Stockholder, need to know such Confidential Information in order for the Stockholder to perform its obligations hereunder, or exercise its rights hereunder, or with respect to its Shares, and who are bound by obligations of confidentiality at least as protective of the Company's Confidential Information as the provisions of this Section 5.04; or (vii) to any potential transferee in connection with a proposed Transfer of Shares in accordance with this Agreement, as long as such potential transferee agrees in writing to be bound by obligations of confidentiality at least as protective of the Company's Confidential Information as the provisions of this Section 5.04; *provided*, that in the case of clause (i), (ii), or (iii), such Stockholder shall, to the extent legally permissible, notify the Company and other Stockholders of the proposed disclosure as far in advance of such disclosure as practicable (but in no event make any such disclosure before notifying the Company and other Stockholders) and use reasonable efforts to ensure that any Confidential Information so disclosed is accorded confidential treatment satisfactory to the Company, when and if available.

(c) The restrictions of Section 5.04(a) shall not apply to Confidential Information that (i) is or becomes generally available to the public other than as a result of a disclosure by such Stockholder or any of its Representatives in violation of this Agreement; (ii) is or has been independently developed or conceived by such Stockholder without use of Confidential Information; or (iii) becomes available to such Stockholder or any of its Representatives on a non-confidential basis from a source other than the Company, the other Stockholders, or any of their respective Representatives, *provided*, that such source is not known by the receiving Stockholder to be bound by a confidentiality agreement regarding the Company.

(d) The obligations of each Stockholder under this Section 5.04 shall survive: (i) the termination, dissolution, liquidation, and winding up of the Company; and (ii) a period of three (3) years following such Stockholder's Transfer of his, her or its Shares.

Section 5.05 Tax Distributions. At least annually, following the close of each fiscal year, the Company shall distribute to the Stockholders, pro rata based on the percentage of Shares held by each Stockholder, an amount in cash equal to the product of: (x) the taxable income of the Company for such fiscal year, multiplied by (y) the Tax Rate (the "**Tax Distributions**"). The Tax Distributions shall be made no later than sixty (60) days following the fiscal year for which the Tax Distributions are being made. Notwithstanding the forgoing, Tax Distributions to Stockholders shall only be made (i) out of income and surplus legally available therefor and (ii) to the extent otherwise permitted by Applicable Law and the Company's then-applicable debt financing arrangements. For purposes hereof, "**Tax Rate**" means the highest combined marginal federal and state income tax rate applicable to an individual resident of New Jersey, as determined by the Board in good faith. All distributions by the Company, including Tax Distributions and any other dividends or distributions, shall be made strictly pro rata based on Share ownership and shall be identical in amount per Share and timing for all Stockholders. No distribution shall be made on any basis other than pro rata Share ownership. The Company shall not make any distribution that would reasonably be expected to create a second class of stock under Section 1361(b)(1)(D) of the Code.

Section 5.06 Indemnification. To the fullest extent permitted by Applicable Law, the Company shall advance or reimburse expenses to and indemnify all directors, officers, and corporate agents of the Company against liabilities actually incurred thereby in any proceeding involving the corporate agent by reason of being or having been a corporate agent. The terms "corporate agent", "expenses", "liabilities", and "proceeding", as used in this Section 5.06, shall have the meanings set forth in Section 14A:3-5(1) of the NJBCA, as the same may be amended. The foregoing rights of indemnification shall be in addition to and not exclusive of any other rights which such corporate agent may be entitled to under any agreement with the Company or any action taken by the directors or shareholders of the Company or otherwise.

Section 5.07 D&O Insurance. The Company shall use commercially reasonable efforts to maintain, from financially sound and reputable insurers, Directors and Officers liability insurance in customary amounts and on terms and conditions approved by the Board.

