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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. FD 36105



GENESEE & WYOMING INC.
– ACQUISITION OF CONTROL EXEMPTION –
**ATLANTIC WESTERN TRANSPORTATION, INC. AND HEART OF GEORGIA
RAILROAD, INC.**

PETITION FOR EXEMPTION

(contains color images)

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Dated: February 24, 2017

Attorneys for Genesee & Wyoming Inc.

FILED
February 27, 2017
**SURFACE
TRANSPORTATION BOARD**

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PETITION FOR EXEMPTION

Genesee & Wyoming Inc. (“GWI”), a publicly-traded non-carrier holding company, petitions for an exemption under 49 U.S.C. §10502 and 49 C.F.R. §1121 from the provisions of 49 U.S.C. §§11323-11324 to allow GWI to acquire control of Atlantic Western Transportation, Inc. (“AWT”), a non-carrier holding company, and indirect control of AWT’s wholly-owned subsidiary Heart of Georgia Railroad, Inc. (“HOG”), a Class III railroad. GWI currently controls, through direct or indirect equity ownership, two Class II carriers and 107 Class III carriers operating in the United States.¹ Because the lines owned and operated by HOG connect with the lines owned and operated by two railroads in GWI’s corporate family, this transaction is not eligible for the class exemption at 49 C.F.R. §1180.2(d)(2).²

¹ Most recently, GWI was authorized to acquire control of Providence and Worcester Railroad Company. *Genesee & Wyoming Inc. – Acquisition of Control Exemption – Providence and Worcester Railroad Company*, STB Docket No. FD 36064 (served December 15, 2016) (“*GWIP&W*”).

² The control of HOG is not part of a series of anticipated transactions that would connect the lines of HOG with the rail lines of any carriers in GWI’s corporate family other than the two carriers that currently connect.

In support of its petition for exemption, GWI represents as follows:

THE PROPOSED TRANSACTION

In the transaction under consideration, GWI proposes to acquire indirect control of HOG, a Class III carrier, through the acquisition of the stock of AWT, the non-carrier parent company of HOG. GWI and the individual shareholders of AWT entered into a Stock Purchase Agreement dated as of February 7, 2017 (the “Stock Purchase Agreement”), which governs the terms and conditions of the transaction.

As mentioned above, GWI currently controls, directly or indirectly, two Class II carriers and 107 Class III carriers operating in the United States. A list of the carriers and the states in which they operate is attached as Exhibit A. A map showing the locations of all of the United States carriers controlled by GWI is attached as Exhibit B.

HOG is an existing Class III carrier based in Americus, Georgia, that leases from the Georgia Department of Transportation (“Georgia DOT”) and operates approximately 221 miles of rail lines between Milepost GF 194.6 at Midville, Georgia, and Milepost 755.13 at Mahrt, Alabama.³ *See Heart of Georgia Railroad, Inc. – Acquisition and Operation Exemption – State of Georgia and Georgia Southwestern Railroad, Inc.*, STB Finance Docket No. 33867 (served May 4, 2000) (covering the lease of 177.76 miles between Vidalia and Mahrt, including the segments between Rochelle and Preston, and between Omaha and Mahrt, over which HOG owns the exclusive freight easement)⁴; *Heart of Georgia Railroad, Inc. – Acquisition and Operation*

³ Milepost designations change at Vidalia (Milepost GF 577.85 / Milepost 152.2).

⁴ Georgia DOT owns the rail assets subject to the freight easements as a non-carrier. *State of Georgia, Department of Transportation – Acquisition Exemption – Georgia Southwestern Railroad, Inc.*, STB Finance Docket No. 33876 (served July 7, 2000) (dismissing Georgia DOT’s notice of exemption to acquire the property from Georgia Southwestern Railroad, Inc. subject to permanent freight easements).

Exemption – Ogeechee Railway Company, STB Finance Docket No. 34467 (served March 12, 2004) (covering the sublease of 42.4 miles between Midville and Vidalia). The leases with Georgia DOT were consolidated into a single lease dated July 27, 2016.⁵ A map of the lines owned, leased and operated over by HOG is attached hereto as Exhibit C.

HOG connects with a number of railroads, those being CSX Transportation, Inc. (“CSXT”) (at Cordele), Norfolk Southern Railway (“NSR”) (at Americus, Helena and Midville), Georgia Southwestern Railroad, Inc. (“GSWR”) (at Americus), and Georgia Central Railway, L.P. (“GC”) (at Vidalia). The latter two connecting railroads, GSWR and GC, are part of the GWI corporate family.

As can be seen on the map attached hereto as Exhibit C, GSWR and GC both primarily connect with HOG on an end-to-end basis. While there are some commonly-served cities where the railroads connect, there are no customers that are served solely by GSWR or GC, on the one hand, and HOG, on the other. Therefore, there are no 2-to-1 customers as a consequence of the proposed transaction. GSWR, GC and HOG will continue to cooperate with unaffiliated carriers just as they do today. The joint line movements between HOG and the GWI-affiliated railroads (which already exist today) will not be used to vertically foreclose competition over efficient joint line routes with unaffiliated carriers.

HOG will continue to operate as a separate railroad, and no material changes in the general scope or nature of operations, maintenance or service are contemplated. No shippers will

⁵ Two segments of the lines are currently out of service, those being between Nunez (Milepost GF 172.0) and Vidalia (Milepost GF 152.2), and between Preston (Milepost 713.0) and Mahrt (Milepost 755.13). Additionally, the segment between Nunez and Midville (Milepost 194.6) is, and will continue to be, operated by Georgia Southern Railway Co. *See Georgia Southern Railway Co. – Lease and Operation, and Operation Exemption – Certain Lines of Georgia Midland Railroad, Inc. and Heart of Georgia Railroad, Inc.*, STB Finance Docket No. 35322 (served December 2, 2009).

lose access to direct or indirect Class I connections, nor to any short line connections, or lose any service options. Although HOG will continue to be managed as a separate railroad, the senior managers of HOG will report to the senior vice president of Genesee & Wyoming Railroad Services, Inc., an affiliate of GWI, who is responsible for oversight of the Coastal Region. HOG, and its shippers, will benefit from greater coordination and efficiencies, enhanced financial resources, more robust management support for operations and safety and a broader set of relationships with national customers as a result of the proposed transaction. Georgia DOT does not oppose the transaction and asks that the Board review the Petition expeditiously. *See* letter from Georgia DOT attached hereto as Exhibit D.

The proposed transaction does not involve a Class I carrier. If not for the fact that the lines of HOG connect with the lines of two other Class III carriers in GWI's corporate family, GWI's control of HOG would be handled as an exempt transaction under 49 C.F.R. §1180.2(d)(2). Since the transaction is not eligible for the class exemption, GWI is filing this Petition for Exemption.

ADDITIONAL INFORMATION

To facilitate the Board's review of this Petition, GWI provides the following additional information that would have been required under 49 C.F.R. §1180.6(a)(1)(i)-(iii), (a)(5), (a)(6) and (a)(7)(ii) if this were being handled as an exempt transaction under 49 C.F.R. §1180.4(g):

1180.6(a)(1)

(i) The proposed transaction as described above involves the acquisition of indirect control of HOG, a Class III carrier, through the acquisition of the stock of HOG's non-carrier parent company, AWT. Since GWI is the owner of other carriers, its acquisition of

control of HOG requires authorization under 49 U.S.C. §11323(a)(5), or an exemption therefrom.

The full name and address of the applicant is: Genesee & Wyoming Inc., 20 West Avenue, Darien, CT 06820.

The name, address and telephone number of GWI's counsel who should receive correspondence is: Eric M. Hocky, Esquire, Clark Hill PLC, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103; (215) 640-8500.

(ii) GWI expects to consummate the transaction after the satisfaction of all closing conditions set forth in the Stock Purchase Agreement, including the grant of the exemption from the Board as requested herein. GWI hopes to consummate the transaction during the second fiscal quarter of this year.

(iii) The purpose of the transaction is to allow GWI, a non-carrier that directly or indirectly owns a number of rail carriers, to acquire indirect ownership and control of HOG. The acquisition of control will allow HOG to benefit from greater coordination and efficiencies, enhanced financial resources, more robust management support for operations and safety and a broader set of relationships with national customers.

1180.6(a)(5)

HOG owns and operates rail lines in the State of Georgia. The railroads currently in the GWI corporate family, and the states in which each operates, are shown on Exhibit A.⁶

1180.6(a)(6)

A map of the United States generally showing the locations of the GWI-controlled railroads is attached as Exhibit B. A map showing the rail lines operated by HOG is attached as Exhibit C. The map also shows the connecting lines of GSW and GC, as well as NSR and CSXT, the other railroads that connect directly with HOG. Twenty extra copies of the maps are also included.

1180.6(a)(7)(ii)

A redacted copy of the Stock Purchase Agreement governing the transaction is attached hereto as Exhibit E.⁷

INTERCHANGE COMMITMENTS

In accordance with the requirements of 49 C.F.R. §1121.3(d), GWI certifies that the proposed transaction is for the acquisition of equity, and is not a direct purchase or lease of a rail line, and that no interchange commitment is being imposed as part of the transaction. Additionally, GWI certifies that HOG is not subject to any existing interchange commitments.

⁶ The GWI-controlled railroads operate in all of the continental United States except the following States: Delaware, Idaho, Iowa, Montana, Nevada, New Jersey, North Dakota, and West Virginia.

⁷ The terms of the Stock Purchase Agreement are confidential. GWI is simultaneously filing a motion for a protective order to allow a complete copy of the Stock Purchase Agreement to be filed with the Board.

ACQUISITION OF CONTROL SHOULD BE EXEMPTED

The acquisition of control of a rail carrier by a person who is not a rail carrier but that controls a number of railroads is subject to the prior approval and authorization of the Board under 49 U.S.C. §11323(a)(5). Thus, unless the exemption requested herein is granted, the proposed control of HOG by GWI would require that GWI file an application under 49 C.F.R. §1180. Since the transaction does not involve the merger of two Class I railroads, however, the Board would be required to approve the application unless it were to find both:

(1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

49 U.S.C. §11324(d).

The Board is directed by 49 U.S.C. §10502 to grant an exemption from regulation if it finds that (1) regulation is not necessary to carry out the rail transportation policy ("RTP") of 49 U.S.C. §10101, and (2) either the transaction is limited in scope or regulation is not needed to protect shippers from the abuse of market power. The Interstate Commerce Commission held:

In determining whether regulation of a transaction proposed for exemption under §10505 [now 10502] is necessary to carry out the RTP, our analysis generally focuses on the criteria relating to the underlying statute from which exemption is sought. We need not extend our analysis beyond what we would address in an application proceeding itself. See Finance Docket No. 31493, Blackstone Cap. Partners -- Cont. Exempt. -- CNW Corp., Et Al. (not printed), served July 5, 1989, at 2. Section 10505 provides a shortcut analysis to see if regulation -- in this case under §11344(d)[now 11324(d)] -- is necessary. If §11344(d) does not require review of particular issues, neither does the §10505 process.

Indiana R. Co. – Acq. & Oper. – Illinois Central R. Co., 6 ICC 2d 1004, 1006 (1990), *aff'd sub nom.*, *Village of Palestine v. ICC*, 936 F. 2d 1335 (D.C. Cir 1991).

As noted above, the inquiry under Section 11324(d) focuses on the lessening of competition and anticompetitive effects. The Board has generally held that end-to-end transactions are not likely to result in a substantial lessening of competition. *See generally Norfolk Southern Rail Company, Pan Am Railways, Inc., et al. – Joint Control and Operating/Pooling Agreements – Pan Am Southern LLC*, STB Finance Docket No. 35147 (served March 10, 2009) (“PAS”), slip op. at 1, 5. Here, as discussed above and below, no such effects are likely.

Further, grant of the requested exemption would also be fully consistent with the standards of 49 U.S.C. §10502. This Petition provides the Board with all of the information necessary to evaluate the proposed transaction, and detailed scrutiny of a full application is not required to carry out the transportation policy of 49 U.S.C. §10101. The grant of an exemption to GWI will minimize the need for Federal regulatory control (49 U.S.C. §10101(2)), ensure the development of a sound rail transportation system with effective competition among rail carriers and other modes to meet the needs of the public (49 U.S.C. §10101(4)), foster sound economic conditions in transportation (49 U.S.C. §10101(5)), reduce regulatory barriers to entry (49 U.S.C. §10101(7)), encourage efficient management of railroads (49 U.S.C. §10101(9)) and provide for expeditious handling and resolution of all proceedings (49 U.S.C. §10101(15)). Moreover, the grant of the exemption will not adversely affect any of the other 15 items which have been made a part of rail transportation policy by 49 U.S.C. §10101. *See, e.g., Genesee & Wyoming Inc. – Control Exemption – Georgia Southwestern Railroad, Inc.*, STB Finance Docket No. 35183

(served December 15, 2008) (“*GWI/GSWR*”), slip op. at 4. *See also, RailAmerica, Inc., et al. – Control Exemption – Marquette Rail, LLC*, STB Docket No. FD 35592 (served April 13, 2012), slip op. at 3.

Regulation of this transaction is not needed to protect shippers from an abuse of market power. As indicated, there will be no adverse impacts on rail transportation or lessening of competition. GWI will merely be incorporating HOG into its family of short line carriers without materially changing the operations of HOG or the services to any of its shippers. Accordingly, shippers will not lose any rail options, but will potentially benefit from greater efficiencies and enhanced rail service, and the additional resources available to HOG once it becomes part of the GWI corporate family. As such, there is no threat to shippers of any abuse of market power. The Board has previously found that common control of an additional Class III carrier does not expose shippers to an abuse of market power where there is no significant change in service or competitive alternatives. *See, e.g., GWI/GSWR*, slip op. at 4.

If the Board finds that there is no probable adverse effect on market power, the Board need not determine whether the transaction is limited in scope. However, if it were to consider the scope of the transaction, GWI believes that the Board should find the scope to be limited. HOG is a single Class III railroad that currently operates in only one state (Georgia).⁸ HOG will continue to assume the risks of owning and operating its own rail assets, including the properties leased from Georgia DOT. HOG’s local operations serve communities in central Georgia, but HOG relies on the number and variety of its connecting carriers to provide connections to

⁸ HOG also has authority to operate across the border into Alabama; however, the the segment into Alabama has been out of service since the inception of HOG’s lease with Georgia DOT and has never been served by HOG.

regions outside of the areas it serves. While HOG connects with two other Class III carriers in the GWI corporate family (GSWR and GC), it also directly connects with two Class I carriers (NSR and CSXT). Shippers will not lose access to any carriers, and there are no 2-to-1 shippers. Under these circumstances, a finding of limited scope is clearly warranted.

LABOR PROTECTION

GWI recognizes that under 49 U.S.C. §10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because this transaction will involve the control of two Class II carriers⁹ and a number of Class III carriers, the labor protection requirements of 49 U.S.C. §11326(a), as set forth by the Interstate Commerce Commission in *New York Dock Railway—Control—Brooklyn Eastern District Terminal*, 360 I.C.C. 60 (1979), will apply to this control transaction.

After the consummation of the control transaction, HOG will continue as an operating railroad, and there will be no combination of forces between HOG and any other carrier. HOG currently has 15 employees that will be covered by the *New York Dock* conditions; none of whom are subject to collective bargaining agreements. Accordingly, there are no unions with which to negotiate implementing agreements. Moreover, GWI has not yet determined whether or which employees, if any, may be dismissed or displaced as a result of the control transaction, and will not immediately terminate or displace any HOG covered employee as a result of the proposed transaction. HOG will continue to honor all current employment terms and conditions. There will be no adverse effect on HOG covered employees because work will continue to be performed by the same HOG covered employees who are currently performing the work. GWI

⁹ GWI currently controls two Class II carriers, Buffalo & Pittsburgh Railroad, Inc. and Rapid City, Pierre & Eastern Railroad, Inc.

acknowledges that under Article I, Section 4 of the *New York Dock* conditions, HOG will be required to give HOG employees 90 days' notice, and negotiate, before making changes in operations, services, facilities or equipment until the provisions of Section 4 have been satisfied. Because GWI is not capable of making a full and adequate statement of labor changes before consummation of the transaction, and since HOG will be continue to exist and operate as a separate railroad company after the transaction, there is no basis for negotiation of an implementing agreement until GWI and HOG decide to implement labor changes. Accordingly, GWI requests that the Board confirm that neither GWI nor HOG are required to commence negotiations or consummate implementing agreements prior to consummation of the control transaction. *See GWI/P&W*, slip op at 6-7; *Norfolk Southern Railway Company, PAS*, slip op. at 16-17.

ENVIRONMENTAL AND HISTORIC REPORTS

The proposed acquisition of control involves only the acquisition of equity, and will not affect the level of operations on the rail lines to be operated by HOG or of any of the railroads in GWI's corporate family. As such, the proposed transaction should be exempt from the Board's environmental reporting requirements pursuant to 49 C.F.R. §1105.6(c)(2)(ii). Further, the proposed transaction is exempt from the historic preservation reporting requirements since the proposed acquisition of control will not substantially change the level of operations over, or maintenance of, the rail lines of either HOG or any of the railroads in GWI's corporate family. *See* 49 C.F.R. §1105.8(b)(3).

PROMPT CONSIDERATION

GWJ requests prompt consideration of this Petition so that a decision will be granted with an effective date of or before June 30, 2017. Acquisition-of-control class exemptions take effect thirty (30) days after filing. Although the acquisition of control in this proceeding does not qualify for the exemption because of the connections between HOG and other carriers that GWJ controls, as discussed above, GWJ is entitled to the exemption on a similar prompt basis. Georgia DOT (Exhibit D) also requests prompt consideration of the Petition. Prolonged consideration of the Petition will create unnecessary uncertainty for shippers and employees. Additionally, delay in the issuance of the approval would delay shippers and the public from capitalizing on the efficiencies and other benefits of the proposed transaction. Accordingly, GWJ requests that the Board issue a decision as soon as practicable and in time to allow the exemption to become effective prior to June 30, 2017.

VOLUNTARY NOTICE / SERVICE

The public has already been given notice of the proposed transaction. GWJ is a publicly-traded company and issued a press release announcing the transaction on February 7, 2017. Additionally, as discussed above, the State of Georgia, through Georgia DOT, has been given advanced notice of the transaction, and supports the transaction. Although GWJ is not required by 49 C.F.R. Part 1121 to provide specific notice of the filing of this Petition, GWJ is serving copies of the Petition on the Governor and Department of Transportation of Georgia, the only state in which HOG operates. (Although the lease with Georgia DOT extends into Alabama, that segment is out of service and HOG has never operated in Alabama.) Additionally, as shown on the attached service list, GWJ is serving copies of the Petition on HOG's connecting Class I

carriers, and on Georgia Southern Railway which operates a segment of the leased line, so that they will have full notice of the transaction and the proposed exemption.

CONCLUSION

For the foregoing reasons, GWI requests that the Board, under 49 U.S.C. §10502, exempt its proposed acquisition of control of HOG from regulation under 49 U.S.C. §§11323-11324, and that the exemption be made effective as early as possible and prior to June 30, 2017.

Respectfully submitted,



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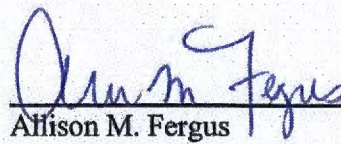
Dated: February 24, 2017

Attorneys for Genesee & Wyoming Inc.

VERIFICATION

I, Allison M. Fergus, General Counsel & Secretary of Genesee & Wyoming Inc.,
verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am
qualified and authorized to file the foregoing document.

Executed on February 24, 2017.


Allison M. Fergus

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing document was served by email

on counsel for HOG:

Matthew D. Williams
MATTHEW D. WILLIAMS & ASSOCIATES LLC
2215 Pilgrim Mill circle
Cumming, GA 30041
MWilliams@WilliamsLegalSolutions.com

and by U.S. mail, postage prepaid on the following:

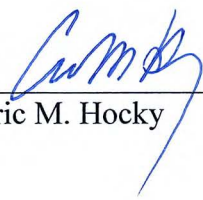
Governor Nathan Deal
Office of the Governor
206 Washington Street
111 State Capitol
Atlanta, GA 30334

Georgia Department of Transportation
Office of Intermodal Programs
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1318 Johanson Road
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Eric M. Hocky

Dated: February 24, 2017

205498161

EXHIBIT A

GWJ CONTROLLED RAILROADS¹⁰

Class II Carriers

Buffalo & Pittsburgh Railroad, Inc. [New York, Pennsylvania]
Rapid City, Pierre & Eastern Railroad, Inc. [Minnesota, Nebraska, South Dakota, Wyoming]

Class III Carriers

Alabama & Gulf Coast Railway LLC [Alabama, Florida, Mississippi]
Aliquippa & Ohio River Railroad Co., The [Pennsylvania]
Allegheny & Eastern Railroad, LLC [Pennsylvania]
AN Railway, L.L.C. [Florida]
Arizona & California Railroad Company [Arizona, California]
Arizona Eastern Railway Company [Arizona, New Mexico]
Arkansas Louisiana & Mississippi Railroad Company [Arkansas, Louisiana]
Arkansas Midland Railroad Company, Inc. [Arkansas]
Atlantic and Western Railway, Limited Partnership [North Carolina]
Bauxite & Northern Railway Company [Arkansas]
Bay Line Railroad, L.L.C., The [Alabama, Florida]
California Northern Railroad Company [California]
Carolina Piedmont Railroad [South Carolina]
Cascade and Columbia River Railroad Company [Washington]
Central Oregon & Pacific Railroad, Inc. [California, Oregon]
Central Railroad Company of Indiana, The [Indiana, Ohio]
Central Railroad Company of Indianapolis [Illinois, Indiana, Ohio]
Chattahoochee Bay Railroad, Inc. [Alabama, Georgia]
Chattahoochee Industrial Railroad [Georgia]
Chattooga & Chickamauga Railway Co. [Georgia, Tennessee]
Chesapeake & Albemarle Railroad [North Carolina, Virginia]
Chicago, Ft. Wayne & Eastern Railroad [Indiana and Ohio]
Columbus & Chattahoochee Railroad, Inc. [Alabama]
Columbus and Greenville Railway Company [Mississippi]
Columbus & Ohio River Rail Road Company, The [Ohio]
Commonwealth Railway, Incorporated [Virginia]

¹⁰ Allegheny & Eastern Railroad, LLC and Pittsburg & Shawmut Railroad, LLC are non-operating carriers that own rail lines operated by Buffalo & Pittsburgh Railroad, Inc. Maryland and Pennsylvania Railroad, LLC and Yorkrail, LLC are non-operating carriers that own rail lines operated by York Railway Company. Western Kentucky Railway, LLC has obtained authority to abandon all of its remaining rail lines. *See, Western Kentucky Railway, LLC – Abandonment Exemption – In Webster, Union, Caldwell and Crittenden Counties, KY*, Docket No. AB-449 (Sub-No. 3X) (Served January 20, 2011).