ARTICLE VI
INFORMATION RIGHTS

Section 6.01 Financial Statements. In addition to, and without limiting any rights that a Stockholder may have with respect to inspection of the books and records of the Company under Applicable Laws, including the NJBCA, the Company shall furnish to each Stockholder, the following information:

(a) As soon as available, and in any event within ninety (90) days after the end of each Fiscal Year, the balance sheet of the Company as at the end of each such Fiscal Year and the statements of income, cash flows, and changes in stockholders' equity for such year, accompanied by the certification of Company's independent certified public accountants, to the effect that, except as set forth therein, such financial statements have been prepared in accordance with GAAP, applied on a basis consistent with prior years and fairly present in all material respects the financial condition of the Company as of the dates thereof and the results of its operations and changes in its cash flows and stockholders' equity for the periods covered thereby.[1]

(b) To the extent the Company is required by Applicable Laws, such reports, returns and information as soon as available.

Section 6.02 Inspection Rights.

(a) The Company shall, and shall cause its officers, Directors, and employees to, (i) afford each Stockholder that owns at least 5% of the outstanding Shares and the Representatives of each such Stockholder, during normal business hours and upon reasonable written notice, reasonable access at all reasonable times to its officers, employees, auditors, properties, offices, plants, and other facilities and to all books and records; and (ii) afford such Stockholder the opportunity to consult with its officers from time to time regarding the Company's affairs, finances, and accounts as each such Stockholder may reasonably request upon reasonable notice.

(b) The right set forth in Section 6.02(a) shall not and is not intended to limit any rights which the Stockholders may have with respect to the books and records of the Company, or to inspect its properties or discuss its affairs, finances, and accounts under the laws of the State of New Jersey.

ARTICLE VII
REPRESENTATIONS AND WARRANTIES

Section 7.01 Representations and Warranties. Each Stockholder, severally and not jointly, represents and warrants to the Company and each other Stockholder that:

(a) Each such Stockholder is an individual, or entity, eligible to be a stockholder of an 'S' corporation.

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[1] **NTD**: Level of financial reporting to be determined.

(b) Such individual Stockholder has full capacity and, for each such Stockholder that is an entity, full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. For each such Stockholder that is not an individual, the execution and delivery of this Agreement and the performance of its obligations hereunder have been duly authorized by all requisite action of such Stockholder. Such Stockholder has duly executed and delivered this Agreement.

(c) This Agreement constitutes the legal, valid, and binding obligation of such Stockholder, enforceable against such Stockholder in accordance with its terms except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law). The execution, delivery, and performance of this Agreement require no action by, or in respect of, or filing with, any Governmental Authority by or with respect to such Stockholder.

(d) The execution, delivery, and performance by such Stockholder of this Agreement does not (i) conflict with or result in any violation or breach of any provision of any of the organizational documents (if applicable) of such Stockholder; (ii) conflict with or result in any violation or breach of any provision of any Applicable Laws; or (iii) require any consent or other action by any Person under any provision of any material agreement or other instrument to which the Stockholder is a party.

(e) Except for this Agreement, such Stockholder has not entered into or agreed to be bound by any other agreements or arrangements of any kind with any other party with respect to the Shares (other than the Prior Agreement), including agreements or arrangements with respect to the acquisition or disposition of the Shares or any interest therein or the voting of the Shares (whether or not such agreements and arrangements are with the Company or any other Stockholder).

(f) Subject to the other provisions of this Agreement, the representations and warranties contained herein shall survive the Effective Date and shall remain in full force and effect for the full period of all applicable statutes of limitations (giving effect to any waiver, mitigation, or extension thereof).

ARTICLE VIII
TERM AND TERMINATION

Section 8.01 Termination. This Agreement shall terminate upon the earliest of:

(a) the consummation of an Initial Public Offering;

(b) the consummation of a merger or other business combination involving the Company whereby the Shares become listed or admitted to trading on the NASDAQ Stock Market, the New York Stock Exchange, or another national securities exchange;

(c) the date on which none of the Stockholders holds any Shares;

(d) the termination, dissolution, liquidation, or winding up of the Company; or

(e) the agreement of the Stockholders holding all of the issued and outstanding Shares, acting together and by written instrument.

Section 8.02 Effect of Termination.

(a) The termination of this Agreement shall terminate all further rights and obligations of the Stockholders under this Agreement except that such termination shall not effect:

(i) the existence of the Company;

(ii) the obligation of any party to this Agreement to pay any amounts arising on or prior to the date of termination, or as a result of or in connection with such termination;

(iii) the rights which any Stockholder may have by operation of law as a stockholder of the Company; or

(iv) the rights contained herein which by their terms are intended to survive termination of this Agreement.

(b) Without limiting the provisions of Section 8.02(a)(iv), the following provisions shall survive the termination of this Agreement: Section 5.04 (as and to the extent provided in Section 5.04(d)), this Section 8.02, Section 9.04, Section 9.12, Section 9.14, Section 9.15, Section 9.16, and Section 9.17.

ARTICLE IX
MISCELLANEOUS

Section 9.01 Expenses. Except as otherwise expressly provided herein, all costs and expenses, including fees and disbursements of counsel, financial advisors, and accountants, incurred in connection with the preparation and execution of this Agreement, or any amendment or waiver hereof, and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses.

Section 9.02 Further Assurances. In connection with this Agreement and the transactions contemplated hereby, the Company and each Stockholder hereby agrees, at the request of the Company or any other Stockholder, to execute and deliver such additional documents, certificates, instruments, conveyances, and assurances and to take such further actions as may be required to carry out the provisions hereof and give effect to the transactions contemplated hereby.

Section 9.03 Release of Liability. In the event any Stockholder Transfers all the Shares held by such Stockholder in compliance with the provisions of this Agreement without retaining any interest therein, then such Stockholder shall cease to be a party to this Agreement and shall be relieved and have no further liability arising hereunder for events occurring from and after the date of such Transfer; provided that such Stockholder shall continue to be bound by the obligations set forth in Section 5.01 and Section 5.04.

Section 9.04 Notices.

(a) All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given (i) when delivered by hand (with written confirmation of receipt); (ii) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (iii) on the date sent by email of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (iv) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.

(b) Such communications in Section 9.04(a) must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 9.04):

(i) if to the Company, at its principal office address;

(ii) if to a Stockholder, at the address set forth on Schedule A attached hereto;

(iii) if to a Permitted Transferee of Shares or any other Stockholder other than the Stockholders, (A) at the address set forth on the respective Joinder Agreement executed by such party; or (B) if an address is neither set forth on such Joinder Agreement nor provided to the Company in a notice given in accordance with this Section 9.04, at such party's last known address; and

(iv) if to the Spouse of a Stockholder, (A) if applicable, in care of the Spouse's attorney of record at the attorney's address; or (B) if the Spouse is unrepresented, at the Spouse's last known address.

Section 9.05 Agreement Prepared by Counsel. Each Stockholder has read this Agreement and acknowledges that:

(a) counsel for Henry prepared the initial draft of this Agreement on behalf of Henry and not on behalf of the Company or any other Stockholder;

(b) such Stockholder has been advised that a conflict may exist between such Stockholder's interests, the interests of the other Stockholders, and/or the interests of the Company;

(c) this Agreement may have significant legal, financial planning, and/or tax consequences to the Stockholder;

(d) such Stockholder has sought, or has had the full opportunity to seek, the advice of independent legal, financial planning, and/or tax counsel of its choosing regarding such consequences; and

(e) counsel for Henry has made no representations to the Company or such Stockholder regarding such consequences.