Conecuh Valley Railway, L.L.C. [Alabama]
Connecticut Southern Railroad, Inc. [Connecticut, Massachusetts]
Corpus Christi Terminal Railroad, Inc. [Texas]
Dallas, Garland & Northeastern Railroad, Inc. [Texas]
Dansville and Mount Morris Railroad Company, The [New York]
Delphos Terminal Company, Inc. [Ohio]
Eastern Alabama Railway, LLC [Alabama]
East Tennessee Railway, L.P. [Tennessee]
First Coast Railroad Inc. [Florida, Georgia]
Fordyce & Princeton RR Co. [Arkansas]
Galveston Railroad, L.P. [Texas]
Genesee and Wyoming Railroad Company [New York]
Georgia Central Railway, L.P. [Georgia]
Georgia Southwestern Railroad, Inc. [Alabama, Georgia]
Golden Isles Terminal Railroad, Inc. [Georgia]
Grand Rapids Eastern Railroad [Michigan]
Hilton & Albany Railroad, Inc. [Georgia]
Huron & Eastern Railway Company, Inc. [Michigan]
Illinois & Midland Railroad, Inc. [Illinois]
Indiana & Ohio Railway Company [Indiana, Michigan, Ohio]
Indiana Southern Railroad, LLC [Indiana]
Kiamichi Railroad Company L.L.C. [Arkansas, Oklahoma, Kansas]
KWT Railway, Inc. [Kentucky, Tennessee]
Kyle Railroad Company [Colorado, Kansas]
Little Rock & Western Railway, L.P. [Arkansas]
Louisiana & Delta Railroad, Inc. [Louisiana]
Luxapalila Valley Railroad, Inc. [Alabama, Mississippi]
Mahoning Valley Railway Company, The [Ohio]
Marquette Rail, LLC [Michigan]
Maryland and Pennsylvania Railroad, LLC [Pennsylvania]
Maryland Midland Railway, Inc. [Maryland]
Massena Terminal Railroad Company, The [New York]
Meridian & Bigbee Railroad, L.L.C. [Alabama, Mississippi]
Michigan Shore Railroad [Michigan]
Mid-Michigan Railroad, Inc. [Michigan]
Missouri & Northern Arkansas Railroad Company, Inc. [Arkansas, Kansas, Missouri]
New England Central Railroad, Inc. [Connecticut, Massachusetts, New Hampshire, Vermont]
North Carolina & Virginia Railroad Company, LLC [North Carolina, Virginia]
Ohio and Pennsylvania Railroad Company [Ohio]
Ohio Central Railroad, Inc. [Ohio]
Ohio Southern Railroad, Inc. [Ohio]
Olympia & Belmore Railroad, Inc. [Washington]
Otter Tail Valley Railroad Company, Inc. [Minnesota, South Dakota]
Pittsburg & Shawmut Railroad, LLC [Pennsylvania]
Pittsburgh & Ohio Central Railroad Company, The [Pennsylvania]

Point Comfort & Northern Railway Company [Texas]
 Portland & Western Railroad, Inc. [Oregon]
 Prescott and Northwestern Railroad Company, The [Arkansas]
 Providence and Worcester Railroad Company [Connecticut, Massachusetts, New York, Rhode Island]
 Puget Sound & Pacific Railroad [Washington]
 Riceboro Southern Railway, LLC [Georgia]
 Rochester & Southern Railroad, Inc. [New York]
 Rockdale, Sandow & Southern Railroad Company [Texas]
 Salt Lake City Southern Railroad Company, Inc. [Utah]
 San Diego & Imperial Valley Railroad Company, Inc. [California]
 San Joaquin Valley Railroad Co. [California]
 Savannah Port Terminal Railroad, Inc. [Georgia]
 South Buffalo Railway Company [New York]
 South Carolina Central Railroad Company, LLC [South Carolina]
 St. Lawrence & Atlantic Railroad Company [Maine, New Hampshire, Vermont]
 St. Lawrence & Atlantic Railroad (Quebec) Inc. [Vermont]
 Talleyrand Terminal Railroad Company, Inc. [Florida]
 Tazewell & Peoria Railroad, Inc. [Illinois]
 Texas Northeastern Railroad [Texas]
 Three Notch Railway, L.L.C. [Alabama]
 Toledo, Peoria & Western Railway Corp. [Illinois, Indiana]
 Tomahawk Railway, Limited Partnership [Wisconsin]
 Utah Railway Company [Colorado, Utah]
 Valdosta Railway, L.P. [Georgia]
 Ventura County Railroad Company [California]
 Warren & Saline River Railroad Company, Inc. [Arkansas]
 Warren & Trumbull Railroad Company, The [Ohio]
 Wellsboro & Corning Railroad, LLC [Pennsylvania, New York]
 Western Kentucky Railway, L.L.C. [Kentucky]
 Willamette & Pacific Railroad, Inc. [Oregon]
 Wilmington Terminal Railroad, Limited Partnership [North Carolina]
 Wiregrass Central Railway, L.L.C. [Alabama]
 Yorkrail, LLC [Pennsylvania]
 York Railway Company [Pennsylvania]
 Youngstown & Austintown Railroad, Inc. [Ohio]
 Youngstown Belt Railroad Company, The [Ohio]

EXHIBIT B

MAP OF LOCATIONS OF GWI-CONTROLLED RAILROADS

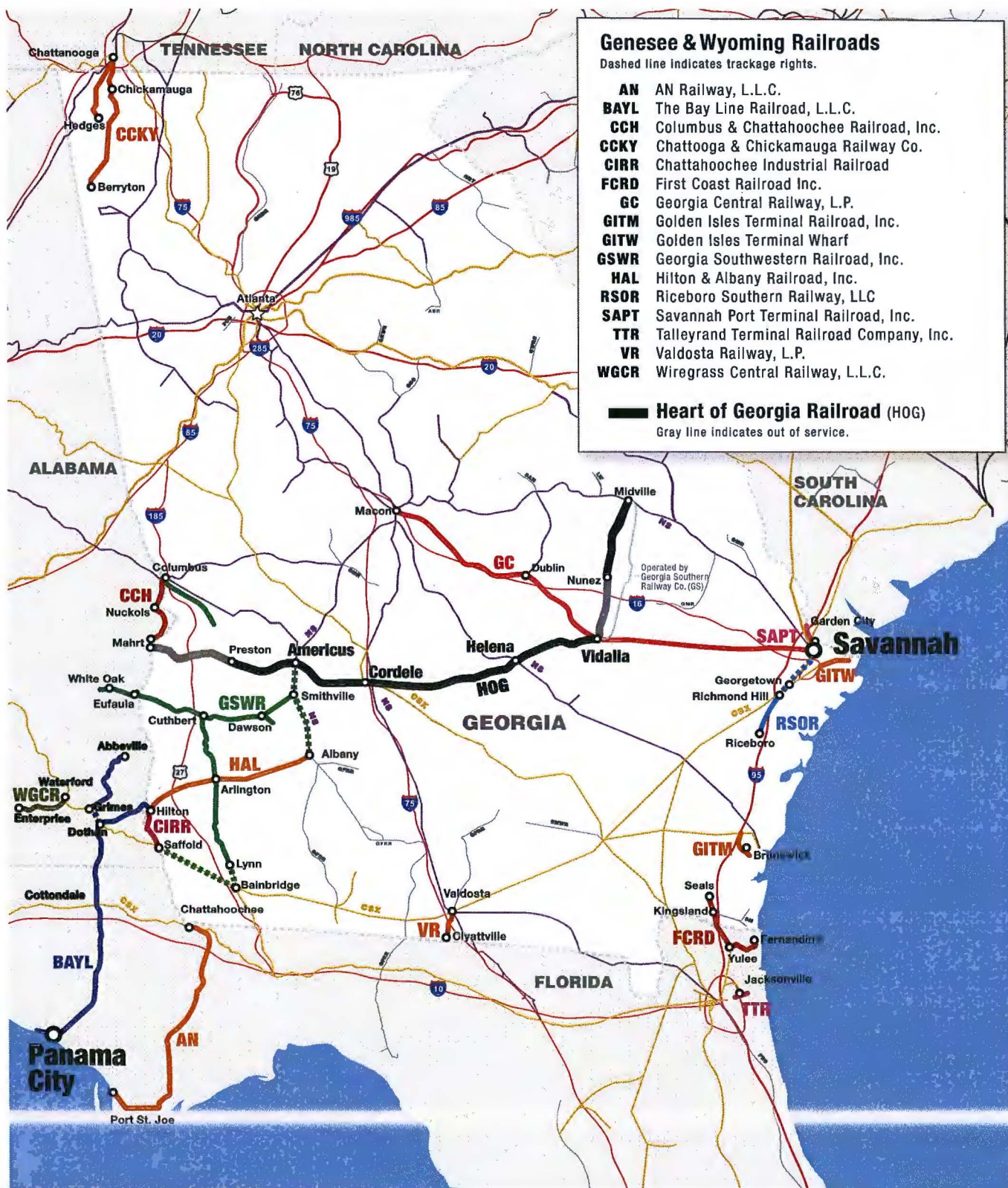


EXHIBIT C

MAP OF HOG

Genesee & Wyoming Inc. 2017 North American Operations



EXHIBIT D

GEORGIA DOT SUPPORT LETTER

Russell R. McMurry, P.E., Commissioner



GEORGIA DEPARTMENT OF TRANSPORTATION

One Georgia Center, 600 West Peachtree Street, NW
Atlanta, Georgia 30308
Telephone: (404) 631-1000

VERIFIED STATEMENT OF RUSSELL R. McMURRY, P.E.

Genesee & Wyoming Inc. Proposed Acquisition of Atlantic Western Transportation, Inc., parent company of Heart of Georgia Railroad, Inc. (HOG)

STB DOCKET NO. FD 36105

My name is Russell R. McMurry, P.E., Commissioner of the Georgia Department of Transportation (GDOT). I have served in this capacity since January 2015. GDOT consists of approximately 4,000 employees who plan, construct and maintain Georgia's state and federal transportation system. Georgia has the 10th largest transportation system in the country.

On February 7, 2017, Genesee & Wyoming Inc. publicly announced its proposed acquisition of Atlantic Western Transportation, Inc., the parent company of Heart of Georgia Railroad, Inc. (HOG).

The proposed transaction is of interest to GDOT. HOG was founded in 1999 and leases 219 miles of track from GDOT. It handles approximately 10,000 annual carloads of agricultural products, feed, fertilizer, lumber and forest products, and also provides direct service to the inland intermodal terminal at Cordele, Georgia, for auto, agricultural products and other merchandise traffic to and from the Port of Savannah. Additionally, it supports operation of the SAM passenger excursion train.

GDOT also leases lines to two Genesee & Wyoming Inc. subsidiaries, the Chattooga & Chickamauga Railway Co. and Georgia Southwestern Railroad, Inc.

GDOT's experience with Genesee & Wyoming and its subsidiary railroads in Georgia has been positive. They have been responsive to all inquiries from GDOT staff and are in good standing with GDOT.

For these reasons, the Department does not oppose the proposed transaction, and asks for expedited review and approval of the transaction by the Surface Transportation Board.

I, Russell McMurry, P.E., declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement.


Russell R. McMurry, P. E., Commissioner

2/23/17
Date

EXHIBIT E

STOCK PURCHASE AGREEMENT

(REDACTED)

EXECUTION VERSION

STOCK PURCHASE AGREEMENT

by and between

GENESEE & WYOMING INC.

and

BRAD LAFEVERS,

DUANE BROXTERMAN

and

JONATHAN LAFEVERS

Dated as of February 7, 2017

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Description of Bonus Payments
Acquired Entities NWC
LTM EBITDA

STOCK PURCHASE AGREEMENT

STOCK PURCHASE AGREEMENT, dated as of February 7, 2017 (this "Agreement"), by and among Brad Lafeyers, Duane Broxterman and Jonathan Lafeyers (each, a "Seller" and, collectively, the "Sellers"), Genesee & Wyoming Inc., a Delaware corporation (the "Buyer") and, solely with respect to Section 6.4, Cordele Intermodal Services, Inc. ("CIS").

WITNESSETH

WHEREAS, Atlantic Western Transportation, Inc., a Georgia corporation ("AWT"), owns all of the outstanding shares of capital stock of Heart of Georgia Railroad, Inc., a Georgia corporation ("HOG" and, together with AWT, the "Acquired Entities");

WHEREAS, HOG is engaged in the business of operating a short line railroad (the "Business");

WHEREAS, the Sellers own, beneficially and of record, all of the issued and outstanding shares of capital stock of AWT (the "Acquired Stock");

WHEREAS, the Buyer desires to purchase from the Sellers, and the Sellers desire to sell to the Buyer (or its designee), all of the issued and outstanding shares of Acquired Stock, all in accordance with and subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements hereinafter contained, the parties hereby agree as follows:

ARTICLE 1. DEFINITIONS.

As used in this Agreement, the following terms shall have the following meanings:

"AAR" shall mean the Association of American Railroads;

"Acquired Entities" — See Recitals hereto;

"Acquired Entities NWC" shall mean the calculation of the Net Working Capital of the Acquired Entities as of November 30, 2016 as set forth on Schedule B attached hereto;

"Acquired Stock" — See Recitals hereto;

"Action" shall mean any claim, action, suit, proceeding, labor dispute, investigation or audit by or before any court, tribunal or other Governmental Entity or arbitral body;

"Adjustment Amount" — See Section 2.3(d);

"Affiliate" shall mean any Person that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with another Person with

the term "control" meaning, for this purpose, the power to direct the management and policies of a Person, directly or indirectly, whether through the ownership of voting securities or partnership, membership or other ownership interests, or by contract or otherwise;

"Agreement" — See Preamble hereto;

"Allocation" — See Section 2.1(f);

"AWT" — See Recitals hereto;

"Balance Sheet" shall mean the unaudited consolidated balance sheet of the Acquired Entities as of November 30, 2016 as set forth in Section 1.1(a) of the Disclosure Letter;

"Basket Amount" — See Section 7.2(a);

"Bonus Payments" shall mean each bonus payment to be paid by an Acquired Entity to an employee in respect of any bonus or similar payment to be paid in relation to the transactions contemplated by this Agreement, as described on Schedule A attached hereto, but which in no event shall exceed \$[REDACTED] in the aggregate;

"Business" — See Recitals hereto;

"Business Day" shall mean any day other than a Saturday, a Sunday or a day on which banks in New York, New York, are closed generally;

"Buyer" — See Preamble hereto;

"Buyer Indemnitees" — See Section 7.2(a);

"Capital Expenditures" means capital expenditures as described in the Buyer's capital policy, a copy of which has been provided to the Sellers prior to the date of this Agreement;

"CIS" — See Preamble hereto;

"Closing" — See Section 2.2;

"Closing Date" — See Section 2.2;

"Closing Date Net Working Capital" means the Net Working Capital as of the close of business on the Closing Date;

"Closing Payment Amount" — See Section 2.1(c);

"Closing Purchase Price" means \$[REDACTED];

"Closing Receivables" — See Section 5.6(d);

"Closing Working Capital Report" — See Section 2.3(e);

"Closing Working Capital Statement" — See Section 2.3(b);

"COBRA" — See Section 3.18(h);

"Code" shall mean the Internal Revenue Code of 1986, as amended;

"Commitment Period" — See Section 6.4(d);

"Confidential Information" shall include confidential and proprietary information, including any such information relating to technology, products, services, finances, business plans, marketing plans, legal affairs, suppliers or customers, but shall not include information that (i) can be demonstrated in writing was already known by the recipient when received, (ii) is or after the date of this Agreement becomes obtainable from other sources other than pursuant to a violation of Law or breach of any Contract, (iii) is required to be disclosed to a Governmental Entity, (iv) can be demonstrated in writing that it was independently developed by the receiving Person, (v) is required to be disclosed by Law or pursuant to the rules of any securities exchange having jurisdiction over the disclosing Person or (vi) is disclosed pursuant to a prior written waiver from the non-disclosing Person of the confidentiality requirements of Section 12.14;

"Contracts" shall mean any written or oral legally binding contract, agreement, subcontract, lease, license or purchase order;

"DCA Statement" — See Section 2.5(e);

"Deficit Amount" — See Section 2.3(e);

"Determination Date" — See Section 2.3(c);

"Enterprise Value" — See Section 2.5(b);

"Environmental Claim" means any claim, action, demand, or notice by or on behalf of, any Governmental Entity or Person alleging liability or potential liability under, or a violation of, any Environmental Law, or liability or potential liability arising out of the Release or presence of or exposure to any Materials of Environmental Concern;

"Environmental Laws" shall mean any and all Laws regulating, relating to or imposing liability or standards of conduct concerning protection of the environment or of human health, or natural resource damages, including Laws relating to the use, handling, generation, transportation, presence or Release of, or exposure to, any harmful or deleterious substance;

"Environmental Permits" shall mean any and all Licenses and Permits pursuant to or required under any Environmental Law;

"Environmental Report" shall mean any report, study, assessment, audit or other similar document that addresses any environmental or health issue, including any issue of actual or potential noncompliance with, actual or potential liability under or cost arising out of, or actual or potential impact on business in connection with, any Environmental Law or any

proposed or anticipated change in or addition to Environmental Law or relating to Materials of Environmental Concern, that may affect any of the Acquired Entities;

"Equipment and Machinery" shall mean all the equipment, machinery, furniture, fixtures and improvements, tooling, spare parts, supplies and vehicles (including all locomotives, cars, tractors, trailers, vans and all other transportation rolling stock) owned, leased or used (except third-party locomotives and rolling stock used pursuant to AAR interchange rules) by the Acquired Entities;

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder;

"ERISA Affiliate" — See Section 3.18(b);

"Estimated Closing Date Net Working Capital" — See Section 2.3(a);

"Estimated Closing Working Capital Statement" — See Section 2.3(a);

"Estimated Net Working Capital Adjustment Amount" which may be positive or negative, means (i) the Estimated Closing Date Net Working Capital *less* (ii) an amount equal to \$ [REDACTED];

"Excluded Liabilities" — See Section 2.6;

"Existing Policies" — See Section 3.19;

"FCC" — See Section 5.14;

"FELA Claims" shall mean claims made under the Federal Employers Liability Act, as amended from time to time. A FELA Claim shall be considered "made" upon the earliest to occur of the following: (i) the claimant's employer has received or prepared a written report (including, in the case of an alleged occupational injury, a questionnaire) of the claim or of the incident from which the claim arises; (ii) the claimant's employer has received written notice of the claim from the claimant or the claimant's attorney; or (iii) an action, claim or suit asserting the claim has been filed and properly served on the claimant's employer. For the purposes of this definition, (x) the term "written report" shall include reports that are electronically prepared or transmitted and (y) the term "employer" shall include the employer currently responsible under the Federal Employers Liability Act for the claim or cause of action being asserted and such employer's attorney;

"Financial Statements" — See Section 3.7;

"FRA" shall mean the U.S. Federal Railroad Administration;

"GAAP" shall mean U.S. generally accepted accounting principles as in effect from time to time;

"GADOT Lease" shall mean the Lease Agreement, dated as of July 27, 2016, between HOG and the Georgia Department of Transportation, an agency of the State of Georgia, as amended by Amendment No. 1, dated September 7, 2016;

"Governmental Entity" shall mean any national, federal, state, provincial, local or international governmental or public body, court, agency or regulatory authority or commission, or other governmental authority or instrumentality;

"Governmental Order" shall mean any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Entity;

"HOG" — See Recitals hereto;

"Increase Amount" — See Section 2.3(c);

"Indebtedness" shall mean, with respect to any Person, without duplication: (i) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, including accrued interest and any costs associated with prepaying such debt (including prepayment penalties, fees or premiums); (ii) the principal of and premium (if any) and accrued interest in respect of all obligations of such Person evidenced by bonds, debentures, notes or similar instruments; (iii) all obligations of such Person upon which interest charges are customarily paid; (iv) all obligations of such Person under conditional sale or other title retention agreements relating to assets purchased by such Person; (v) all obligations of such Person issued or assumed as the deferred purchase price of property or services; (vi) all indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed by such Person; (vii) all guarantees by such Person of Indebtedness of others; (viii) all capital lease obligations of such Person; (ix) all obligations of such Person in respect of interest rate protection agreements, foreign currency exchange agreements or other interest or exchange rate hedging arrangements; (x) all obligations of such Person as an account party to reimburse any bank or any other Person in respect of letters of credit and bankers' acceptances; and (xi) any obligation arising with respect to any transaction that is the functional equivalent of or takes the place of borrowing but which does not constitute liability on the balance sheet. The Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture in which such Person is a general partner or member;

"Indemnified Party" — See Section 7.1;

"Indemnifying Party" — See Section 7.1;

"Indemnity Amount" — See Section 7.2(b);

"Independent Accounting Firm" — See Section 2.3(c);

"Initial Release Date" — See Section 7.5(c);

"Intellectual Property" shall mean all of the following owned or licensed by the Acquired Entities, as licensee or licensor, or used in the Business: (i) registered and material

unregistered trademarks and service marks and trade names, and all goodwill associated therewith; (ii) patents, patentable inventions and computer programs (including password unprotected interpretive code or source code); (iii) trade secrets; (iv) registered and material unregistered copyrights in all works, including software programs; (v) domain names; (vi) all rights in mask works; and (vii) all computer software;

"IP Agreements" shall mean (a) licenses of Intellectual Property by any Acquired Entity to any third-party, (b) licenses of Intellectual Property by any third-party to any Acquired Entity, (c) agreements between any Acquired Entity and any third-party relating to the ownership, development or use of Intellectual Property, the development or transmission of data, or the use, modification, framing, linking, advertisement, or other practices with respect to Internet web sites, and (d) consents, settlements, decrees, orders, injunctions, judgments or rulings governing the use, validity or enforceability of the Intellectual Property;

"Law" shall mean any law, statute, ordinance, rule (including common law), regulation, order, writ, judgment, injunction, settlement agreement, guideline, code, decree or other legally enforceable requirement of any Governmental Entity, and includes rules and regulations of any regulatory or self-regulatory authority;

"Lease" and "Leases" — See Section 3.12(a);

"Leased Real Property" — See Section 3.12(a);

"Licenses and Permits" — See Section 3.14;

"Lien" shall mean any mortgage, pledge, security interest, adverse ownership claim, encumbrance, lien (statutory or other), deed of trust, conditional sale agreement, claim, charge, lease, license, easement, restrictive covenant, limitation, restriction, assessment or defect in title;

"Listed Intellectual Property" — See Section 3.13(a);

"LTM EBITDA" shall mean HOG's earnings before interest, tax, depreciation and amortization, calculated in good faith in accordance with GAAP, for the 12 months immediately preceding the calculation date, excluding one-time items; provided that appropriate adjustments may be made by the Buyer with the Sellers' prior written consent, such consent not to be unreasonably withheld, conditioned or delayed, if [REDACTED]

[REDACTED] provided, further, that an illustrative example of LTM EBITDA is set forth on Schedule C;

"Losses" — See Section 7.2(a);

"Material Adverse Effect" shall mean, with respect to any Person, any event, development, circumstance, effect or change that, individually or in the aggregate, either (i) has had or would reasonably be expected to have a material adverse effect on the business, operations, rights, properties, assets, liabilities, condition (financial or otherwise), results of operations or prospects of the Acquired Entities taken as a whole, or (ii) would materially impair

the ability of any Seller to perform any of its obligations under, and to consummate the transactions contemplated by, this Agreement or any other related agreements;

"Material Contracts" — See Section 3.17(a);

"Material Customers" — See Section 3.24;

"Materials of Environmental Concern" shall mean any: (i) gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products; (ii) hazardous or toxic substances, polychlorinated biphenyls, urea-formaldehyde insulation, asbestos, molds, pollutants, contaminants or radioactivity; and (iii) other materials, substances or wastes, regulated pursuant to, or that could give rise to liability under, any Environmental Law;

"Minimum Volume Commitment" — See Section 6.4(d);

"Multiemployer Plans" — See Section 3.18(a);

"Net Working Capital" — See Section 2.4;

"Options" — See Section 3.12(d);

"Owned Real Property" — See Section 3.11(a);

"Party" shall mean the Buyer or the Sellers;

"Parties" shall mean the Buyer and the Sellers, collectively;

"Pension Plan" — See Section 3.18(c);

"Permitted Liens" shall mean (i) Liens for Taxes not yet due and payable, (ii) Liens imposed by Law and incurred in the ordinary course of business for obligations not yet due to carriers, warehousemen, laborers, materialmen and the like, it being understood that such Liens do not include Liens arising under any applicable Environmental Law and (iii) Liens in respect of pledges or deposits under workers' compensation Laws;

"Person" shall mean any individual, corporation, partnership, joint venture, association, joint-stock company, trust, limited liability company, unincorporated organization or Governmental Entity;

"Personal Property" means all furniture, fixtures, Equipment and Machinery and other items of tangible personal property;

"Plans" — See Section 3.18(a);

"Post-Signing Returns" — See Section 5.1(b);

"Pre-Closing Tax Period" shall mean any taxable period (or portion of a taxable period) ending on or before the Closing Date;

"Purchase Price" — See Section 2.1(b);

"Rail Facilities" — See Section 3.26;

"Railroad Assets" shall mean all assets, properties and rights (whether real, personal or intangible, and including the Rail Facilities and any Intellectual Property) of any of the Acquired Entities;

"Real Property" — See Section 3.12(e);

"Regulations" shall mean the Treasury Regulations (including Temporary Regulations) promulgated by the United States Department of Treasury with respect to the Code or other federal tax statutes;

"Release" shall mean disposing, discharging, injecting, spilling, leaking, leaching, dumping, emitting, escaping, emptying, seeping, placing and the like into or upon any land or water or air or otherwise entering into the environment;

"Releasing Person" — See Section 5.13;

"Securities Act" shall mean the United States Securities Act of 1933, as amended, and all rules and regulations of the United States Securities and Exchange Commission promulgated thereunder;

"Sellers" — See Preamble hereto;

"Seller Indemnitees" — See Section 7.3;

"Shares" — See Section 2.1(a);

"STB" shall mean the United States Surface Transportation Board;

"Stock Sale" — See Section 2.1(a);

"Subsidiary" shall mean, with respect to any Person, any other Person (i) of which the first Person owns directly or indirectly 50% or more of the equity interest in the other Person; (ii) of which the first Person or any other Subsidiary of the first Person is a general partner or (iii) of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions with respect to the other Person are at the time owned by the first Person and/or one or more of the first Person's Subsidiaries;

"Tax Asset" — See Section 11.6;

"Tax Claim" — See Section 11.3(a);

"Tax Return" shall mean any report, return, declaration, statement, information return, filing, election, claim for refund or other information, including any schedules or

attachments thereto, and any amendments to any of the foregoing required to be supplied in connection with Taxes;

"Taxes" shall mean all United States federal, state, local and foreign taxes, including net income, gross income, gross receipts, production, excise, employment, sales, use, transfer, ad valorem, profits, license, capital stock, capital gains, franchise, severance, stamp, withholding, Social Security, railroad retirement, employment, unemployment, disability, worker's compensation, payroll, utility, windfall profits, personal property, real property, intangible property, registration, alternative or add-on minimum, estimated and other taxes, customs, duties, governmental fees or like charges of any kind whatsoever, including any interest, penalties, fines, related liabilities or additions thereto, and "Tax" shall mean any one of them;

"Terminal" — See Section 6.4(b);

"Third-Party Claim" — See Section 7.4(a);

"Transaction Expenses" — See Section 12.4;

"Transferred IP" — See Section 5.5(b); and

"Written Response" — See Section 2.1(f).

ARTICLE 2. PURCHASE AND SALE OF SHARES OF THE ACQUIRED

ENTITIES

SECTION 2.1 Purchase Price. Subject to the terms and conditions set forth in this Agreement and in reliance upon the representations and warranties of the Sellers set forth below, at the Closing:

(a) The Buyer shall purchase from the Sellers, and the Sellers shall sell, transfer, convey and deliver to the Buyer (or the Buyer's designee), all of the issued and outstanding shares of the Acquired Stock (the "Shares"), free and clear of all Liens (such transaction, the "Stock Sale"), except for any Liens created by this Agreement;

(b) The aggregate purchase price for the Shares shall be an amount equal to (i) the Closing Purchase Price *plus* (ii) the Deferred Consideration Amount, if any, *plus* (iii) the Estimated Net Working Capital Adjustment Amount (which may be positive or negative) *less* (iv) Indebtedness of the Acquired Entities as of the close of business on the Closing Date, which aggregate amount shall be subject to adjustment after the Closing in the manner set forth in this Article 2 (the "Purchase Price");

(c) The Stock Sale shall be effected at the Closing by the Sellers delivering to the Buyer (or the Buyer's designee) stock certificates evidencing all of the Shares, duly endorsed in blank or accompanied by stock powers duly executed in blank, in a form satisfactory to the Buyer and with all required stock transfer tax stamps affixed, such shares being delivered free and clear of all Liens, and accompanied by any assignments, authorizations, endorsements or any other instruments and documents as shall be effective (or as required by any provision of the

Certificate of Incorporation or By-laws (or comparable organizational documents, as applicable) of AWT) to vest in the Buyer (or the Buyer's designee), at the Closing, good and marketable title to the Shares, free and clear of all Liens other than such as may be created by or on behalf of the Buyer or created by this Agreement, in exchange for which the Buyer shall deliver (or cause to be delivered) to the Sellers an amount in cash equal to (i) the Closing Purchase Price *plus* (ii) the Estimated Net Working Capital Adjustment Amount (which may be positive or negative) *less* (iii) Indebtedness of the Acquired Entities as of the close of business on the Closing Date (the "Closing Payment Amount"). Payment of the Closing Payment Amount shall be made by wire transfer of immediately available funds to such account(s) as the Sellers shall designate in writing to the Buyer at least three Business Days prior to the Closing Date;

(d) The Buyer shall be entitled to deduct and withhold from any amounts payable pursuant to this Section 2.1, Section 2.5 or otherwise pursuant to this Agreement such amount as the Buyer is required to deduct and withhold with respect to the making of such payment under the Code or any other applicable Tax Law. To the extent that amounts are so withheld, such withheld amounts shall be treated for purposes of this Agreement as having been paid to the applicable Person in respect of which such deduction or withholding was made; and

(e) The Purchase Price and any other amounts treated as consideration for U.S. federal income tax purposes shall be allocated among the assets of the Acquired Entities in a manner consistent with Section 1060 of the Code and the Treasury Regulations promulgated thereunder. Within ninety (90) days of the final determination of Net Working Capital, the Buyer shall prepare a proposed allocation schedule in accordance with the preceding sentence (the "Allocation"), and shall deliver its calculation of the Allocation to the Sellers. Within thirty (30) days after receipt of the Buyer's calculation of the Allocation, the Sellers shall deliver a written collective response to the Buyer setting forth whether the Sellers agree with or dispute the Buyer's calculation (the "Written Response") and, if the Sellers dispute the Buyer's calculation, the Written Response will set forth in reasonable detail the basis for each disputed item and will certify that all disputed items are being disputed in good faith. In the event that an adjustment to the Purchase Price is made pursuant to this Agreement, the Sellers and the Buyer agree to use their reasonable best efforts to mutually agree to an allocation of any such post-Closing adjustment. The Buyer and the Sellers will attempt in good faith and in an expedient manner to reach agreement on any disputed items with respect to the Allocation, and if they cannot agree within thirty (30) days after delivery of the Written Response, each may submit the disputed items to the Independent Accounting Firm (as defined below). The Buyer and the Sellers shall cooperate with the Independent Accounting Firm to the extent reasonably requested by the Independent Accounting Firm to prepare a written report. The Independent Accounting Firm shall, within thirty (30) calendar days following its selection, deliver to the Sellers and the Buyer a written report (accompanied by appropriate information and documentation in reasonable detail supporting the Independent Accounting Firm's calculations) determining only such disputed exceptions, and its determinations will be final and binding upon the parties hereto for the purposes of the Allocation. The fees and disbursements of the Independent Accounting Firm acting under this Section 2.1 shall be evidenced by a detailed and itemized statement and shared equally by the Buyer, on the one hand, and the Sellers, on the other hand.

SECTION 2.2 **Closing.** Subject to the satisfaction or waiver of the terms and conditions set forth in this Agreement, the closing of the Stock Sale and the consummation

of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of the Buyer, 20 West Avenue, Darien, Connecticut 06820, which the parties may participate in electronically and/or telephonically, at 10:00 a.m. local time on the fifth Business Day following the satisfaction or waiver of the conditions set forth in Articles 8 and 9 (other than those conditions that by their terms cannot be satisfied until the Closing, but subject to the satisfaction or waiver of such conditions), or at such other place and time as may be mutually agreed to by the parties hereto (the "Closing Date").

SECTION 2.3 Purchase Price Adjustment. (a) At least three (3) Business Days prior to the Closing Date, the Sellers shall prepare and deliver to the Buyer a written statement (the "Estimated Closing Working Capital Statement") setting forth their good faith estimate of the Closing Date Net Working Capital (the "Estimated Closing Date Net Working Capital"). The Estimated Closing Working Capital Statement (x) shall be prepared in accordance with (1) GAAP (subject to agreed-upon adjustments, if any, as expressly described on Schedule B) and (2) the illustrative example of the Acquired Entities NWC set forth on Schedule B and (y) shall not give effect to the consummation of the transactions contemplated by this Agreement, including any payments of cash in respect of the Purchase Price.

(b) As soon as reasonably practicable following the Closing Date, and in any event within ninety (90) days thereof, the Buyer shall prepare and deliver to the Sellers a written statement (the "Closing Working Capital Statement") setting forth a calculation of the Closing Date Net Working Capital. The Closing Working Capital Statement (x) shall be prepared in accordance with (1) GAAP (subject to agreed-upon adjustments, if any, as expressly described on Schedule B) and (2) the illustrative example of the Acquired Entities NWC set forth on Schedule B and (y) shall not give effect to the consummation of the transactions contemplated by this Agreement, including any payments of cash in respect of the Purchase Price.

(c) During the Buyer's preparation of the Closing Working Capital Statement and any subsequent period of dispute with respect to the calculations required by this Section 2.3 or Section 7.5, the Sellers shall cooperate in good faith with the Buyer to the extent reasonably requested by the Buyer to prepare the Closing Working Capital Statement or to investigate the basis for any dispute. The Closing Working Capital Statement shall be examined by the Sellers, and the Sellers shall, not later than thirty (30) calendar days after receipt of the Closing Working Capital Statement, render and deliver to the Buyer a written report thereon (the "Closing Working Capital Report"). During the preparation of the Closing Working Capital Report and any subsequent period of dispute with respect thereto, the Buyer shall provide the Sellers with reasonable access during normal business hours on reasonable advance notice to the books, records (including work papers, schedules, memoranda and other documents) and employees of the Acquired Entities, which materials and communications shall be subject to customary confidentiality agreements and access letters entered into by the Sellers prior to receiving access to such materials. The Closing Working Capital Report shall list with specificity those items, if any, from the Closing Working Capital Statement to which the Sellers take exception and shall explain the Sellers' proposed adjustment and be accompanied by appropriate information and documentation in reasonable detail supporting the Sellers' calculations. If the Sellers fail to deliver to the Buyer a Closing Working Capital Report within thirty (30) calendar days following receipt of the Closing Working Capital Statement, the Sellers shall be deemed to have accepted the Closing Working Capital Statement for the purposes of any adjustment to the Purchase Price.

under this Article 2. If the Sellers deliver to the Buyer a Closing Working Capital Report listing the Sellers' objections and otherwise complying with the requirements of this Section 2.3 within thirty (30) calendar days following receipt of the Closing Working Capital Statement, the Buyer shall examine the Closing Working Capital Report and shall have thirty (30) calendar days from receipt of such Closing Working Capital Report to notify the Sellers of the Buyer's objections to the Closing Working Capital Report. If the Buyer fails to notify the Sellers of its objections to the Closing Working Capital Report within such thirty (30) calendar day period, the Buyer shall be deemed to have accepted the determination of the Closing Date Net Working Capital as determined by the Sellers in the Closing Working Capital Report for the purposes of any adjustment to the Purchase Price under this Article 2. If the Buyer gives the Sellers notice of its objections to the Closing Working Capital Report, and if in good faith the Sellers and the Buyer are unable, within fifteen (15) calendar days after receipt by the Sellers of the notice from the Buyer of such objections, to resolve the disputed exceptions, such disputed exceptions will be referred to Deloitte & Touche LLP or, if such firm is providing accounting or other services to either the Buyer or any Seller or any of their respective Affiliates at the time of such dispute, another firm of independent certified public accountants ("Independent Accounting Firm") mutually acceptable to the Sellers and the Buyer. The Buyer and the Sellers shall cooperate with the Independent Accounting Firm to the extent reasonably requested by the Independent Accounting Firm to prepare a written report. The Independent Accounting Firm shall, within thirty (30) calendar days following its selection, deliver to the Sellers and the Buyer a written report (accompanied by appropriate information and documentation in reasonable detail supporting the Independent Accounting Firm's calculations) determining only such disputed exceptions, and its determinations will be final and binding upon the parties hereto for the purposes of any adjustment to the Purchase Price under this Article 2. The determination by the Independent Accounting Firm with respect to any disputed exception shall not be higher than the higher amount, or lower than the lower amount, proposed by the parties. The fees and disbursements of the Independent Accounting Firm acting under this Section 2.3 shall be evidenced by a detailed and itemized statement and shared equally by the Buyer and the Sellers. The Buyer agrees that following the Closing it will not take any action, and the Sellers agree that prior to the Closing they will not take any action, with respect to the accounting, books, records, policies and procedures of any Acquired Entity that would obstruct or prevent the preparation of the Closing Working Capital Statement, the Closing Working Capital Report or the report of the Independent Accounting Firm as provided in this Section 2.3. The date on which the Closing Date Net Working Capital is finally determined in accordance with this Section 2.3(c) is hereinafter referred to as the "Determination Date".

(d) The "Adjustment Amount," which may be positive or negative, shall mean (i) the Closing Date Net Working Capital *minus* (ii) the Estimated Closing Date Net Working Capital. If the Adjustment Amount is a positive, then the Purchase Price shall be increased by the Adjustment Amount, and if the Adjustment Amount is a negative number, the Purchase Price shall be decreased by the absolute value of the Adjustment Amount. The Adjustment Amount shall be paid in accordance with Section 2.3(c).

(e) If the Adjustment Amount is a positive number (such amount, the "Increase Amount"), then, promptly following the Determination Date, and in any event within three (3) Business Days of the Determination Date, the Buyer shall pay to the Sellers an amount in cash equal to the Increase Amount, less any applicable withholding (subject to Section 2.1(e)).

If the Adjustment Amount is a negative number (the absolute value of such amount, the "Deficit Amount"), then, promptly following the Determination Date, and in any event within three (3) Business Days of the Determination Date, the Sellers shall pay to the Buyer, on a joint and several basis, an amount equal to the Deficit Amount.

SECTION 2.4. Net Working Capital. For purposes of this Article 2, "Net Working Capital" as of any date means the amount equal to the current assets (including cash and cash equivalents (but excluding any insurance proceeds received by any Acquired Entity in respect of any casualty (or similar) loss occurring prior to the Closing), less the current liabilities (excluding Indebtedness and Tax liabilities), of the Acquired Entities (on a consolidated basis), each determined (i) in accordance with GAAP and (ii) the illustrative example of the Acquired Entities NWC.

SECTION 2.5. Deferred Consideration. The Buyer shall pay to the Sellers, if applicable, the following amount as deferred consideration for the Shares ("Deferred Consideration Amount") by wire transfer of immediately available funds within five Business Days of the final determination of the Deferred Consideration Amount:

(a) If the GADOT Lease is not renewed, the Deferred Consideration Amount shall be [REDACTED];

(b) If the GADOT Lease is renewed, the Deferred Consideration Amount shall be equal to [REDACTED] % of HOG's enterprise value, calculated as follows (the "Enterprise Value");

(i) [REDACTED]

Less

(ii) [REDACTED]

(c) [REDACTED]

(d) It is agreed and understood that the Buyer will use commercially reasonable efforts to obtain the renewal of the GADOT Lease by HOG on as favorable of terms as possible and that prior to such renewal, the Buyer shall not cause or permit HOG to assign or terminate the GADOT Lease without the prior written consent of the Sellers, such consent not to

be unreasonably withheld, conditioned or delayed. The Buyer will not allow any Affiliate to compete with HOG for the renewal of the GADOT Lease. Non-renewal of the GADOT Lease will only be established for purposes of this Agreement when HOG has received written notification from GADOT stating that the GADOT Lease is not being renewed. As soon as reasonably practicable following the renewal or non-renewal of the GADOT Lease, and in any event within thirty (30) days thereafter, the Buyer shall prepare and deliver to the Sellers a written statement (the "DCA Statement") setting forth a calculation of the Deferred Consideration Amount. The DCA Statement shall be examined by the Sellers, and the Sellers shall, not later than thirty (30) calendar days after receipt of the DCA Statement, deliver to the Buyer a written response thereto specifying whether the Sellers accept the Buyer's calculation of the Deferred Consideration Amount or their objection thereto. In any objection letter, the Sellers shall specify the reasons the Sellers object to the Buyer's calculation of the Deferred Consideration Amount. If the Sellers fail to respond to the Buyer's calculation of the Deferred Consideration Amount within thirty (30) calendar days following receipt of the DCA Statement, the Sellers shall be deemed to have accepted the Buyer's calculation of the Deferred Consideration Amount as set forth in the DCA Statement. If the Sellers object and otherwise comply with the requirements of this Section 2.5 within such thirty (30) calendar day period, the Buyer and the Sellers shall in good faith attempt to resolve the disputed calculation. If the Buyer and the Sellers are unable to do so within such thirty (30) calendar day period, such disputed calculation will be referred to the Independent Accounting Firm. The Buyer and the Sellers shall cooperate with the Independent Accounting Firm to the extent reasonably requested by the Independent Accounting Firm to prepare a written report. The Independent Accounting Firm shall, within thirty (30) calendar days following its selection, deliver to the Sellers and the Buyer a written report (accompanied by appropriate information and documentation in reasonable detail supporting the Independent Accounting Firm's calculations) determining the final Deferred Consideration Amount, and its determination will be final and binding upon the parties hereto. The determination by the Independent Accounting Firm with respect to the disputed calculation shall not be higher than the higher amount, or lower than the lower amount, proposed by the parties. The fees and disbursements of the Independent Accounting Firm acting under this Section 2.5 shall be evidenced by a detailed and itemized statement and shared equally by the Buyer and the Sellers.