Section 9.06 Interpretation. For purposes of this Agreement: (a) the words “include,” “includes,” and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein,” “hereof,” “hereby,” “hereto,” and “hereunder” refer to this Agreement as a whole. The definitions given for any defined terms in this Agreement shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, and gender neutral forms. Unless the context otherwise requires, references herein: (x) to Articles, Sections, Exhibits, and Schedules mean the Articles and Sections of, and Exhibits and Schedules attached to, this Agreement; (y) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Exhibits and Schedules referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

Section 9.07 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Except as provided in Section 5.02, upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

Section 9.08 Entire Agreement. This Agreement and the Organizational Documents constitute the sole and entire agreement of the parties with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter (including without limitation the Prior Agreement, which is amended and restated hereby). In the event of any inconsistency or conflict between this Agreement and any Organizational Document, the Stockholders and the Company shall, to the extent permitted by Applicable Laws, take all necessary or desirable actions within the Company’s or such Stockholder's control (including in its capacity as a stockholder or otherwise, and whether at a regular or special meeting of the Stockholders or by written consent in lieu of a meeting) to amend such Organizational Document to comply with the terms of this Agreement.

Section 9.09 Successors and Assigns; Assignment. Subject to the rights and restrictions on Transfers set forth in this Agreement, this Agreement is binding upon and inures to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns. This Agreement may not be assigned by any Stockholder except as permitted in this Agreement (or as otherwise consented to in writing by all the other Stockholders prior to the assignment) and any such assignment in violation of this Agreement shall be null and void.

Section 9.10 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

Section 9.11 Amendment and Modification. This Agreement may only be amended, modified, or supplemented by an instrument in writing executed by the Company and each of the Stockholders. Any such written amendment, modification, or supplement will be binding upon the Company and each Stockholder.

Section 9.12 Waiver. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

Section 9.13 Governing Law. This Agreement, including all Exhibits and Schedules hereto, and all matters arising out of or relating to this Agreement, shall be governed by and construed in accordance with the internal laws of the State of New Jersey, without giving effect to any choice or conflict of law provision or rule (whether of the State of New Jersey or any other jurisdiction).

Section 9.14 Submission to Jurisdiction.

(a) The parties hereby agree that any suit, action, or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby, whether in contract, tort, or otherwise, shall be brought in the US District Court for the District of New Jersey or in the Chancery Division of the Superior Court of New Jersey (or, if such court lacks subject-matter jurisdiction, in the Superior Court of the State of New Jersey), so long as one of such courts shall have subject-matter jurisdiction over such suit, action, or proceeding, and that any cause of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the State of New Jersey.

(b) Each of the parties hereby irrevocably consents to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action, or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection that it may now or hereafter have to the venue of any such suit, action, or proceeding in any such court or that any such suit, action, or proceeding which is brought in any such court has been brought in an inconvenient forum. Service of process, summons, notice, or other document by certified or registered mail to the address set forth in Section 9.04 shall be effective service of process for any suit, action, or other proceeding brought in any such court.

Section 9.15 Waiver of Jury Trial. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ANY

EXHIBITS AND SCHEDULES ATTACHED TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 9.16 Equitable Remedies. Each party hereto acknowledges that a breach or threatened breach by such party of any of its obligations under this Agreement would give rise to irreparable harm to the other parties, for which monetary damages would not be an adequate remedy, and hereby agrees that in the event of a breach or a threatened breach by such party of any such obligations, each of the other parties hereto shall, in addition to any and all other rights and remedies that may be available to them in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance, and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond).

Section 9.17 Remedies Cumulative. The rights and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.

Section 9.18 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 9.19 Spousal Consent. Each Stockholder that is a natural person and who has a Spouse on the Effective Date shall cause such Stockholder's Spouse to execute and deliver to the Company a spousal consent in the form of <u>Exhibit B</u> hereto (a "**Spousal Consent**"), pursuant to which the Spouse acknowledges that they have read and understood the Agreement and agrees to be bound by its terms and conditions. If any Stockholder that is a natural person should marry or engage in a Marital Relationship following the Effective Date, such Stockholder shall cause their Spouse to execute and deliver to the Company a Spousal Consent within thirty (30) days thereof.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

<u>Company</u>:

MORRISTOWN & ERIE RAILWAY, INC.,
a New Jersey corporation

By: ______________________________
Name: __________________________
Title: ____________________________

<u>Stockholders</u>:

____
HENRY POSNER III

____
IDA MOLLOY POSNER

____
ALAIN L. KORNHAUSER

____
CRAIG E. PHILIP

____
MARGARET E. RICHARDS

WEIS EXEMPTION TRUST

By: ______________________________
Name:
Title:

CHOO CHOO LLC, a Delaware limited liability company

By: ______________________________
Name: Jeff Mandelbaum

Title: Manager

SCHEDULE A
STOCKHOLDER INFORMATION

Stockholder	**Address**	**Group**	**Shares Held**	**Percentage Owned**
Weis Exemption Trust	Weis Exemption Trust 158 Brownstone Court Old Tappan, NJ 07675 Attn: Brian Weis Email: bweis@mikabcorp.com	M&E Group	318.75	25%
Choo Choo LLC	Choo Choo, LLC c/o Mandelbaum & Mandelbaum, LLC 354 Eisenhower Parkway, Suite 1900 Livingston, NJ 07039 Attn: Jeff Mandelbaum, Manager Email: jeffm@mandelbaumfirm.com	M&E Group	318.75	25%
Henry Posner III	535 Smithfield St., Suite 960 Pittsburgh, PA 15222 Email: hposneriii@rrdc.com	RDC Group	353.8125	27.75%
Ida Molloy Posner	535 Smithfield St., Suite 960 Pittsburgh, PA 15222 Email: iposner@rrdc.com	RDC Group	127.50	10%
Alain L. Kornhauser	24 Montadale Circle	RDC Group	127.50	10%

	Princeton, NJ 08540 Email: _______________			
Craig E. Philip	110 31st Ave. North, Apt. 1001 Nashville, TN 37203 Email: _______________	RDC Group	12.75	1%
Margaret E. Richards	105 Techview Terrace Pittsburgh, PA 15213 Email: _______________	RDC Group	15.9375	1.25%
TOTAL			1,275	100.00%

EXHIBIT A

FORM OF JOINDER AGREEMENT

This Joinder Agreement (this "Agreement") is made as of [_______ __, 20__] by and between Morristown & Erie Railway, Inc., a New Jersey corporation (the "Company"), and the undersigned (the "Joining Party").

Acknowledgment and Agreement

The Joining Party acknowledges receipt of the Second Amended and Restated Stockholders' Agreement dated as of [______ __, 2026] (the "Stockholders Agreement") and agrees to be bound by its terms as a Stockholder.

S Corporation Eligibility

The Joining Party represents that he, she or it is eligible to hold stock in an S corporation and will maintain this status.

Transfer Restrictions

Any transfer of shares must comply with the Stockholders Agreement, including executing a joinder and obtaining spousal consent, if applicable.

Governing Law

This Agreement is governed by the laws of the State of New Jersey.

IN WITNESS WHEREOF, the undersigned has executed this Joinder as of the date first written above.

Joining Party:

Signature: ________________________

Name: ___________________________

Date: _____________________________

Accepted and Agreed to as of _____ __, 20__:

MORRISTOWN & ERIE RAILWAY, INC.

By: _____________________________
Name: ___________________________
Title: ___________________________

EXHIBIT B

FORM OF SPOUSAL CONSENT

This Spousal Consent (this "Consent") is made as of [_______ __, 20__] by the undersigned (the "Spouse") of [________________] (the "Joining Party").

Acknowledgment

The Spouse acknowledges that he or she has read and understands the Second Amended and Restated Stockholders' Agreement dated as of [_______ __, 2026] (the "Stockholders Agreement").

Consent and Agreement

The Spouse consents to the Joining Party's execution of the Joinder Agreement and agrees to be bound by the terms of the Stockholders Agreement as it may affect any community property or similar interest he or she may have in the shares owned by the Joining Party.

Governing Law

This Consent is governed by the laws of the State of New Jersey.

IN WITNESS WHEREOF, the undersigned has executed this Consent as of the date first written above.

Spouse:

Signature: ________________________

Name: ___________________________

Date: ____________________________