(e) The Sellers acknowledge, understand and agree that: (i) the Buyer and its Affiliates (including, after the Closing, the Acquired Entities) shall have the right to operate their respective businesses, including the Acquired Entities, in the sole discretion of the Buyer and its Affiliates and make all decisions with respect to the Buyer and its Affiliates (including, after the Closing, the Acquired Entities) in their sole discretion; (ii) the Buyer and its Affiliates have no obligation to operate the business of the Acquired Entities or enter into (or fail to enter into) any agreements or arrangements (or renewals thereof) in order to achieve any Deferred Consideration Amount; (iii) the Deferred Consideration Amount contemplated herein is speculative and is subject to numerous factors outside the control of the Buyer and its Affiliates; (iv) there is no assurance that the Sellers will receive any Deferred Consideration Amount and neither the Buyer nor its Affiliates, has promised or projected payment of any Deferred Consideration Amount; (v) neither the Buyer nor its Affiliates owe a fiduciary duty or express or implied duty to the Sellers; (vi) the contingent right of the Sellers to receive any Deferred Consideration Amount is not an investment in the Buyer or its Affiliates and the contingent right shall not entitle the Sellers to any rights as shareholders of the Buyer or its Affiliates; (vii) the parties solely intend the express

provisions of this Agreement to govern all of their rights and obligations, if any, with respect to the Deferred Consideration Amount contemplated pursuant to this Section 2.5; and (viii) nothing herein will prohibit the Buyer or its Affiliates from engaging in any business or opportunity either with or without the Acquired Entities or acquiring, entering into joint ventures, investing in or otherwise cooperating with other Persons in connection with the foregoing. Notwithstanding the foregoing, Buyer and its Affiliates shall not knowingly or intentionally take any action for the purpose of avoiding or reducing the payout of the Deferred Consideration Amount.

SECTION 2.6 Excluded Liabilities. Notwithstanding anything contained in this Agreement to the contrary, (i) any and all payables of the Acquired Entities owed to the Sellers or any of their Affiliates, (ii) any liability under or relating to any Plan as a result of the execution of this Agreement, shareholder approval of this Agreement or the transactions contemplated by this Agreement, (iii) [REDACTED]

[REDACTED] and (iv) the Transaction Expenses, in each case, shall not be liabilities or obligations of the Buyer or the Acquired Entities at or after the Closing (collectively, the "Excluded Liabilities").

ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF THE SELLERS.

The Sellers hereby represent and warrant to the Buyer, as of the date hereof and as of the Closing Date or, if a representation or warranty is made as of a specific date, as of such date, subject to such information as is disclosed in the corresponding section of the disclosure letter delivered by the Sellers to the Buyer as of the date hereof, which identifies exceptions only by the specific Section or subsection to which each entry relates (the "Disclosure Letter"), as follows:

SECTION 3.1 The Sellers

(a) **Enforceable Obligation of the Sellers.** The Sellers have all requisite power and authority to enter into and deliver this Agreement, to consummate the transactions contemplated hereby and to carry out their obligations hereunder. This Agreement has been duly executed and delivered by the Sellers and, assuming the due authorization, execution and delivery of this Agreement by the Buyer, this Agreement constitutes the valid and binding obligation of the Sellers, enforceable against the Sellers in accordance with its terms.

(b) **Ownership of Shares.** The Shares comprise all of the issued and outstanding capital stock or other ownership interests of AWT, and the Shares are owned, beneficially and of record, by the Sellers, free and clear of any Liens other than such as may be created by or on behalf of the Buyer, and have been duly authorized and validly issued and are fully paid, non-assessable and were not issued in violation of any preemptive rights, rights of first refusal or any similar rights. There are no outstanding obligations, warrants, options or other rights to subscribe for or purchase from any Acquired Entity, or other Contracts or commitments providing for the issuance of or granting any Person the right to acquire any shares of any class of capital stock or other ownership interests of any Acquired Entity, or any securities or other

instruments convertible into or exchangeable or exercisable for any shares of any class of capital stock or other ownership interests of any Acquired Entity, and no Acquired Entity is subject to any obligation (contingent or otherwise) to repurchase or otherwise acquire or retire, or to register under the Securities Act, any shares of its capital stock. There are no proxies, voting agreements, stockholder agreements or other agreements with respect to the voting or transfer of any shares of capital stock or other ownership interests of any of the Acquired Entities. At Closing, the Buyer shall have good and valid title to all of the capital stock and other ownership interests of AWT, free and clear of any Liens, other than such Liens as may be created by or on behalf of the Buyer. Other than this Agreement, the Sellers are not bound by any Contract restricting its right to transfer the Shares.

SECTION 3.2 Corporate Organization, Authority and Qualification of the Acquired Entities

(a) Each of the Acquired Entities is a corporation, duly organized, validly existing and in good standing under the Laws of the state of its incorporation and has all requisite power and authority to own, operate or lease the assets, rights or properties now owned, licensed or leased by it, and to conduct its business as now conducted, and is duly licensed or qualified to do business as a foreign entity and is in good standing in each jurisdiction in which the character of the properties, rights and assets owned, licensed or leased by it or the nature of the business conducted by it makes such licensing or qualification necessary or desirable, except that the failure to be so licensed or qualified and in good standing would not reasonably be expected to have a Material Adverse Effect. All corporate actions taken by the Acquired Entities have been duly authorized, and none of the Acquired Entities has taken any action that in any respect conflicts with, constitutes a default under, or results in a violation of, any provision of its Certificate of Incorporation and By-Laws (or similar organizational documents).

(b) Section 3.2(b) of the Disclosure Letter sets forth a true and complete list of the Acquired Entities, listing for each Acquired Entity its name, type of entity, the jurisdiction and date of its incorporation, its authorized capital stock, the number and type of its issued and outstanding shares of capital stock, and the current ownership of such shares. Copies of the Certificate of Incorporation and By-laws (or comparable organizational documents, as applicable) of the Acquired Entities, each as amended to date and currently in full force and effect, have been furnished to the Buyer and its representatives, and such copies are accurate and complete and no other organizational or governing documents are applicable to, or binding on, any of the Acquired Entities.

(c) There are no other corporations, partnerships, joint ventures, associations or other entities in which any Acquired Entity owns, of record or beneficially, any direct or indirect equity interest or any right (contingent or otherwise) to acquire the same, except as set forth in Section 3.2(c) of the Disclosure Letter. Except as set forth in Section 3.2(c) of the Disclosure Letter, none of the Acquired Entities is a member of (nor is any part of the Business conducted through) any partnership nor is any Acquired Entity a participant in any joint venture or similar arrangement.

SECTION 3.3 No Conflict or Violation; Authority and Validity. (a) The execution, delivery and performance by the Sellers of this Agreement and the transactions

contemplated hereby do not and will not (i) violate or conflict with any provision of the Certificate of Incorporation or By-laws (or comparable organizational documents, as applicable) of any Acquired Entity, (ii) violate any order, judgment or decree of any Governmental Entity applicable to the Sellers or any of the Acquired Entities or any of their respective Railroad Assets or business, or (iii) except as set forth on Section 3.3(a) of the Disclosure Letter, violate, conflict with or result in a breach of or constitute (with or without due notice or lapse of time or both) a default, require consent under, or give to others any rights of termination, acceleration, amendment, vesting, suspension, modification, revocation or cancellation of, or result in the creation or imposition of any Lien upon any of the Railroad Assets, properties or rights of any of the Acquired Entities under any Contract to which any of the Acquired Entities is a party or by which any of them are bound or to which any of their respective Railroad Assets is subject, or result in the acceleration of any Indebtedness created thereunder or give rise to (or accelerate) a right thereunder to require any payment to be made by any of the Acquired Entities.

(b) There is no pending Action or, to the knowledge of the Sellers (after having conducted reasonable inquiry), threatened Action before any Governmental Entity by or against the Sellers or any Acquired Entity relating to (i) the Sellers' ownership of the Shares or (ii) any actual or potential bankruptcy or insolvency of any Seller or any Acquired Entity.

SECTION 3.4 Consents and Approvals. Except as set forth on Section 3.4 of the Disclosure Letter, the execution, delivery and performance of this Agreement by the Sellers or the consummation of the transactions contemplated hereby by the Sellers do not and will not require any consent, waiver, approval, license, authorization or permit of, or order of action by, filing with or notification to, any Governmental Entity or Person, except for any approvals, authorizations or exemptions required to be obtained from the STB.

SECTION 3.5 [Reserved].

SECTION 3.6 Indebtedness. Except as set forth on Section 3.6 of the Disclosure Letter, none of the Acquired Entities has any Indebtedness.

SECTION 3.7 Financial Statements. The Sellers have heretofore furnished to the Buyer true and complete copies of (a) the Balance Sheet, together with the related unaudited consolidated statements of income, capital and retained earnings and cash flows for the period ended November 30, 2016, and (b) the unaudited consolidated balance sheets, together with the related statements of income, capital and retained earnings and cash flows for the years ended December 31, 2013, December 31, 2014 and December 31, 2015 of the Acquired Entities (all the financial statements referred to in clauses (a) and (b) being hereinafter collectively referred to as the "Financial Statements"). Except as set forth on Section 3.7 of the Disclosure Letter, the Financial Statements (i) were prepared in accordance with the books and records of the Acquired Entities and GAAP applied on a consistent basis throughout the periods covered thereby (except that the Financial Statements do not include footnotes) and (ii) present fairly in all material respects the consolidated financial position, results of operations and changes in the financial position of the Acquired Entities as of such dates and for the periods then ended (subject, in the case of the Financial Statements, to normal year-end adjustments consistent with prior periods). The Acquired Entities have designed and maintain a system of internal controls over financial reporting sufficient to provide reasonable assurances that

transactions are executed in accordance with management's general or specific authorizations, transactions are recorded as necessary to permit reliable financial reporting and the preparation of financial statements for external purposes in accordance with GAAP and access to assets is permitted only in accordance with management's general or specific authorization, and there are no significant deficiencies or material weaknesses in the design or operation of internal controls over financial reporting that would reasonably be expected to have a Material Adverse Effect upon any such Acquired Entity's ability to record, process, summarize and report financial information.

SECTION 3.8 Conduct in the Ordinary Course; Absence of Certain Changes, Events and Conditions.

(a) Except as set forth on Section 3.8(a) of the Disclosure Letter, since December 31, 2015, the Acquired Entities have not suffered any effects, changes, events or developments which have had or would reasonably be expected to have a Material Adverse Effect.

(b) Since the date of the Balance Sheet, the Acquired Entities have operated and conducted the Business in the ordinary course of business consistent with past practice and, except as set forth on Section 3.8(b) of the Disclosure Letter, have not taken any action that if taken after the date hereof would be prohibited by Section 5.1.

SECTION 3.9 Tax Matters. Except as set forth on Section 3.9 of the Disclosure Letter:

(a) all Tax Returns required by applicable Law to be filed by or with respect to an Acquired Entity or the Business have been or will be timely filed, and the Acquired Entities have or will have timely paid all Taxes due and payable, whether or not shown as due on such Tax Returns;

(b) all such Tax Returns are true, correct and complete in all material respects;

(c) there are no outstanding agreements, waivers or arrangements extending the statutory period of limitation applicable to any claim for, or the period for the collection or assessment of, Taxes due from or with respect to an Acquired Entity or the Business for any taxable period;

(d) there is no action, suit, proceeding, investigation, audit or claim now pending or, to the knowledge of the Sellers, threatened or contemplated, against, or with respect to, any Acquired Entity or the Business in respect of any Tax or assessment, or with respect to any Tax Return, nor has any claim for additional Tax or assessment been asserted by any Tax authority against any Acquired Entity or any of its assets or properties;

(e) any liability of the Acquired Entities for Taxes that are not yet due and payable with respect to any Pre-Closing Tax Period have been provided for on the Balance Sheet;

- (f) none of the assets, properties or rights of the Acquired Entities are "tax-exempt use property" within the meaning of Section 168(h) of the Code;
- (g) none of the assets, properties or rights of the Acquired Entities include any lease made pursuant to former Section 168(f)(8) of the Internal Revenue Code of 1954;
- (h) there is no Lien for Taxes affecting any of the assets, properties or rights of the Acquired Entities other than Permitted Liens;
- (i) no Seller is a "foreign person" within the meaning of Section 1445 of the Code;
- (j) none of the Acquired Entities (1) has been a member of an affiliated group filing a consolidated, combined or unitary federal, state, local or foreign income Tax Return or (2) has any liability for the Taxes of any Person under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign Law) or as a transferee or successor, by contract or otherwise;
- (k) all Taxes required to be withheld, collected or deposited by or with respect to the Acquired Entities have been or will be timely withheld, collected or deposited, as the case may be, and, to the extent required, have been or will be paid to the relevant Tax authority;
- (l) none of the Acquired Entities is a party to, is bound by or has any obligation under any Tax sharing or Tax indemnification agreement or similar contract or arrangement or any agreement that obligates it to make any payment computed by reference to the Taxes, taxable income or taxable losses of any other Person;
- (m) no closing agreement pursuant to Section 7121 of the Code (or any similar provision of state, local or foreign Law) has been entered into by or with respect to any of the Acquired Entities;
- (n) none of the Acquired Entities has been either a "distributing corporation" or a "controlled corporation" in a distribution in which the parties to such distribution treated the distribution as one to which Section 355 of the Code is applicable;
- (o) none of the Acquired Entities will be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any (i) change in method of accounting for a taxable period ending on or prior to the Closing Date, (ii) intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state, local or foreign income Tax Law), (iii) installment sale or open transaction disposition made on or prior to the Closing Date or (iv) prepaid amount received on or prior to the Closing Date;
- (p) none of the Acquired Entities has engaged in any transaction that has given rise to a disclosure obligation as a "listed transaction" under Section 6011 of the Code and the Regulations promulgated thereunder (or any similar provision of state, local or foreign Law);

(g) no claim has been made in writing by any Governmental Entity where an Acquired Entity currently does not file Tax Returns, that it is or may be subject to taxation by that jurisdiction; and

(f) the Sellers have provided correct and complete copies of (i) all Tax Returns filed by the Acquired Entities for Tax years ending in 2009 and thereafter and (ii) all material ruling requests, private letter rulings, notices of proposed deficiencies, closing agreements, settlement agreements and similar documents sent to or received by an Acquired Entity relating to Taxes.

SECTION 3.10 Absence of Undisclosed Liabilities. Except as and to the extent set forth in the Balance Sheet or on Section 3.10 of the Disclosure Letter, none of the Acquired Entities has any Indebtedness or other liabilities of any kind, whether absolute, accrued, contingent or otherwise (including any continuing indemnification obligations or guarantees), except for liabilities as shall have been incurred or accrued in the ordinary course of business consistent with past practice since the date of the Balance Sheet and which, in the aggregate, are not material to the Acquired Entities. Except as set forth on the Balance Sheet, none of the Acquired Entities is directly or indirectly liable upon or with respect to, or obliged in any other way to provide funds in respect of, or to guarantee or assume, any Indebtedness of any Person.

SECTION 3.11 Owned Real Property.

(a) Section 3.11(a) of the Disclosure Letter sets forth a list, which is complete and accurate, of the real property (including the fee title holder and a general description of the uses for such real property) owned by the Acquired Entities (the "Owned Real Property"). Each of the Acquired Entities has good and marketable title to the Owned Real Property owned by it and, except for Permitted Liens, the Owned Real Property is free and clear of any Liens.

(b) None of the Sellers or any Acquired Entity has knowledge of or received any written notice of, any pending or contemplated rezoning, eminent domain or condemnation proceeding affecting the Owned Real Property.

(c) Each of the Acquired Entities is in peaceful and undisturbed possession of each parcel of Owned Real Property owned by it, and none of the Sellers or any Acquired Entity has received written notice of any uncured violation of any contractual or legal restrictions that preclude or restrict the ability to use the Owned Real Property for the purposes for which it is currently being used. The Owned Real Property and the buildings are in good operating condition and repair and have been reasonably maintained consistent with standards generally followed in the railroad industry in the United States. Except as set forth on Section 3.11(c) of the Disclosure Letter, none of the Acquired Entities have leased any parcel or any portion of any parcel of Owned Real Property to any other Person and no other Person has any rights to the use, occupancy or enjoyment thereof pursuant to any lease, sublease, license, occupancy or other agreement to which any of the Acquired Entities is a party, nor have any of the Acquired Entities assigned their interest under any lease listed on Section 3.11(c) of the Disclosure Letter to any third-party.

(d) Except as set forth on Section 3.11(d) of the Disclosure Letter, none of the Sellers or any of the Acquired Entities have received written notice that any of the improvements on the Real Property or any of the current uses and conditions thereof violate any applicable deed restrictions or other applicable covenants, restrictions, agreements, existing site plan approvals, zoning or subdivision regulations or urban redevelopment plans as modified by any duly issued variances.

(e) All improvements on any Real Property are wholly within the lot or boundary limits of such Real Property and do not encroach on any adjoining premises and there are no encroachments on any Real Property or any easement or property right or benefit appurtenant thereto by any improvements located on any adjoining premises.

SECTION 3.12 Leased Real Properties: Sufficiency.

(a) Section 3.12(a) of the Disclosure Letter sets forth a list of all leases, subleases, licenses and occupancy agreements, together with all amendments and supplements thereto (including the name of the lessor and lessee), with respect to all real properties in which any of the Acquired Entities has a leasehold interest, whether as lessor or lessee (each, a "Lease" and collectively, the "Leases"; the property covered by Leases under which the Acquired Entity is a lessee is referred to herein as the "Leased Real Property").

(b) Each Lease is in full force and effect and no Lease has been modified or amended except pursuant to an amendment referred to on Section 3.12(a) of the Disclosure Letter. None of the Acquired Entities or, to the knowledge of the Sellers, any other party to a Lease has given to the other party written notice of, or has made a claim with respect to, any breach or default. None of the Acquired Entities is in default under any Lease and, to the knowledge of the Sellers, no other party to a Lease is in default. There are no events that with the passage of time or the giving of notice or both would constitute a default by any of the Acquired Entities or, to the knowledge of the Sellers, by any other party to such Lease.

(c) The rental amount set forth in each Lease is the actual rental amount being paid, and except for lease amendments or rent side letters that have been provided to the Buyer, there are no separate agreements or understandings with respect to the same.

(d) None of the Sellers or the Acquired Entities has waived, or taken any action or failed to take any action that would nullify or void the full right to exercise, any unexpired option, right of first offer or right of first refusal contained in any such Lease or sublease, including any such option or right pertaining to purchase, expansion, renewal, extension or relocation (collectively, "Options") contained in the Leases on the terms and conditions contained therein.

(e) The Owned Real Property and the Leased Real Property taken together represent all of the real property used in the Business and necessary to operate the Business as currently operated (the "Real Property").

SECTION 3.13 Intellectual Property.

Section 3.13(a) of the Disclosure Letter sets forth a complete and correct list of the Intellectual Property filed by or issued or registered to any of the Acquired Entities in connection with the Business or any material

unregistered trademarks (the "Listed Intellectual Property"). Each Acquired Entity owns or has a valid and enforceable license or otherwise has the right to use all Intellectual Property used in the Business as currently conducted and such use and the conduct of the Business does not violate or conflict with the rights of any third party. Except as set forth on Section 3.13(b) of the Disclosure Letter, all Listed Intellectual Property (and as of the Closing the Transferred IP) is owned exclusively by one of the Acquired Entities, free and clear of all Liens and free and clear of any rights of any Seller or its other Affiliates (other than the Acquired Entities). There has not been communicated to the Sellers or their Affiliates the threat of any claim that the holder of such Listed Intellectual Property or any Acquired Entity is violating or infringing any Intellectual Property right of any third party, or challenging any of the Acquired Entities' ownership or use of, or the validity or enforceability of, any of the Listed Intellectual Property.

SECTION 3.14 Licenses and Permits. The Acquired Entities hold all licenses, permits, variances, certifications, exemptions, franchises, authorizations and approvals (the "Licenses and Permits") of all Governmental Entities necessary to own, lease or operate their respective properties and to permit the continued lawful conduct of the Business in the manner now conducted. The operations of the Acquired Entities are being, and since December 31, 2012 have been, conducted in a manner that complies with the terms or conditions of the Licenses and Permits. The consummation of the transactions contemplated by this Agreement will not result in the cancellation, modification, termination or suspension of any License and Permit.

SECTION 3.15 Compliance with Law. The Sellers (to the extent related to the Business) and each of the Acquired Entities have complied with since December 31, 2012 and are in compliance in all material respects with all Laws and are not in violation of any applicable Governmental Order, writ, or any statute, ordinance, rule or regulation of any Governmental Entity, and the Sellers and the Acquired Entities have each conducted since December 31, 2012 and continue to conduct the Business in accordance in all material respects with all Laws and Governmental Orders applicable to any Seller or any Acquired Entity or any of their properties, rights or assets, including the Railroad Assets, or the Business.

SECTION 3.16 Litigation. Except as set forth on Section 3.16 of the Disclosure Letter (which, with respect to each Action set forth therein, sets forth the parties, nature of the proceeding, date and method commenced, amount of charges or other relief sought and, if applicable, paid or granted), there are no Actions pending or, to the knowledge of the Sellers, threatened, of any nature, brought by or against any Seller (to the extent related to the Business) or any Acquired Entity, the assets, properties or rights of the Acquired Entities or the transactions contemplated by this Agreement. Section 3.16 of the Disclosure Letter sets forth a brief description of each Governmental Order applicable to any Seller (to the extent related to the Business) and any Acquired Entity or any of their properties, rights or assets, including the Railroad Assets, or the Business, and no such Governmental Order has had or would reasonably be expected to have a Material Adverse Effect or could reasonably be expected to affect the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby or thereby. Section 3.16 of the Disclosure Letter contains, among others, (i) a complete and correct list of all FELA Claims involving the Acquired Entities made prior to the date hereof and not discharged prior to the date hereof and (ii) a complete and correct list of all accidents or incidents occurring between January 1, 2011 and the date hereof that have

resulted or reasonably could result in an Action involving any of the Acquired Entities or any of their properties, rights or assets, including any FRA reportable incidents involving the Acquired Entities and any collisions involving third-parties. With respect to each of the matters indicated thereon, an Acquired Entity has properly submitted insurance claims with respect to the accidents or incidents set forth on Section 3.16 of the Disclosure Letter as noted therein.

SECTION 3.17 Contracts

(a) Section 3.17 of the Disclosure Letter hereof sets forth a complete and correct list of all Contracts to which any Seller (to the extent related to the Business) or any of the Acquired Entities is a party or by which its assets, properties or rights are otherwise bound (as in effect on the date hereof) (collectively, all Contracts of the following type whether or not listed on Section 3.17 of the Disclosure Letter, the "Material Contracts"):

(i) (A) involving annual payments to or by the Acquired Entities in excess of \$ [REDACTED] (B) that is likely to involve payment or consideration of more than \$ [REDACTED] in the aggregate over the remaining term of such Contract or (C) that cannot be cancelled by such Seller or such Acquired Entity without penalty or further payment and without more than thirty (30) calendar days' notice;

(ii) relating to the employment of any Person or consulting or similar advisory or service arrangements;

(iii) that relate to broker, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing and advertising Contracts;

(iv) that are management Contracts with independent contractors or consultants (or similar arrangements) and which cannot be cancelled by such Seller or such Acquired Entity without penalty or further payment and without more than thirty (30) calendar days' notice;

(v) that are with any Governmental Entity;

(vi) that are collective bargaining agreements or other agreements with any labor union;

(vii) that are affiliate Contracts with any Acquired Entity, on the one hand, and any Seller or any Affiliate of any Seller (other than the Acquired Entities), on the other hand;

(viii) evidencing Indebtedness or the guarantee, indemnity or assumption of Indebtedness of any Person;

(ix) that are mortgages, pledges, security agreements or that grant a Lien;

(x) that represent a power of attorney;

(xi) that contain a non-competition or non-solicitation covenant or a "most favored nation" provision;

(xii) that are Equipment and Machinery Leases or IP Agreements;

(xiii) that are agreements or purchase orders (other than Equipment and Machinery Leases) to sell or lease equipment or provide services to any customer that (i) provides for scheduled, fixed or guaranteed annual payments, or is reasonably expected to result in payments from or to any of the Acquired Entities, in excess of \$ [REDACTED] in the aggregate or (ii) has a term longer than [REDACTED];

(xiv) that are agreements (other than Equipment and Machinery Leases) for the lease or sublease as lessee, lessor, sublessee or sublessor of Real Property or Personal Property of any of the Acquired Entities, or any agreement concerning computer software or other Intellectual Property, requiring scheduled, fixed or guaranteed annual payments, or reasonably expected to result in payments from or to any of the Acquired Entities, in excess of \$ [REDACTED] in the aggregate or that is otherwise material to the Acquired Entities, taken as a whole;

(xv) that relate to railroad tariffs;

(xvi) that provide for benefits under any Plan;

(xvii) that are operating, trackage rights, haulage, transportation, power-run-through, switching, interchange, marketing and/or joint facility agreements;

(xviii) for the acquisition of any Person or any business unit, other than Contracts in which the applicable acquisition has been consummated and there are no obligations ongoing; or

(xix) that are otherwise material in any respect to any Seller (to the extent related to the Business) or any Acquired Entity, whether or not made in the ordinary course of business, or the absence of which would have a Material Adverse Effect.

(b) Each Material Contract (i) is valid and binding upon the relevant Seller and the Acquired Entities, as applicable, and, to the knowledge of the Sellers, the other parties thereto in accordance with its terms, (ii) is in full force and effect, and (iii) upon consummation of the transactions contemplated by this Agreement, except to the extent that any consents set forth in Section 3.4 of the Disclosure Letter are not obtained, shall continue in full force and effect without penalty or adverse consequence. None of the Sellers or the Acquired Entities is in default or delinquent in performance, status or any other respect (claimed or actual) in connection with any Contract to which it is a party, and no event has occurred which with or without notice or lapse of time, or both, would constitute a breach or default of such Contract by any Seller or any Acquired Entity. To the knowledge of the Sellers, no other party to any Contract is in default in respect thereof and none of the Sellers or any Acquired Entity has received any notice of termination, cancellation, breach or default under any Material Contract. The Sellers and the Acquired Entities have made available to the Buyer true and complete copies of all Material Contracts.

SECTION 3.18 Employee Plans.

(a) Section 3.18(a) of the Disclosure Letter sets forth a true and complete list of all "employee benefit plans", as defined in Section 3(3) of ERISA, and all other employee benefit arrangements, programs, policies or practices, whether or not subject to ERISA (including any funding mechanism therefor now in effect or required in the future as a result of the transactions contemplated by this Agreement or otherwise), whether formal or informal, oral or written, legally binding or not, including those with respect to multiemployer plans within the meaning of Section 3(37) of ERISA ("Multiemployer Plans"), which provide for severance pay, sick leave, vacation pay, salary continuation for disability, retirement, deferred compensation, bonus, incentive, stock purchase, stock option, hospitalization, medical and dental insurance, cafeteria, life insurance, tuition reimbursement, scholarship, employment, change-in-control, fringe benefit, employee loan, or collective bargaining rights (x) under which any employee, director or consultant or former employee, director or consultant of any of the Acquired Entities has any present or future right to benefits and which is sponsored or maintained by any Seller or the Acquired Entities or (y) under which the Acquired Entities have had or have any present or future liability (collectively referred to herein as the "Plans"). True, correct, current and complete copies of the following documents relating to the Plans, to the extent applicable, have been delivered or made available to the Buyer: (i) the plan document and its related trust document or other funding instrument, including any amendments thereto (or if no written document exists, a summary thereof); (ii) any summary plan description and other written communications (or a description of any oral communications) by the Acquired Entities to their employees or former employees concerning the extent of benefits provided under a Plan; (iii) the most recent determination letter, if applicable; and (iv) for the three most recent years, (A) the Form 5500 and Annual Return/Report of Employee Benefit Plan, including all related schedules, filed with respect to each Plan, (B) audited financial statements, (C) actuarial valuation reports and (D) attorney's response to an auditor's request for information relating to the Plans.

(b) None of the Plans are Multiemployer Plans, and none of the Acquired Entities or any trade or business (whether or not incorporated) that is or has ever been treated as a single employer with any of the Acquired Entities under Section 414(b), (c), (m) or (o) of the Code ("ERISA Affiliate") has incurred any liability or been obligated to contribute to a Multiemployer Plan.

(c) None of the Plans is a "single-employer plan", as defined in Section 4001(a)(15) of ERISA, that is subject to Title IV of ERISA ("Pension Plan").

(d) With respect to each Plan that is intended to qualify under Code Section 401(a), each such Plan, and its related trust: (i) has been established and administered in accordance with its terms, and in compliance with the applicable provisions of ERISA, the Code and other applicable Laws, rules and regulations; and (ii) has received a favorable determination letter from the Internal Revenue Service that it is so qualified and that its trust is exempt from Tax under Section 501(a) of the Code, and no facts or set of circumstances exist that could reasonably be expected to cause such Plan and related trust not to qualify or be so exempt from tax, or to lose such qualification or exemption from tax.

(c) All contributions (including all employer contributions and employee contributions) required to have been made under the Plans or by Law to any funds or trusts established thereunder or in connection therewith have been made by the due date thereof (including any valid extension), and all such contributions for any period ending on or before the Closing Date that are not yet due will have been paid or accrued by the Closing Date. No event has occurred and no condition exists with respect to any Plan that would subject any Acquired Entity, either directly or by reason of its affiliation with any ERISA Affiliate, to any material tax, fine, lien, penalty or other liability imposed by ERISA, the Code or other applicable Laws, rules and regulations.

(f) There are no (i) pending material Actions that have been asserted, instituted or threatened, against the Plans, the assets of any of the trusts under the Plans or the sponsor or the administrator of the Plans or against any fiduciary of the Plans with respect to the operation of the Plans (other than routine benefit claims) or (ii) facts or circumstances that exist that could give rise to any such Actions.

(g) The Plans have been established and administered in all respects in accordance with their express terms, and in compliance with all provisions of ERISA and the Code and other applicable federal and state Laws and regulations, and no "party in interest" or "disqualified person" with respect to the Plans has engaged in a non-exempt "prohibited transaction", as defined in Section 4975 of the Code or Section 406 of ERISA, or taken any actions, or failed to take any actions, which could reasonably result in any material liability to any of the Acquired Entities under ERISA or the Code.

(h) None of the Acquired Entities has incurred any current or projected liability in respect of post-employment or post-retirement health, medical or life insurance benefits for current, former or retired employees of any of the Acquired Entities, and none of the Plans provide retiree health or life insurance benefits except as may be required by Section 4980B of the Code and Section 601 of ERISA and the regulations thereunder ("COBRA") (or any applicable state Law) or at the expense of the participant or the participant's beneficiary.

(i) No Plan exists that, as a result of the execution of this Agreement, shareholder approval of this Agreement or the transactions contemplated by this Agreement (whether alone or in connection with any subsequent event(s)), could result in (i) severance pay or any increase in severance pay upon any termination of employment after the date of this Agreement, (ii) acceleration of the time of payment or vesting or any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, increase the amount payable or result in any other material obligation pursuant to, any of the Plans, (iii) limiting or restricting the right of the Acquired Entities to merge, amend or terminate any of the Plans, (iv) causing the Acquired Entities to record additional compensation expense on its income statement with respect to any outstanding stock option or other equity-based award or (v) payments under any of the Plans that would not be deductible under Section 280G of the Code.

(j) No Plan is maintained outside the jurisdiction of the United States, or covers any employee residing or working outside the United States.

SECTION 3.19 Insurance. Prior to the date hereof, the Sellers have furnished to the Buyer a true, complete and accurate original or certified copy of each policy or other certificate of title, liability, fire, casualty, business interruption, workers' compensation and other forms of insurance insuring the Business, the Acquired Entities and their respective Railroad Assets and operations (the "Existing Policies"). All such policies (i) are in full force and effect, (ii) provide coverage for all risks incident to the business of the Acquired Entities and their respective Railroad Assets and are in character and amount similar to that carried by Persons in similar businesses and subject to the same perils and hazards, (iii) have no outstanding premiums due thereunder that have not been paid and (iv) will continue to provide coverage to the Acquired Entities after the Closing Date for any claims arising out of occurrences that took place prior to the Closing Date. None of the Acquired Entities has received notice of cancellation of any such insurance. Each Acquired Entity is a named insured under the Existing Policies. Except as set forth on Section 3.19 of the Disclosure Letter, there is no claim by any of the Acquired Entities pending under any of such policies. There has been no claim by any of the Acquired Entities under any of such policies as to which coverage has been denied by the underwriters of such policies.

SECTION 3.20 Transactions with Directors, Officers and Affiliates. Except as set forth on Section 3.20 of the Disclosure Letter, none of the Acquired Entities is a party to any Contract, agreement or arrangement with any Seller, any of the Acquired Entities or any Affiliate or family member of any of the foregoing Persons. There is no indebtedness owed to any of the Acquired Entities by any employee, consultant, officer or director of any Acquired Entity, other than salary advances and advances of travel expenses in the ordinary course of business consistent with past practice.

SECTION 3.21 Labor Matters.

(a) Except as set forth on Section 3.21(a) of the Disclosure Letter, no Acquired Entity is a party to (i) any outstanding employment agreements or Contracts with officers or employees of any Acquired Entity that are not terminable at will, (ii) any agreement, policy or practice that requires it to pay termination or severance pay to salaried, nonexempt or hourly employees of any Acquired Entity (other than as required by Law) and (iii) any collective bargaining agreement or other labor union contract applicable to employees of any Acquired Entity, nor do the Sellers or the Acquired Entities know of any activities or proceedings of any labor union to organize any such employees.

(b) Except as set forth on Section 3.21(b) of the Disclosure Letter, (i) the Acquired Entities are in compliance in all material respects with all applicable Laws relating to employment and employment practices, wages, hours and terms and conditions of employment, including but not limited to the proper classification of individuals as employees or as contractors, the proper classification of employees as exempt or non-exempt, the payments required by Law for all time worked, and the provision of meal and rest breaks, (ii) there are no open notices pending under Section 6 of the Railway Labor Act, (iii) there are no disputes under existing collective bargaining agreements pending before a tribunal established pursuant to Section 3 of the Railway Labor Act or under labor protection conditions imposed by the Interstate Commerce Commission or the STB, nor have there been since December 31, 2012, (iv) there is no labor strike, material slowdown or material work stoppage or lockout pending or,

to the knowledge of the Sellers, threatened against or affecting any Acquired Entity, nor have there been since December 31, 2010, (v) there is no representation dispute pending or, to the knowledge of the Sellers, threatened before the National Mediation Board and no question concerning representation exists relating to the employees of any Acquired Entity, nor have there been since December 31, 2010, and (vi) there is no action, complaint, charge, inquiry, proceeding or investigation by or on behalf of any Employee, prospective employee, former employee, labor organization or other representative of any of the Acquired Entities' Employees is pending or, to the knowledge of the Sellers, threatened nor has there been since December 31, 2012.

SECTION 3.22 Environmental Matters.

(a) Except as set forth on Section 3.22(a) of the Disclosure Letter:

(i) each of the Acquired Entities is in compliance in all material respects with all applicable Environmental Laws and has not violated in any material respect any such Laws, and possesses and complies in all material respects with all Environmental Permits required under such Laws to operate as it has operated and currently operates, and has not violated in any material respect any such Environmental Permits;

(ii) none of the Acquired Entities is aware of any past, present, or reasonably anticipated future events, circumstances, practices, plans, or legal requirements that could reasonably be expected to prevent any of the Acquired Entities from (or materially increase the burden on any of the Acquired Entities of) complying with applicable Environmental Laws or obtaining, renewing or complying with all Environmental Permits required under such Laws;

(iii) there are and have been no Releases of Materials of Environmental Concern, or any other conditions, created by any Acquired Entity or otherwise, at, on, under or emanating from any Owned Real Property, Leased Real Property, Rail Facilities, Equipment and Machinery or any other property currently, or during the period of its ownership, lease, operation or use thereof formerly, owned, leased, operated, or otherwise used by any of the Acquired Entities, or at any other location (including without limitation any location used for the storage, disposal, recycling or other handling of any Materials of Environmental Concern), that have or could reasonably be expected to give rise to material liability of any of the Acquired Entities under any Environmental Law, or that have resulted or could reasonably be expected to result in material costs to any of the Acquired Entities arising out of any Environmental Law;

(iv) (A) none of the Acquired Entities has received any Environmental Claim that has not been fully and finally resolved without any material pending, ongoing or future costs, obligations or liabilities and (B) none of the Acquired Entities is aware, after reasonable inquiry, of (I) any pending or threatened Environmental Claim, or of any circumstances, conditions or events that could reasonably be expected to result in an Environmental Claim against any of the Acquired Entities; or (II) any pending or threatened claim against any Person other than any of the Acquired Entities that could reasonably be expected to have a Material Adverse Effect;

(v) none of the Acquired Entities has entered into any consent decree or other agreement with any Governmental Entity under any Environmental Law, and none of the Acquired Entities is subject to any judgment, decree, order or similar requirement relating to compliance with any Environmental Law or to Materials of Environmental Concern;

(vi) without limiting the generality of any of the foregoing, no property owned, leased, operated or otherwise used by any of the Acquired Entities (including the Owned Real Property and Leased Real Property): (A) is or has been used for the disposal of Materials of Environmental Concern in a manner that would require an Environmental Permit (under Environmental Law applicable as of the date hereof), (B) contains or has contained any underground storage tank, (C) contains asbestos or asbestos-containing building materials, at levels subject to regulation under any applicable Environmental Laws, (D) contains any polychlorinated biphenyls, in equipment or otherwise, at levels subject to regulation under any applicable Environmental Laws or (E) contains mold of the type and in quantities that could reasonably be expected to be harmful to human health or safety; and

(vii) (A) none of the Acquired Entities has assumed or retained, by contract or operation of Law, any obligation under any Environmental Law or concerning any Materials of Environmental Concern that could reasonably be expected to be material to any of the Acquired Entities and (B) each of the foregoing representations and warranties also applies to any Person for which any of the Acquired Entities has assumed or retained responsibility, whether by contract, operation of Law, or otherwise.

(b) The Sellers have provided to the Buyer or its representatives copies of all Environmental Reports containing material information to the extent that such Environmental Reports are in the possession or control of any Seller or the Acquired Entities, each of which is identified in Section 3.22(b) of the Disclosure Letter.

SECTION 3.23 Railroad Assets

(a) One or more of the Acquired Entities owns, leases or has the legal right to use all the Railroad Assets, the Real Property and the tangible personal property, used or intended to be used in the conduct of the Business or otherwise owned, licensed, leased or used by any Acquired Entity, and, with respect to contract rights, is a party to and enjoys the right to the benefits of all Contracts, agreements and other arrangements used or intended to be used by any Seller (as such relate to the Business) or any Acquired Entity or in, or relating to, the conduct of the Business, all of which properties, assets and rights constitute Railroad Assets. Each of the Acquired Entities, as the case may be, has good and marketable title to, or, in the case of leased Railroad Assets, valid and subsisting leasehold interests in, all the Railroad Assets, free and clear of all Liens other than the Permitted Liens as set forth in Section 3.23(a) of the Disclosure Letter.

(b) The Railroad Assets constitute all the properties, assets and rights forming a part of, used, held or intended to be used in, and all such properties, assets and rights as are necessary for the conduct of, the Business and no part of the Business is carried on by any Person other than the Acquired Entities. At all times since December 31, 2012, the Sellers have caused the Railroad Assets to be maintained in accordance with good business practice, and all

the Railroad Assets are in good operating condition and repair and are suitable for the purposes for which they are used and intended to be used.

(c) The Sellers have the complete and unrestricted power and unqualified right to sell, assign, transfer, convey and deliver the Acquired Entities and, indirectly through the Acquired Entities, the Railroad Assets to the Buyer in accordance with this Agreement without penalty or other adverse consequences. Following the consummation of the transactions contemplated by this Agreement and the execution of the instruments of transfer contemplated by this Agreement, the Buyer will own, with good, valid and marketable title, or lease, under valid and subsisting leases, or otherwise acquire the capital stock of the Acquired Entities and indirectly own or lease, through the Acquired Entities, the Railroad Assets, free and clear of any Liens, other than Permitted Liens, and without incurring any penalty or other adverse consequence, including any increase in rentals, royalties, or license or other fees imposed as a result of, or arising from, the consummation of the transactions contemplated by this Agreement.

SECTION 3.24 Relations with Principal Customers. Section 3.24 of the Disclosure Letter lists for the fiscal year ended December 31, 2015, by dollar volume received (by revenue), the top 10 customers (the "Material Customers") of the Acquired Entities. No Material Customer has cancelled or otherwise terminated or substantially reduced the relationship, or updated the forecasts, of such customer with the Acquired Entities or, to the knowledge of the Sellers, threatened, or indicated an intention, to do any of the foregoing.

SECTION 3.25 Brokers. No broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Sellers or the Acquired Entities.

SECTION 3.26 Rail Facilities and Related Contracts. Except as set forth in Section 3.26(b) of the Disclosure Letter, the Acquired Entities hold valid and sufficient indefeasible leasehold property interests and indefeasible operating rights in and to the rail line depicted on the maps referenced in Section 3.26(a) of the Disclosure Letter, and to the adjacent yards, spur tracks and other rail facility appurtenances thereto (collectively, the "Rail Facilities") to permit the Acquired Entities to conduct rail freight operations on and over the Rail Facilities as such operations are conducted by the Acquired Entities on the date of this Agreement. To the knowledge of the Sellers, the individual parcels of land that constitute the Rail Facilities of each line are contiguous to each other, with no gaps or strips, from one end point of each line to the other end point of each such line. Furthermore, the Railroad Assets, as of the date of this Agreement, comprise the assets necessary, in all material respects, to operate the Business as currently operated and consistent with past practice. None of the Acquired Entities is a party to any Contract or subject to any order that would deprive any Acquired Entity of the ability to operate substantially as the Acquired Entities operate over the Rail Facilities on the date of this Agreement, or that would deprive the Acquired Entities of the ability to (i) serve directly all customers that may be served directly by them on the date of this Agreement or (ii) interchange with the carriers listed in Section 3.26(c) of the Disclosure Letter at or near the locations listed in Section 3.26(c) of the Disclosure Letter.

SECTION 3.27 Condition of Lines; Personal Property. (a) Except as set forth on Section 3.27(a)(i) of the Disclosure Letter, the physical condition of the Rail Facilities is in good repair and sufficient to operate the Business as currently operated. All Personal Property of the Acquired Entities necessary to operate the Business as it is currently conducted is in good repair and working order and is suitable for the purposes for which it is being used (taking into account ordinary wear and tear and the need for ordinary, routine maintenance and repairs). Each of the Acquired Entities has or will have on the Closing Date good and valid title to, free and clear of all Liens (except for Permitted Liens or Liens created under this Agreement), or valid leasehold interests or rights under contract to use, all Personal Property owned, leased or used in the Business. Section 3.27(a)(ii) of the Disclosure Letter contains a true and correct list of each piece of Equipment and Machinery with a replacement cost of more than \$25,000 used by the Acquired Entities in the conduct of the Business and designates which of such Equipment and Machinery is owned and which is leased.

(b) All improvements on the Real Property constructed by or on behalf of any Seller or the Acquired Entities or, to the knowledge of the Sellers, constructed by or on behalf of any other Person, were constructed and remain in material compliance with all applicable Laws (including any building, planning, highway or zoning Laws or local ordinances) affecting such Real Property.

SECTION 3.28 Certain Business Practices. Since December 31, 2012, none of the Sellers or any Acquired Entity or any of their respective directors, officers, agents, representatives or employees (in their capacity as directors, officers, agents, representatives or employees) has (a) used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity in respect of the Business, (b) directly or indirectly, paid or delivered any fee, commission or other sum of money or item of property, however characterized, to any finder, agent, or other party acting on behalf of or under the auspices of a governmental official or Governmental Entity, in the United States or any other country, that is in any manner illegal under any Law of the United States or any other country having jurisdiction or (c) made any payment to any customer or supplier of any Seller or any Acquired Entity or any officer, director, partner, employee or agent of any such customer or supplier for an unlawful reciprocal practice, or made any other unlawful payment or given any other unlawful consideration, to any such customer or supplier or any such officer, director, partner, employee or agent, in respect of the Business.

SECTION 3.29 Interchange Commitments. Section 3.29 of the Disclosure Letter lists each Contract to which any Seller or any Acquired Entity is a party that limits the Acquired Entities with respect to future interchange with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in a purchase price or rental, positive economic inducement or other means, or that otherwise constitutes an "interchange commitment" as defined in 49 C.F.R. 1180.4(g)(4)(I), and includes an estimate of the difference between the sale or lease price of the transaction in which the interchange commitment was imposed with and without such prohibition, penalty, adjustment, inducement or commitment.

ARTICLE 4. REPRESENTATIONS AND WARRANTIES OF THE BUYER

The Buyer hereby represents and warrants to the Sellers as follows:

SECTION 4.1 Corporate Organization. The Buyer is a corporation duly organized, validly existing and in good standing under the Laws of the state of its incorporation and has all requisite corporate power and authority to own its properties, rights and assets and to conduct its business as now conducted and is duly licensed or qualified to do business as a foreign corporation and is in good standing in each jurisdiction in which the character of the properties, rights and assets owned, licensed or leased by it or the nature of the business conducted by it makes such licensing or qualification necessary or desirable, except where the failure to be so licensed or qualified and in good standing would not, individually or in the aggregate, materially impair the ability of the Buyer to perform any of its obligations under this Agreement.

SECTION 4.2 Authorization and Validity. The Buyer has the necessary power and authority to enter into and deliver this Agreement and any other agreements related thereto to which the Buyer is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby. The execution and delivery by the Buyer of this Agreement and the performance by the Buyer of its obligations hereunder have been duly authorized by all necessary corporate action by the board of directors of the Buyer, and no other corporate proceedings on the part of the Buyer are necessary to authorize such execution, delivery and performance. This Agreement has been duly executed and delivered by the Buyer and, assuming the due authorization, execution and delivery of this Agreement by the Sellers, this Agreement constitutes the Buyer's valid and binding obligation enforceable against the Buyer in accordance with its terms.

SECTION 4.3 No Conflict or Violation. The execution, delivery and performance by the Buyer of this Agreement and the transactions contemplated hereby do not and will not (i) violate or conflict with any provision of the Certificate of Incorporation or By-laws of the Buyer, (ii) violate any order, judgment or decree of any Governmental Entity applicable to the Buyer or (iii) violate, conflict with or result in a breach of or constitute (with due notice or lapse of time or both) a default, termination or right of termination under any contract, lease, loan agreement, mortgage, security agreement, trust indenture or other agreement or instrument to which the Buyer is a party or by which it is bound or to which any of its properties, rights or assets is subject, or result in the acceleration of any indebtedness created thereunder or give rise to a right thereunder to require any payment to be made by the Buyer, or result in the creation or imposition of any Lien upon any of the assets, properties or rights of the Buyer.

SECTION 4.4 Consents and Approvals. Neither the execution and delivery of this Agreement by the Buyer nor the consummation of the transactions contemplated hereby by the Buyer require any consent, waiver, approval, license, authorization or permit of, or filing with or notification to, any Person, except for any approvals, authorizations or exemptions required to be obtained from the STB.

SECTION 4.5 Brokers. No broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Buyer for which the Sellers would be liable.

SECTION 4.6 Financial Ability. The Buyer has, and will have at the Closing, sufficient cash, available lines of credit under its existing credit facility or other sources of immediately available funds necessary to enable it to pay the Purchase Price as and when it becomes due.

SECTION 4.7 Investment Representation. The Buyer is acquiring the Shares for its own account with the present intention of holding such securities for investment purposes and not with a view to, or for sale in connection with, any distribution of such securities in violation of any federal or state securities laws.

ARTICLE 5. COVENANTS OF THE SELLERS

The Sellers hereby covenant as follows:

SECTION 5.1 Conduct of Business Before the Closing Date. (a) During the period from the date of this Agreement to the Closing, except as otherwise expressly provided in this Agreement, the Sellers shall cause the Acquired Entities to conduct business only in the ordinary course consistent with past practice and in compliance in all material respects with applicable Laws. The Sellers shall use their reasonable best efforts to maintain and preserve intact its assets, the present organization of the Acquired Entities, keep available the services of the present officers and employees of the Acquired Entities and preserve relationships with customers, suppliers, vendors, licensors, licensees, contractors, distributors and others having business dealings with the Acquired Entities. Without limiting the generality of the foregoing and except as set forth on Section 5.1(a) of the Disclosure Letter, from the date of this Agreement to the Closing, the Sellers shall not permit the Acquired Entities to, and the Acquired Entities shall not, in each case, without the prior written consent of the Buyer:

- (i) make any material change in the conduct of the business of any Acquired Entity, including, but not limited to pricing and purchasing policies, or enter into any transaction other than in the ordinary course of business consistent with past practice;
- (ii) fail to (A) pay any Acquired Entity's trade payables and other short-term liabilities as and when due in the ordinary course of business consistent with its historical payment practices, except to the extent the validity or amount of any such payables and other liabilities is disputed in good faith by such Acquired Entity, and (B) attempt to collect its receivables in the ordinary course of business consistent with its historical collection practices;
- (iii) shorten or lengthen the customary payment cycles for any of their payables or receivables;
- (iv) make any change in the Certificate of Incorporation and By-laws (or comparable organizational documents, as applicable) of any Acquired Entity, issue any additional capital stock or grant any option, warrant or right to acquire any capital stock or issue any security convertible into or exchangeable for capital stock or alter in any way any of its outstanding capital stock or make any change in outstanding capital stock or the capitalization of any Acquired Entity, whether by reason of a reclassification, recapitalization, stock split or combination, exchange or readjustment of shares, stock dividend or otherwise, or enter into any agreement or understanding with respect to the sale or voting of its capital stock;

(v) make any sale, assignment, transfer, license, abandonment or other conveyance or disposition of the Acquired Entities or the Railroad Assets of any Acquired Entity or any material part thereof, except transactions pursuant to Contracts in existence on, and disclosed to the Buyer prior to, the date hereof and dispositions of inventory or of worn-out or obsolete equipment for fair or reasonable value in the ordinary course of business consistent with past practice;

(vi) subject any of the assets, properties or rights of any Acquired Entity, or any part thereof, to any Lien or suffer such to exist, other than (A) Permitted Liens and (B) such Liens as may arise in the ordinary course of business consistent with past practice by operation of Law and that will not, individually or in the aggregate, be or reasonably be expected to be material to any Acquired Entity;

(vii) redeem, retire, purchase or otherwise acquire, directly or indirectly, any of the capital stock of any Acquired Entity or declare, set aside or pay any dividends or other distributions other than dividends or other distributions solely in cash;

(viii) acquire any assets, raw materials or properties, or enter into any other similar transaction, other than in the ordinary course of business consistent with past practice;

(ix) (A) establish, adopt, enter into, amend or terminate any Plan or any plan, agreement, program, policy, trust, fund or other arrangement that would be a Plan if it were in existence as of the date of this Agreement, except to the extent that any such amendments are required by Law, are necessary to preserve the tax-qualified status of any Plan or do not result in an increase in benefits for the present or former directors, officers or employees of any Acquired Entity, (B) grant any increase in the compensation or fringe benefits of any present or former directors, consultants, officers or employees of any Acquired Entity (including any such increase pursuant to any bonus, pension, profit-sharing or other plan or commitment), except in accordance with preexisting Plans set forth on Section 3.18(a) of the Disclosure Letter, or for increases in salary or wages in the ordinary course of business consistent with past practice, (C) grant any severance or termination pay to any present or former director, officer or employee of any Acquired Entity, (D) loan or advance money or other property to any present or former directors, officers or employees of any Acquired Entity and (E) allow for the commencement of any new offering periods under any employee stock purchase plans;

(x) pay, lend or advance any amount to, or sell, transfer or lease any properties, rights or assets to, or enter into any Contract, agreement or arrangement with, any of their Affiliates;

(xi) make any investment, either by purchase of securities, contribution to capital, property transfer, purchase of any property, rights or assets of or otherwise, in any Person;

(xii) take any other action that any Acquired Entity reasonably expects would cause any of the representations and warranties made by the Sellers (on behalf of the

Sellers or any Acquired Entity) in this Agreement not to remain true and correct in any material respect:

(xiii) make any change in any method of accounting or accounting principle, method, estimate or practice or write down the value of any inventory or write off as uncollectible any accounts receivable or any portion thereof, except as required by GAAP;

(xiv) make, change or revoke any election or method of accounting with respect to Taxes, file any amended Tax Return or surrender any right to claim a Tax refund;

(xv) enter into any closing or other agreement with respect to Taxes or settle or compromise any Tax liability or agree to an extension or waiver of the statute of limitations with respect to the assessment or determination of any Taxes;

(xvi) enter into any plan of liquidation or dissolution or file a petition in bankruptcy under any provisions of federal or state bankruptcy Law or consent to the filing of any bankruptcy petition against it under any similar Law;

(xvii) settle, release or forgive any Indebtedness, claim or litigation or waive any right thereto;

(xviii) make, enter into, modify, amend in any material respect, fail to renew or terminate any Contract, bid or related expenditure, or otherwise waive, release or assign any rights, claims or benefits thereunder, other than with respect to any non-Material Contracts in the ordinary course of business consistent with past practice;

(xix) amend, terminate or surrender any Lease, or fail to exercise any rights of renewal with respect to any material Lease;

(xx) create, incur, issue, assume, guarantee, suffer to exist or otherwise become liable for (whether directly, contingently or otherwise) any Indebtedness or issue any instrument convertible, exercisable or exchangeable for Indebtedness, or enter into any "keep-well" or other agreement to maintain the financial condition of another Person, or any other arrangement having the economic effect of any of the foregoing;

(xxi) make or commit to make any capital expenditure in excess of \$[REDACTED] or addition to property, plant or equipment used in its operations other than ordinary repairs and maintenance or fail to make capital expenditures consistent with the budget furnished to the Buyer prior to the date hereof;

(xxii) lay off any employees;

(xxiii) grant, amend, modify, extend or terminate any trackage rights agreement, haulage agreement, power-run-through agreement, operating agreement, switching agreement, interchange agreement, marketing agreement, transportation agreement, joint facilities agreement or other agreement with carriers materially affecting the operations on, or marketing of traffic to, from or over, the Rail Facilities;

(xxiv) abandon or discontinue service over all or any portion of the Rail Facilities, or commence a regulatory proceeding to facilitate any such abandonment or discontinuance;

(xxv) enter into any new line of business;

(xxvi) enter into, materially amend or renew any agreement with a shipper or receiver for movement of traffic over the Rail Facilities;

(xxvii) enter into any agreement with a shipper or receiver that would cause or facilitate the diversion of a material amount of traffic from the Rail Facilities;

(xxviii) fail to maintain in full force and effect without material modification all Existing Policies or binders of insurance currently maintained in respect of each Acquired Entity;

(xxix) assign, license, lease, allow to expire or lapse, subject to a Lien or other encumbrance, or otherwise dispose of any of the Acquired Entities' properties, rights or assets, other than non-exclusive licenses in the ordinary course of business; or

(xxx) authorize or enter into, or cause or permit any Acquired Entity to enter into, any agreement to take any action prohibited by clauses (i) through (xxix).

(b) During the period from the date hereof to the Closing Date, the Sellers shall cause the Acquired Entities to (i) prepare and timely file all Tax Returns ("Post-Signing Returns") required to be filed (taking into account any valid extensions obtained in the ordinary course of business) in a manner consistent with the past practice of the applicable Acquired Entity, (ii) timely pay all Taxes due and payable, whether or not shown on such Post-Signing Returns, and (iii) promptly notify the Buyer of any written notice of any suit, claim, action, investigation, audit or proceeding pending against or with respect to an Acquired Entity in respect of any material Tax matters (or any significant developments with respect to ongoing suits, claims, actions, investigations, audits or proceedings in respect of such material Tax matters).

SECTION 5.2 Consents and Approvals. (a) If applicable, the Buyer and the Sellers shall, and the Sellers shall cause the Acquired Entities to, timely make any required filings with, and use reasonable efforts to obtain requisite approvals, authorizations or exemptions of, any Governmental Entity (other than the STB for which the Buyer shall solely be responsible for making filings and obtaining the requisite approvals, authorizations or exemptions therefrom, in accordance with Section 6.1(b) and subject to clause (b) below) with respect to the transactions contemplated hereby (including a request for early termination of the waiting period thereunder), and shall thereafter promptly respond to all requests received from such Governmental Entity for additional information or documentation; provided, that the Buyer shall not be required to commit to or effect, by consent decree, hold separate order, or otherwise, the sale, divestiture or disposition of such of its or its Affiliates' assets or operations, and/or of the assets or operations of any Acquired Entity, as is required to be sold, divested or disposed of, including entering into any agreement required to be entered into by any Governmental Entity in connection therewith, in order to obtain any required regulatory approval or to avoid the

commencement of any Action seeking, and/or to avoid entry of, and/or to effect the dissolution of, any Governmental Order that would have the effect of materially delaying or prohibiting the consummation of the transactions contemplated hereby.

(b) As soon as practicable after the execution of this Agreement, but in no event later than thirty (30) calendar days thereafter, the Sellers shall, and shall cause the Acquired Entities to, at the cost and expense of the Sellers, (i) use reasonable best efforts to obtain all necessary consents, waivers, authorizations, orders and approvals of all Persons required in connection with the execution, delivery and performance by the Sellers of this Agreement and the consummation of the transactions contemplated hereby including any third party consents under any Material Contract, if any, and execution of estoppel certificates by lessors under any Leased Real Property for which consent to transfer is necessary, if any, and (ii) diligently assist and cooperate with the Buyer in preparing and filing all documents required to be submitted by the Buyer to any Governmental Entity, including the STB, in connection with such transactions and in obtaining any consents, waivers, authorizations, orders or approvals of Governmental Entities that may be required to be obtained by the Buyer in connection with such transactions, which assistance and cooperation shall include timely furnishing to the Buyer all information concerning the Sellers and the Acquired Entities that counsel to the Buyer reasonably determines is required to be included in such documents or would be helpful in obtaining any such required consent, waiver, authorization or approval.

(c) The Buyer shall cooperate and use commercially reasonable efforts to assist the Sellers in giving such notices and obtaining any consents and estoppel certificates, provided, however, that the Buyer shall have no obligation to give any guarantee or other consideration of any nature in connection with any such notice, consent or estoppel certificate or to consent to any change in the terms of any agreement or arrangement that the Buyer may deem adverse to the interests of the Buyer, the Acquired Entities or the Business. The Sellers shall keep the Buyer reasonably informed as to the status of obtaining any consents and estoppel certificates.

(d) The Sellers and the Buyer agree that, in the event that any consent, approval or authorization is necessary or desirable to preserve for the Business or any Acquired Entity, any right or benefit under any License and Permit, Contract or other arrangement to which any Seller or any Acquired Entity is a party is not obtained prior to the Closing, the Sellers will, subsequent to the Closing, cooperate with the Buyer and the Acquired Entities in attempting to obtain such consent, approval or authorization as promptly thereafter as practicable. If such consent, approval or authorization cannot be obtained, the Sellers shall use their best efforts to provide the Buyer or such Acquired Entity, as the case may be, with the rights and benefits of the affected License and Permit, Contract or other arrangement for the term of such License and Permit, Contract or other arrangement, and, if the Sellers provide such rights and benefits, the Buyer or such Acquired Entity, as the case may be, shall assume the obligations and burdens thereunder.

SECTION 5.3 Access to Properties and Records. The Sellers shall, and shall cause the Acquired Entities to, afford to the Buyer, and to the accountants, counsel, consultants and other representatives of the Buyer, upon reasonable prior notice access during normal business hours throughout the period prior to the Closing Date to all properties, books,

Contracts, commitments, title reports relating to the Owned Real Property, title insurance policies currently in effect with respect to the Owned Real Property and files and records of the Acquired Entities including access to such properties to conduct environmental assessments of any Owned Real Property or, subject to the rights of the landlord, any Leased Real Property, and, during such period, shall furnish promptly to the Buyer all other information concerning the Acquired Entities and their respective properties and personnel as the Buyer may from time to time reasonably request; provided, however, that any such access shall be conducted at a reasonable time and in such a manner as not to interfere unreasonably with the operations of the business of the Acquired Entities. Notwithstanding the foregoing, none of the Acquired Entities shall be required to disclose any information to the Buyer or their authorized representatives if doing so would violate any Law to which such Acquired Entity is subject.

SECTION 5.4 Commercially Reasonable Efforts. Upon the terms and subject to the conditions of this Agreement insofar as such matters are within the control of the Sellers or the Acquired Entities, the Sellers shall use, and shall cause the Acquired Entities to use, their commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable consistent with applicable Law to consummate and make effective the transactions contemplated hereby.

SECTION 5.5 Intellectual Property. Concurrent with or immediately after Closing, the Sellers shall, and shall cause its Affiliates to take all actions necessary to assign, transfer, convey and record in the name of the Acquired Entities (or their designees) any Seller's or its Affiliates' right, title and interest in all Intellectual Property that is used primarily in the Business, including the Intellectual Property set forth on Section 5.5 of the Disclosure Letter (the "Transferred IP"). The Sellers agree that as of the Closing Date, none of the Sellers and their Affiliates shall, directly or indirectly, (i) use, register or attempt to register any of the Transferred IP or (ii) contest the ownership or validity of the Transferred IP.

SECTION 5.6 Intercompany Arrangements; Wrong Pocket. (a) Prior to the Closing, the Sellers shall cause any contract or arrangement that is disclosed (or should have been disclosed) in Section 3.17(a)(vii) of the Disclosure Letter, other than those Contracts or arrangements set forth in Section 5.6 of the Disclosure Letter, to be terminated or otherwise amended to exclude the Acquired Entities as a party thereto.

(b) Immediately prior to the consummation of the Closing, the Sellers shall contribute, or cause to be contributed, to the capital of each Acquired Entity, the difference between (i) the intercompany indebtedness owed by such Acquired Entity to any Seller and its Affiliates (other than the other Acquired Entities) as of the Closing and (ii) the intercompany indebtedness owed by any Seller and its Affiliates (other than the other Acquired Entities) to such Acquired Entity as of the Closing; and all such intercompany indebtedness shall cease to exist and be of no further force or effect.

(c) Prior to the Closing, all intercompany liabilities (other than those addressed in the preceding clauses (a) and (b)) owed to any Seller or its Affiliates (other than an Acquired Entity), on the one hand, by any Acquired Entity, on the other hand, shall be settled or otherwise eliminated, shall cease to exist and shall be of no further force or effect.

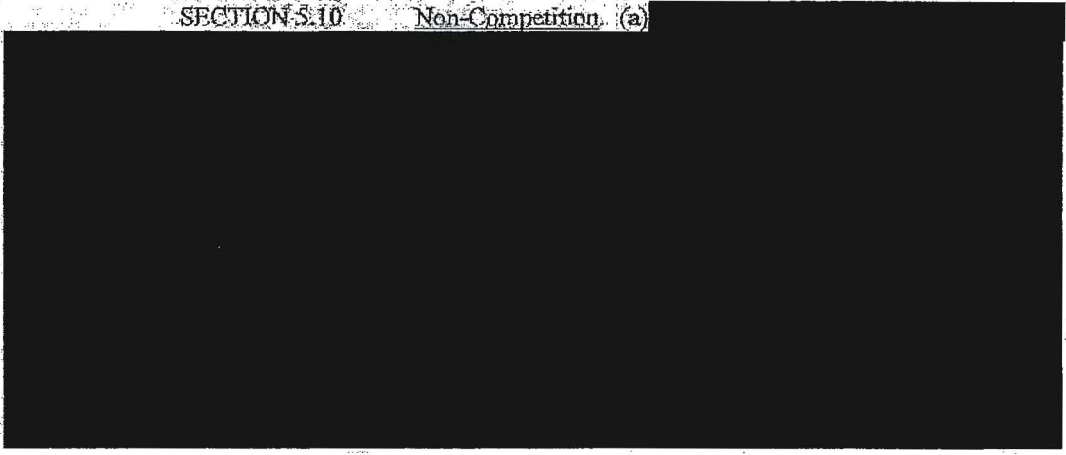
(d) If any Seller or any of its Affiliates receives any payment related to the Business after the Closing, such Seller agrees to promptly remit (or cause to be promptly remitted) such funds to the Buyer to the extent related to the Business. The Buyer shall have the right and authority, from and after the Closing, to collect for its own account all receivables of the Business and any of the receivables of an Acquired Entity (the "Closing Receivables") and to endorse with the name of any Seller any checks or drafts received with respect to any Closing Receivables.

SECTION 5.7 Insurance. The Sellers shall not take any action or omit taking any action that would reasonably be expected to be adverse to the ability of the Acquired Entities to have the benefit of the Existing Policies following the Closing. In addition, the Sellers shall or shall cause the Acquired Entities to notify the carriers under the Existing Policies of all matters of which any Seller has or obtains knowledge at or prior to Closing that would give rise to claims covered under the Existing Policies (with such notice to be given as soon as reasonably practicable upon obtaining such knowledge). From and after the Closing, the Sellers and their Affiliates shall cooperate with and permit the Acquired Entities to seek and obtain coverage under each of the Existing Policies for occurrences that took place prior to the Closing, and none of the Sellers and their Affiliates shall release, commute, buy-back, or otherwise eliminate the coverage available to the Acquired Entities or the Business under any such Existing Policy.

SECTION 5.8 Risk of Loss. The risk of loss or damage by fire or other casualty to any Owned Real Property, any Leased Real Property or any other Railroad Assets before Closing is assumed by the Sellers. In the event that any Owned Real Property, Leased Real Property or any other Railroad Assets shall suffer any such loss or damage, the Sellers agree to, at the Buyer's election, (i) repair the damage at their sole cost and expense before the Closing, (ii) make an appropriate reduction in the Purchase Price based on a reasonable approximation of the cost of such repair as agreed by the parties or (iii) irrevocably assign to the Buyer the right to the proceeds of any insurances covering such fire, casualty or injury.

SECTION 5.9 Resignation of Officers and Directors. Effective immediately prior to Closing, the Sellers shall either cause the directors and officers of the Acquired Entities to resign or remove them from such positions.

SECTION 5.10 Non-Competition. (a)



(b) The parties hereto recognize that the laws and public policies of the various states of the United States may differ as to the validity and enforceability of covenants similar to those set forth in this Section 5.10. It is the intention of the parties that the provisions of this Section 5.10 be enforced to the fullest extent permissible under the laws and policies of each jurisdiction in which enforcement may be sought, and that the unenforceability (or the modification to conform to such laws or policies) of any provisions of this Section 5.10 shall not render unenforceable, or impair, the remainder of the provisions of this Section 5.10. Accordingly, if any provision of this Section 5.10 shall be determined to be invalid or unenforceable, such invalidity or unenforceability shall be deemed to apply only with respect to the operation of such provision in the particular jurisdiction in which such determination is made and not with respect to any other provision or jurisdiction.

(c) The parties to this Agreement acknowledge and agree that any remedy at law for any breach of the provisions of this Section 5.10 would be inadequate, and each Seller hereby consents to, without intending to limit any additional remedies that may be available, the granting by any court of an injunction or other equitable relief, without the necessity of actual monetary loss or inadequacy of legal remedy being proved, in order that the breach or threatened breach of such provisions may be effectively restrained.

SECTION 5.11 Notice of Developments. Prior to the Closing, the Sellers shall promptly notify the Buyer in writing of all events, circumstances, facts and occurrences arising subsequent to the date of this Agreement which could result in any breach of a representation or warranty or covenant of the Sellers in this Agreement, which breach could reasonably be expected to cause any of the conditions set forth in Sections 9.1 or 9.2 to fail to be satisfied.

SECTION 5.12 Further Assurances. From time to time after the Closing, without additional consideration, each of the parties hereto will (or, if appropriate, cause their Affiliates to) execute and deliver such further instruments and take such other action as may be necessary to make effective the transactions contemplated by this Agreement. If any party to this Agreement shall following the Closing have in its possession any asset or right that under this Agreement should have been delivered to the other, such party shall promptly deliver such asset or right to the other.

SECTION 5.13 Release by the Sellers. As of the Closing, each Seller and its Affiliates, successors and assigns and all of their respective current and former shareholders, officers, directors, managers, employees, agents and representatives (in each case, solely in their capacity as such) (each, a "Releasing Person") hereby unconditionally release and forever discharge the Acquired Entities, from all debts, demands, causes of action, suits, covenants, torts, damages and any and all claims, defenses, offsets, judgments, demands and liabilities whatsoever, of every name and nature, both at law and in equity, known or unknown, accrued or unaccrued that have been or could have been asserted against any Acquired Entity, which any Releasing Person has or ever had, which arises out of or in any way relates to events, circumstances or actions occurring, existing or taken prior to or as of the Closing Date in respect

of matters related to any of the Acquired Entities; provided that the Sellers and the Buyer acknowledge and agree that this Section 5.13 does not apply to and shall not constitute a release of any rights or obligations arising under this Agreement that by their terms survive the Closing.

SECTION 5.14 FCC Radio License. The Buyer and the Sellers shall, and prior to the Closing the Sellers shall cause HOG to, cooperate to obtain the consent of the United States Federal Communications Commission (the "FCC") pursuant to 47 U.S.C. § 310(d) and 47 C.F.R. § 1.948 for the transfer of control of the radio license authorization held by HOG under call sign WPRI951. Promptly following execution of this Agreement, but not later than February 21, 2017, the Sellers shall initiate the electronic filing of FCC Form 603, "FCC Application for Assignments of Authorization or Transfers of Control," through the FCC's Universal Licensing System, and shall be responsible for the filing fees associated with such application. The Buyer shall electronically approve and sign the FCC Form 603 application through the Universal Licensing System and shall, within thirty (30) days after the Closing Date, notify the FCC of the consummation of the transfer of control through the filing of FCC Form 603, Schedule D.

SECTION 5.15 Employee Benefits Matters. The Sellers shall procure that the board of directors of the relevant Acquired Entity adopt resolutions providing that no rights to contributions will accrue after, and that all of the Plans sponsored or maintained by any Acquired Entity that are defined contribution plans intended to be qualified within the meaning of Section 401(a) of the Code (the "Subject 401(k) Plan") shall be terminated, as of immediately prior to the Closing Date (but conditioned upon the occurrence of the Closing). The Sellers and the Buyer shall cooperate in good faith prior to the Closing with respect to the preparation and execution of all documentation necessary to effect the foregoing termination, and the Sellers shall provide the Buyer with a reasonable opportunity to review and comment on all such documentation.

ARTICLE 6 COVENANTS OF THE BUYER

The Buyer hereby covenants as follows:

SECTION 6.1 Consents and Approvals. (a) The Buyer shall, at its cost and expense, use commercially reasonable efforts to obtain all necessary consents, waivers, exemptions, authorizations, orders and approvals of all Governmental Entities required in connection with the execution, delivery and performance by the Buyer of this Agreement and the transactions contemplated hereby and (ii) diligently assist and cooperate with the Sellers in preparing and filing all documents required to be submitted by the Sellers to any Governmental Entities in connection with such transactions and in obtaining any consents, waivers, exemptions, authorizations, orders or approvals of Governmental Entities that may be required to be obtained by the Sellers in connection with such transactions, which assistance and cooperation shall include timely furnishing to the Sellers all information concerning the Buyer that counsel to the Sellers reasonably determines is required to be included in such documents or would be helpful in obtaining any such required consent, waiver, exemption, authorization or approval.

(b) Subject to Section 5.2(b), the Buyer shall be solely responsible, but with the cooperation of the Sellers, at the Buyer's sole cost and expense, for obtaining the approval of, or authority or an exemption from, the STB for the transactions contemplated by this Agreement.

Promptly following execution of this Agreement, but in any event within twenty (20) Business Days of the date hereof, Buyer shall file with the STB a Petition for Exemption pursuant to 49 U.S.C. 10502 and 49 C.F.R. 1121 to acquire control of HOG as required under 49 U.S.C. 11323(a)(5). Buyer shall concurrently file with the STB a motion for protective order pursuant to 49 C.F.R. 1104.14(b) to allow Buyer to file an unredacted copy of this Agreement under seal. Sellers shall cooperate with Buyer in preparing Buyer's filings with the STB, and Buyer shall afford Sellers the opportunity to review and comment on the draft filings a reasonable time in advance of their being filed with the STB.

SECTION 6.2 Commercially Reasonable Efforts. Upon the terms and subject to the conditions of this Agreement insofar as such matters are within the control of the Buyer, the Buyer shall use commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable consistent with applicable Law to consummate and make effective the transactions contemplated hereby.

SECTION 6.3 Bonus Payments. Following the Closing, the Buyer shall cause the Acquired Entities to make the Bonus Payments.

SECTION 6.4 Intermodal Facility Opportunity; Rate Stability. (a)

[REDACTED]

(b)

[REDACTED]

(c)

[REDACTED]

(d)

[REDACTED]

(i)

[REDACTED]

(ii)

[REDACTED]

(iii)

[REDACTED]

(iv)

[REDACTED]

[REDACTED]

(e)

[REDACTED]

SECTION 6.5 No Benefit to Third-Party. Nothing in this Agreement, express or implied, is intended to confer upon any current or former employee, director or consultant any rights, remedies or obligations under or by reason of this Agreement, including this Article 6.

ARTICLE 7. INDEMNIFICATION.

SECTION 7.1 Survival. The representations and warranties made by the Sellers and the Buyer in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the Closing and the consummation of the transactions contemplated by this Agreement, for a period terminating on the date that is [REDACTED] after the Closing Date; provided, however, that (a) the representations and warranties contained in Section 3.9 [Tax Matters], 3.18 [Employee Plans] and 3.22 [Environmental Matters] and the agreements set forth in Article 11 [Tax Matters] or any indemnity claim with respect to Taxes shall survive for a period terminating sixty (60) calendar days after the applicable statute of limitations (taking into account extensions), and (b) the representations and warranties contained in Sections 3.1 [The Sellers], 3.2 [Corporate Organization, Authority and Qualification of the Acquired Entities], 3.3 [No Conflict or Violation; Authority and Validity], 3.26 [Brokers] and 4.5 [Brokers] shall survive indefinitely. No claim or action for indemnification under this Article 7 shall be asserted or maintained by any party hereto after the expiration of the period referred to in the preceding sentence with respect to the reason for which indemnification is sought; provided, however, that any claim made in writing by the party seeking indemnification (the "Indemnified Party") to the party from which indemnification is sought (the "Indemnifying Party") within the time periods set forth in the preceding sentence shall survive (and be subject to indemnification) until it is finally and fully resolved.

SECTION 7.2 Indemnification by the Sellers.

(a) Following the Closing and, except as provided herein, regardless of any investigation at any time made by or on behalf of the Buyer or of any knowledge or information that the Buyer may have, the Sellers, on a joint and several basis, shall indemnify and defend, save and hold the Buyer, the Acquired Entities and their respective Affiliates, and their respective directors, officers, agents, employees, successors and assigns (the "Buyer Indemnitees"), harmless if any Buyer Indemnitee shall suffer any damage, demand, claim, liability, obligation, loss, cost, Taxes, expense (including the fees and disbursements of attorneys, accountants, consultants and engineers), deficiency, interest, penalty, impositions, assessments or fines of any kind or nature, whether known or unknown, fixed or contingent (collectively, "Losses") arising out of or resulting from, or shall pay or become obliged to pay any sum on account of, one or more of the following:

(i) subject to Section 7.1, any untruth or inaccuracy in any representation or certification of the Sellers or the breach of any warranty of the Sellers contained in this Agreement or in any certificate delivered to the Buyer in connection with the Closing (in each case, without regard to any qualification or limitation with respect to "materiality", whether by reference to "in any material respect", "Material Adverse Effect" or otherwise);

(ii) subject to Section 7.1, any failure of the Sellers to duly perform or observe any covenants or agreements contained in this Agreement or in any certificate delivered to the Buyer pursuant hereto to be performed or observed by the Sellers;

(iii) (A) any and all Taxes of the Acquired Entities or with respect to the Business for any Pre-Closing Tax Period, (B) any and all Taxes of the Acquired Entities attributable to the Excluded Liabilities for any taxable period, (C) any and all Taxes of the Acquired Entities resulting from the transactions described in Section 5.6(c), (D) any and all liability by reason of Treasury Regulation § 1.1502-6 (and any comparable provision under state or local Tax Law) or otherwise, for Taxes of the Sellers or any other person (other than an Acquired Entity) which is or has ever been affiliated with any Acquired Entity or with whom any Acquired Entity otherwise joins or has ever joined (or has ever been required to join) in filing any consolidated, combined, unitary or aggregate Tax Return, prior to the Closing Date, (E) any and all Taxes arising (directly or indirectly) as a result of the transactions contemplated hereby, including Taxes described in Section 11.4 and (F) any payments that any of the Acquired Entities is required to make under any Tax sharing agreement to which it was a party on or before the Closing Date (for the avoidance of doubt, the obligations to indemnify pursuant to this Section 7.2(a)(iii) shall survive for a period terminating sixty (60) calendar days after the applicable statute of limitations (taking into account extensions));

(iv) all Excluded Liabilities;

(v) all Indebtedness of the Acquired Entities as of the Closing not taken into account in connection with the calculation of the Purchase Price under Section 2.1(h);

(vi) any unauthorized action taken by the Sellers or their respective Affiliates after the Closing in respect of the Acquired Entities or the Business;

provided, however, that the Sellers shall have no obligation to make any payment under Section 7.2(a)(i) (except pursuant to an inaccuracy of a representation or a breach of a warranty contained in Sections 3.1 [The Sellers], 3.2 [Corporate Organization, Authority and Qualification of the Acquired Entities], 3.3 [No Conflict or Violation; Authority and Validity], 3.9 [Tax Matters], 3.18 [Employee Plans], 3.22 [Environmental Matters] or 3.26 [Brokers]) with respect to any representation or warranty unless and until the aggregate amount to which all Buyer Indemnitees are entitled by reason of all such claims under Section 7.2(a)(i) exceeds \$ [REDACTED] ("Basket Amount"), in which case the party entitled to such indemnification shall be entitled to receive both the Basket Amount and the amount in excess of the Basket Amount.

(b) Notwithstanding anything herein to the contrary, the maximum aggregate liability of the Sellers to the Buyer Indemnitees under Section 7.2(a)(i) hereof (except pursuant to an inaccuracy of a representation or a breach of a warranty contained in Sections 3.1 [The Sellers], 3.2 [Corporate Organization, Authority and Qualification of the Acquired Entities], 3.3 [No Conflict or Violation; Authority and Validity], 3.9 [Tax Matters], 3.18 [Employee Plans], 3.22 [Environmental Matters] or 3.26 [Brokers]) shall not exceed [REDACTED]

[REDACTED] (the "Indemnity Amount").

(c) For purposes of Section 7.2(a), whenever it is necessary to determine the liability for Taxes of the Acquired Entities for a taxable period that begins on or before, and ends after, the Closing Date:

(i) Taxes imposed on a periodic basis (such as real, personal and intangible property Taxes) shall be prorated between the Buyer, on the one hand, and the Sellers, on the other hand, as of the Closing by multiplying the amount of such Taxes for the entire period (or, in the case of such Taxes determined on an accrual basis, the amount of such Taxes for the immediately preceding period) multiplied by a fraction, the numerator of which is the number of calendar days in the portion of such taxable period ending on and including the Closing Date and the denominator of which is the number of calendar days in the entire relevant taxable period; and

(ii) all other Taxes for the Pre-Closing Tax Period (such as franchise Taxes, Taxes that are based upon or related to income or receipts, based upon occupancy or imposed in connection with any sale or other transfer or assignment of property (real or personal, tangible or intangible)) shall be determined as if the Acquired Entities had a taxable year or period that ended on and included the Closing Date.

(d) Other than pursuant to Sections 7.2(a)(i) (to the extent arising from breaches of the representations and warranties contained in Sections 3.1 [The Sellers], 3.2 [Corporate Organization, Authority and Qualification of the Acquired Entities], 3.3 [No Conflict or Violation, Authority and Validity], 3.9 [Tax Matters], 3.18 [Employee Plans], 3.22 [Environmental Matters] or 3.26 [Brokers]), 7.2(a)(ii), 7.2(a)(iii), 7.2(a)(iv) or 7.2(a)(v), the sole recourse of the Buyer against the Sellers pursuant to this Section 7.2 shall be to reduce the Deferred Consideration Amount payable by the Buyer.

SECTION 7.3 Indemnification by the Buyer. Following the Closing and regardless of any investigation at any time made by or on behalf of the Sellers or of any knowledge or information that the Sellers may have, the Buyer shall indemnify and defend, save and hold the Sellers, any Affiliate of any Seller, and their respective directors, officers, agents, employees and directors and the individuals who served as directors of the Acquired Entities prior to the Closing (solely in their capacity as directors) (the "Seller Indemnitees"), harmless if any Seller Indemnitee shall at any time or from time to time suffer any Losses arising out of or resulting from, or shall pay or become obliged to pay any sum on account of, one or more of the following:

(a) any untruth or inaccuracy in any representation or certification of the Buyer or the breach of any warranty of the Buyer contained in this Agreement or in any certificate delivered to the Sellers in connection with the Closing;

(b) any failure of the Buyer duly to perform or observe any term, provision, covenant or agreement contained in this Agreement on the part of the Buyer to be performed or observed; and

(c) any action taken by the Buyer, the Acquired Entities or their respective Affiliates after the Closing in connection with the conduct of the Business;

provided, however, that the Buyer shall have no obligation to make any payment under Section 7.3(a) (except pursuant to an inaccuracy of a representation or a breach of a warranty contained in Sections 4.1 [Corporate Organization], 4.2 [Authorization and Validity] and 4.5 [Brokers]) with respect to any representation or warranty unless and until the aggregate amount to which all Seller Indemnitees are entitled by reason of all such claims under Section 7.3(a) exceeds the Basket Amount, in which case the party entitled to such indemnification shall be entitled to receive both the Basket Amount and the amount in excess of the Basket Amount.

Notwithstanding anything herein to the contrary, the maximum aggregate liability of the Buyer to the Seller Indemnitees under Section 7.3(a) (except pursuant to an inaccuracy of a representation or a breach of a warranty contained in Sections 4.1 [Corporate Organization], 4.2 [Authorization and Validity] and 4.5 [Brokers]) shall not exceed the Indemnity Amount.

SECTION 7.4 Procedures Relating to Third-Party Claims (other than Tax

Claims). (a) In order for an Indemnified Party to be entitled to any indemnification provided for under this Agreement in respect of, arising out of or involving a claim made by any Person (other than a party or a successor to a party hereto) against the Indemnified Party (a "Third-Party Claim"), such Indemnified Party must notify the Indemnifying Party in writing, and in reasonable detail, of the Third-Party Claim within ten (10) Business Days after receipt by such Indemnified Party of written notice of the Third-Party Claim; provided, however, that failure to give such notification shall not affect the indemnification provided hereunder except to the extent the Indemnifying Party shall have been actually and materially prejudiced as a result of such failure (except that the Indemnifying Party shall not be liable for any expenses incurred during the period in which the Indemnified Party unreasonably failed to give such notice). Thereafter, the Indemnified Party shall deliver to the Indemnifying Party, promptly after the Indemnified Party's receipt thereof, copies of all material and non-privileged notices and documents (including court papers) received by the Indemnified Party relating to the Third-Party Claim.

(b) If a Third-Party Claim is made against an Indemnified Party, the Indemnifying Party shall be entitled to participate in the defense thereof and, if it so chooses, to assume the defense thereof with counsel selected by the Indemnifying Party, which counsel shall be reasonably satisfactory to the Indemnified Party. If the Indemnifying Party elects to assume the defense of a Third-Party Claim, the Indemnifying Party shall not be liable to the Indemnified Party for any legal expenses subsequently incurred by the Indemnified Party in connection with the defense thereof. If the Indemnifying Party assumes such defense, the Indemnified Party shall have the right to participate in the defense thereof and to employ counsel, at its own expense, separate from the counsel employed by the Indemnifying Party, it being understood that the Indemnifying Party shall control such defense. The Indemnifying Party shall be liable for the reasonable fees and expenses of counsel employed by the Indemnified Party (i) for any period during which the Indemnifying Party has not assumed the defense thereof (other than during any period in which the Indemnified Party shall have failed to give notice of the Third-Party Claim as provided above), (ii) if the Indemnified Party determines in good faith that representation by the Indemnifying Party's counsel of both the Indemnifying Party and the Indemnified Party may present such counsel with a conflict of interest, (iii) if the employment of such counsel has been specifically authorized in writing by the Indemnifying Party or (iv) one or more substantially different defenses are available to the Indemnified Party that are not available to the

Indemnifying Party; provided that the Indemnifying Party shall not be liable for the fees and expenses of more than one firm of counsel for all Indemnified Parties, other than local counsel. If the Indemnifying Party chooses to defend or prosecute a Third-Party Claim, all the parties hereto shall cooperate in the defense or prosecution thereof. Such cooperation shall include the retention and (upon the Indemnifying Party's request) the provision to the Indemnifying Party of records and information that are reasonably relevant to such Third-Party Claim, making employees available to provide additional information and explanation of any material provided hereunder and regular consultation in good faith with counsel for such other party and inclusion of such counsel in relevant conferences and proceedings to the extent requested by such counsel. If the Indemnifying Party chooses to defend or prosecute any Third-Party Claim, the Indemnified Party will agree to any settlement, compromise or discharge of such Third-Party Claim that the Indemnifying Party may recommend and that by its terms (i) involves only the payment of money damages against which the Indemnified Party is indemnified by the Indemnifying Party, (ii) does not impose an injunction or other equitable relief upon the Indemnified Party or involve any other remedies, (iii) provides for a full, unconditional and irrevocable release by such third party of the Indemnified Party with respect to the claim(s) being settled and (iv) does not involve a finding or admission of any violation of Law or other wrongdoing by any Person. Whether or not the Indemnifying Party shall have assumed the defense of a Third-Party Claim, the Indemnified Party shall not admit any liability with respect to, or settle, compromise or discharge, such Third-Party Claim without the Indemnifying Party's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

Notwithstanding anything in this Agreement to the contrary, this Section 7.4 shall not apply to a Tax Claim, the procedures for which shall be governed by Section 11.3.

SECTION 7.5 Exclusive Remedy. Each of the Sellers and the Buyer hereby acknowledges and agrees that following the Closing its sole and exclusive remedy with respect to any claim for indemnification pursuant to or in connection with this Agreement shall be pursuant to the indemnification provisions set forth in this Article 7; provided, however, that this Section 7.5 shall not affect the parties' rights to equitable relief under Section 5.10 and Section 12.16. Notwithstanding the foregoing, nothing in this Article 7 will limit in any manner any claim based on fraud or intentional misrepresentation.

ARTICLE 8. CONDITIONS PRECEDENT TO PERFORMANCE BY THE SELLERS.

The obligations of the Sellers to consummate the transactions contemplated by this Agreement are subject to the fulfillment, at or before the Closing Date, of the following conditions, any one or more of which (other than Section 8.3) may be waived (in writing) in whole or in part by the Sellers in their sole discretion at or prior to the Closing Date:

SECTION 8.1 Representations and Warranties of the Buyer. All representations and warranties made by the Buyer in this Agreement, without giving effect to any materiality or similar qualifications therein, shall be true and correct as of the date of this Agreement and as of the Closing Date as though made on and as of the Closing Date (except for representations and warranties that expressly speak as of an earlier date, which representations and warranties shall be true as of such specified date), except for such failures to be true and

correct as would not materially impair or prevent the Buyer's ability to consummate the transactions contemplated by this Agreement;

SECTION 8.2 Performance of the Obligations of the Buyer. The Buyer shall have performed in all material respects all obligations required under this Agreement to be performed by it on or before the Closing Date, and the Sellers shall have received a certificate to that effect from the Buyer dated the Closing Date and signed by an authorized officer of the Buyer.

SECTION 8.3 No Violation of Orders. No preliminary or permanent injunction or other order issued by any Governmental Entity, nor any statute, rule, regulation, decree or executive order promulgated or enacted by any Governmental Entity that declares this Agreement invalid or unenforceable or which prevents the consummation of the transactions contemplated hereby shall be in effect.

SECTION 8.4 Closing Deliveries by the Buyer. At the Closing, the Buyer shall deliver (or caused to be delivered) to the Sellers:

- (a) the Closing Payment Amount by wire transfer in immediately available funds; and
- (b) a certificate of a duly authorized officer of the Buyer certifying as to the matters set forth in Sections 8.1 and 8.2.

ARTICLE 9. CONDITIONS PRECEDENT TO PERFORMANCE BY THE BUYER.

The obligations of the Buyer to consummate the transactions contemplated by this Agreement are subject to the fulfillment, at or before the Closing Date, of the following conditions, any one or more of which may be waived (in writing) in whole or in part by the Buyer in its sole discretion at or prior to the Closing Date:

SECTION 9.1 Representations and Warranties of the Sellers. All representations and warranties made by the Sellers (on behalf of the Sellers or any Acquired Entity) in this Agreement shall be true and correct in all material respects (except for each of the representations and warranties made by the Sellers (on behalf of the Sellers or any Acquired Entity) that are limited by materiality, which shall be true and correct in all respects (as so limited)) on and as of the date hereof and on and as of the Closing Date as if again made by the Sellers (on behalf of the Sellers or any Acquired Entity) on and as of such date, except to the extent such representations and warranties are made on and as of a specified date, in which event such representations and warranties shall be true and correct in all material respects (except for each of the representations and warranties made by the Sellers (on behalf of the Sellers or any Acquired Entity) that are limited by materiality, which shall be true and correct in all respects (as so limited)) on and as of such specified date, and the Buyer shall have received a certificate to that effect from the Sellers dated the Closing Date.

SECTION 9.2 Performance of the Obligations of the Sellers. The Sellers shall have performed (or caused to be performed) in all material respects all obligations required

under this Agreement to be performed by the Sellers or any Acquired Entity on or before the Closing Date, and the Buyer shall have received a certificate to that effect from the Sellers dated the Closing Date.

SECTION 9.3 No Violation of Orders. No preliminary or permanent injunction or other order issued by any Governmental Entity, nor any statute, rule, regulation, decree or executive order promulgated or enacted by any Governmental Entity, which declares this Agreement invalid or unenforceable or prevents the consummation of the transactions contemplated hereby shall be in effect; and no action or proceeding before any Governmental Entity shall have been instituted or threatened by any Governmental Entity or by any other Person which seeks to prevent or delay the consummation of the transactions contemplated by this Agreement or which challenges the validity or enforceability of this Agreement, and which in either such case has a reasonable likelihood of success in the reasonable opinion of counsel to the Buyer.

SECTION 9.4 STB. Exemption, authorization or approval for the transactions contemplated by this Agreement shall have been obtained from the STB and such exemption, authorization or approval shall be in full force and effect, and neither the STB nor any other Governmental Entity shall have imposed any conditions or obligations on the transactions contemplated by this Agreement (other than any immaterial condition or obligation).

SECTION 9.5 Material Consents. The Sellers shall have received, each in form and substance satisfactory to the Buyer, the third-party consents and estoppel certificates necessary or desirable for the consummation of the transactions contemplated by this Agreement as set forth in Section 9.5 of the Disclosure Letter.

SECTION 9.6 FIRPTA. The Sellers shall deliver to the Buyer at the Closing a duly executed certificate, in form and substance acceptable to the Buyer and in accordance with applicable Treasury regulations, certifying the non-foreign status of the Sellers for purposes of Section 1445 of the Code.

SECTION 9.7 No Material Adverse Effect. No event or events shall have occurred which, individually or in the aggregate, have had, or could reasonably be expected to have, a Material Adverse Effect.

SECTION 9.8 Closing Deliveries by the Sellers. At the Closing, the Sellers shall have delivered or caused to be delivered to the Buyer:

(a) stock certificates evidencing all of the Shares, duly endorsed in blank or accompanied by stock powers duly executed in blank, in a form satisfactory to the Buyer and with all required stock transfer tax stamps affixed, such shares being delivered free and clear of all Liens;

(b) a receipt for the Closing Payment Amount;

(c) each of [REDACTED] and [REDACTED] shall have executed and delivered an offer letter of employment and a consulting agreement, respectively, in form and substance satisfactory to Purchaser.

- (d) a duly executed certificate of the Sellers certifying as to the matters set forth in Sections 9.1 and 9.2;
- (e) a duly executed certificate certifying the non-foreign status of the Sellers as set forth in Section 9.6;
- (f) the duly executed resignations of all directors and officers of the Acquired Entities;
- (g) the third-party consents and approvals necessary or desirable for the consummation of the transactions contemplated by this Agreement as set forth in Section 9.5 of the Disclosure Letter, each in form and substance satisfactory to the Buyer;
- (h) evidence satisfactory to the Buyer that the Sellers shall have paid and discharged the Excluded Liabilities; and
- (i) evidence satisfactory to the Buyer that, prior to the Closing, the Sellers shall have (i) caused any contract or arrangement that is disclosed (or should have been disclosed) in Section 3.17(a)(vii) of the Disclosure Letter to be terminated or otherwise amended to exclude the Acquired Entities as a party thereto and (ii) contributed, or caused to be contributed, to the capital of the Acquired Entities, the difference between (A) the intercompany Indebtedness owed by any Acquired Entity to any Seller and its Affiliates (other than any Acquired Entity) as of the Closing and (B) the intercompany Indebtedness owed by any Seller and its Affiliates (other than any Acquired Entity) to the Acquired Entities as of the Closing.

ARTICLE 10. TERMINATION

SECTION 10.1 Conditions of Termination. Notwithstanding anything to the contrary contained herein, this Agreement may be terminated by written notice at any time before the Closing:

- (a) by mutual consent of the Sellers and the Buyer;
- (b) by the Buyer if the Sellers have breached any representation, warranty, covenant or agreement contained in this Agreement and have not cured such breach within thirty (30) calendar days after written notice to the Sellers such that the conditions set forth in Section 9.1 or Section 9.2 hereof, as the case may be, will not be satisfied; provided that the Buyer is not then in material breach of the terms of this Agreement; provided, further, that no cure period shall be required for a breach that by its nature cannot be cured;
- (c) by the Sellers if the Buyer has breached any representation, warranty, covenant or agreement contained in this Agreement and has not cured such breach within thirty (30) calendar days after written notice to the Buyer such that the conditions set forth in Section 8.1 or Section 8.2 hereof, as the case may be, will not be satisfied; provided that the Sellers are not then in material breach of the terms of this Agreement; provided, further, that no cure period shall be required for a breach that by its nature cannot be cured.

(d) by the Sellers or the Buyer if there shall be a final, non-appealable order of a court of competent jurisdiction in the United States in effect preventing, restraining, enjoining or otherwise prohibiting consummation of the transactions contemplated hereby; provided, however, that the right to terminate this Agreement under this Section 10.1(d) shall not be available to any party whose failure to perform any of its obligations under this Agreement has been the primary cause of such order;

(e) (e) by the Buyer if the exemption, authorization or approval of the STB shall not have been granted or become effective and all reasonably available appeals of such determination shall have been taken and are unsuccessful; or

(f) by the Sellers or the Buyer if the Closing shall not have been consummated within one (1) year after the date hereof; provided that the right to terminate this Agreement under this Section 10.1(f) shall not be available to any party if the failure of the Closing to have occurred was primarily due to the failure of such party to perform any of its obligations under this Agreement.

SECTION 10.2 Effect of Termination. Except as provided herein, in the event of the termination of this Agreement as provided in Section 10.1 hereof, this Agreement shall forthwith become void and have no effect, and there shall be no liability or obligation on the part of the Sellers or the Buyer, or their respective officers, directors, stockholders, members, partners or other Persons under their control (including the Acquired Entities). If this Agreement is terminated as provided herein, except as otherwise expressly set forth herein, no party to this Agreement shall have any liability hereunder to any other party, except for any willful and intentional breach by such party of the terms and provisions of this Agreement prior to such termination. The provisions of Sections 3.25, 4.5, 12.2, 12.3 and 12.14 shall survive any termination hereof pursuant to Section 10.1.

ARTICLE 11. TAX MATTERS.

The following provisions shall govern the allocation of responsibility between the Buyer, on the one hand, and the Sellers, on the other hand, for certain tax matters following the Closing Date:

SECTION 11.1 Tax Returns. (a) To the extent not previously filed, the Buyer shall, at the Sellers' cost and expense, prepare or cause to be prepared and file or cause to be filed all Tax Returns of the Acquired Entities for any taxable period that ends on or prior to the Closing Date. The Buyer shall deliver to the Sellers a copy of any such Tax Return twenty (20) calendar days prior to the due date (including extensions) for the filing of such Tax Return and shall reflect any reasonable comments provided by the Sellers in writing within ten (10) calendar days of the Sellers' receipt of such Tax Return. The Sellers shall pay the Buyer an amount equal to the Taxes shown to be due and payable on any such Tax Return, including Taxes attributable to an Excluded Liability, no later than three Business Days prior to the due date (including extensions) for the filing of such Tax Return.

(b) At Seller's expense, the Buyer shall prepare or cause to be prepared and file or cause to be filed any Tax Returns of the Acquired Entities for taxable periods that begin

on or before the Closing Date and end after the Closing Date. The Buyer shall deliver to the Sellers a copy of any such Tax Return, together with a statement setting forth the amount of Taxes allocable to the Pre-Closing Tax Period (pursuant to Section 7.2(c) or with respect to an Excluded Liability), twenty (20) calendar days prior to the due date (including extensions) for the filing of such Tax Return and shall reasonably consider any reasonable comments provided by the Sellers in writing within ten (10) calendar days of the Sellers' receipt of such Tax Return. The Sellers shall pay to the Buyer an amount equal to the Taxes shown as due and payable on any such Tax Return that are allocable to the Pre-Closing Tax Period, including Taxes attributable to an Excluded Liability, no later than three Business Days prior to the due date (including extensions) for the filing such Tax Return.

SECTION 11.2 Tax Cooperation. The Buyer and the Sellers shall reasonably cooperate, and shall cause their respective Affiliates (including the Acquired Entities), officers, employees, agents, auditors and representatives to reasonably cooperate (including by making available to each other all relevant records and information), in preparing and filing all Tax Returns and in resolving all disputes and audits for all taxable periods. Such cooperation shall include making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Sellers and the Buyer agree (i) to retain all books and records with respect to Tax matters pertinent to the Acquired Entities relating to any taxable period beginning before the Closing Date until expiration of the statute of limitations (and, to the extent notified by the Buyer or the Sellers, any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any taxing authority, and (ii) to give the other party reasonable written notice prior to transferring, destroying or discarding any such books and records and, if the other party so requests, the Buyer or the Sellers, as the case may be, shall allow the other party to take possession of such books and records. The Buyer and the Sellers further agree, upon request, to use their best efforts to obtain any certificate or other document from any Governmental Entity or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed (including with respect to the transactions contemplated hereby).

SECTION 11.3 Procedures Relating to Indemnification of Tax Claims.

(a) If a claim shall be made by any Tax authority that, if successful, might result in an indemnity payment to any Indemnified Party pursuant to Section 7.2 hereof, the Indemnified Party shall notify the Indemnifying Party promptly of such claim (a "Tax Claim"); provided, however, the failure to give notice shall not affect the indemnification provided hereunder except to the extent the Indemnifying Party has been materially prejudiced as a result of such failure.

(b) With respect to any Tax Claim relating to a taxable period that ends on or before the Closing Date, the Sellers shall have the right, at their own expense, to control all proceedings and may make all decisions taken in connection with such Tax Claim; provided that the Sellers must first consult in good faith with the Buyer before taking any action with respect to the conduct of such Tax Claim and shall not settle such Tax Claim without the prior written consent of the Buyer, which consent shall not be unreasonably withheld, and the Buyer shall have the right to participate fully in all aspects of the prosecution or defense of such Tax Claim if it reasonably determines that such Tax Claim could have a material adverse impact on the Taxes

of the Acquired Entities in a taxable period or portion thereof beginning after the Closing Date; provided, further, that the Sellers acknowledge in writing their liability under this Agreement to hold the Buyer and its Affiliates (including the Acquired Entities) harmless against the full amount of any adjustment that may result from the Tax Claim. Notwithstanding the foregoing, in the case of a Tax Claim in respect of Taxes for a taxable period beginning on or before and ending after the Closing Date, the Sellers and the Buyer shall jointly control and participate in all proceedings taken in connection with any such Tax Claim; provided that none of the Sellers or the Buyer shall settle any such tax claim without the prior written consent of the other, such consent not to be unreasonably withheld or delayed. The Buyer shall control all proceedings with respect to any Tax Claim relating to a taxable period beginning after the Closing Date and the Sellers shall have no right to participate in the conduct of any such proceeding.

SECTION 11.4. Transfer Taxes. All transfer, documentary, sales, use, registration and similar Taxes (including all applicable real estate transfer Taxes and stock transfer Taxes) and related fees (including any penalties, interest and additions to Tax) incurred in connection with the transactions contemplated hereby shall be borne by the Sellers, on a joint and several basis, and the Sellers and the Buyer shall cooperate in a timely manner in preparing and filing all Tax Returns as may be required to comply with the provisions of such Tax Laws.

SECTION 11.5. Tax Sharing Agreement. Any Tax sharing or Tax indemnification agreement or similar contract or arrangement with respect to or involving any Acquired Entity shall be terminated as of the Closing Date and, after the Closing Date, no Acquired Entity shall be bound thereby or have any liability thereunder.

SECTION 11.6. Tax Assets. In the event of any refund, credit, offset of Taxes or other Tax asset that was included in the final calculation of Net Working Capital (a "Tax Asset"), the Buyer shall be entitled to retain or, as applicable, to receive immediate payment from the Sellers or their Affiliates for, the amount or economic benefit of any such Tax Asset.

SECTION 11.7. Tax Treatment. Any indemnification payments made pursuant to this Agreement shall be treated by the parties as a Purchase Price adjustment, unless determined otherwise in a final determination as defined in Section 1313 of the Code.

SECTION 11.8. Coordination with Article 7. Payment by the Sellers of any amount indemnified against or otherwise due under Article 7 in respect of Taxes shall be paid by the Sellers in accordance with the terms of Section 7.2(d). In the event the provisions of this Article 11 and the provisions of Article 7 hereof conflict or otherwise each apply by their terms in connection with the preparation of Tax Returns or the exercise of contest rights as described in Section 11.3, this Article 11 shall apply; provided, further that nothing in this Article 11 shall limit the obligations of the Sellers to indemnify against Taxes as set forth in Article 7.

ARTICLE 12. MISCELLANEOUS.

SECTION 12.1. Successors and Assigns. Except as otherwise provided in this Agreement, no party hereto shall assign this Agreement or any rights or obligations hereunder without the prior written consent of the other parties hereto and any such attempted

assignment without such prior written consent shall be void and of no force and effect; provided, however, that the Buyer may assign any or all of its rights and obligations hereunder to any wholly owned direct or indirect Affiliate of the Buyer; provided, further, however, that no such assignment shall reduce or otherwise vitiate any of the obligations of the Buyer hereunder. This Agreement shall inure to the benefit of and shall be binding upon the successors and permitted assigns of the parties hereto and no assignment shall relieve any party of any obligation or liability under this Agreement.

SECTION 12.2 Governing Law; Jurisdiction. This Agreement shall be construed, performed and enforced in accordance with, and governed by, the Laws of the State of Delaware. Each party hereto agrees to commence any action, suit or proceeding arising out of this Agreement or any transaction contemplated hereby in any federal court sitting in the City of Wilmington, Delaware or, if such suit, action or other proceeding may not be brought in such court for jurisdictional reasons, in any Delaware state court. Each party hereto irrevocably submits to the jurisdiction of such court for the purposes of any such suit, action or other proceeding. If the matter of such suit, action or proceeding falls within the jurisdiction of the Delaware Court of Chancery, then the parties agree and prefer that such suit, action or proceeding related to such matter shall be submitted exclusively to the Delaware Court of Chancery. Each party further agrees that service of any process, summons, notice or document by U.S. registered mail to such party's respective address set forth below shall be effective service of process for any action, suit or proceeding in Delaware with respect to any matters to which it has submitted to jurisdiction in this Section 12.2. Each party irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in any federal court in the City of Wilmington, Delaware, or any Delaware State court and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

SECTION 12.3 WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY AND COVENANTS THAT IT WILL NOT ASSERT ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE OR ACTION, CLAIM, CAUSE OF ACTION, OR SUIT ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE SUBJECT MATTER HEREOF OR IN ANY WAY CONNECTED WITH OR RELATED TO THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY ACKNOWLEDGES THIS SECTION CONSTITUTES A MATERIAL INDUCEMENT UPON WHICH IT RELIES IN ENTERING THIS AGREEMENT.

SECTION 12.4 Expenses. The Sellers shall pay any financial advisory, legal, accounting and other fees, expenses and costs incurred by the Sellers or the Acquired Entities prior to the Closing Date (or thereafter) in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby (collectively, the "Transaction Expenses"). The Buyer shall pay any legal, accounting and other fees, expenses and costs incurred by the Buyer prior to the Closing Date in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

Except as otherwise provided in this Agreement, all of the other fees, expenses and costs incurred in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby shall be paid by the party hereto incurring such fees, expenses and costs.

SECTION 12.5 Severability. In the event that any part of this Agreement is declared by any court or other judicial or administrative body to be null, void or unenforceable, said provision shall survive to the extent it is not so declared, and all of the other provisions of this Agreement shall remain in full force and effect.

SECTION 12.6 Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (i) on the date of service if served personally on the party to whom notice is to be given, (ii) on the day of transmission if sent via facsimile transmission to the facsimile number given below, and confirmation of delivery is generated after completion of transmission, (iii) on the day after delivery to Federal Express or similar overnight courier or the Express Mail service maintained by the United States Postal Service or (iv) on the fifth day after mailing, if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid and properly addressed, to the party as follows:

If to the Sellers:

Brad Lafeyers
Jonathan Lafeyers

[REDACTED]

Duane Broxterman

[REDACTED]

If to the Buyer:

Genesee & Wyoming Inc.
20 West Avenue
Darien, CT 06820
Attn: General Counsel
Facsimile No.: (203) 656-1092

Any party may change its address for the purpose of this Section by giving the other party written notice of its new address in the manner set forth above.

SECTION 12.7 Amendments; Waivers. This Agreement may be amended or modified, and any of the terms, covenants, representations, warranties or conditions hereof may be waived, only by a written instrument executed by the parties hereto, or in the case of a waiver, by the party waiving compliance. Any waiver by any party of any condition, or of the breach of any provision, term, covenant, representation or warranty contained in this Agreement, in any one or more instances, shall not be deemed to be nor construed as a further or continuing waiver of any such condition, or of the breach of any other provision, term, covenant, representation or warranty of this Agreement.

SECTION 12.8 Public Announcements. The parties agree that after the signing of this Agreement and prior to the Closing Date, the Sellers shall not, and shall not permit the Acquired Entities to, and the Buyer shall not, make any press release or public announcement concerning this transaction without the prior approval of the other party or parties hereto unless a press release or public announcement is required by Law or the rules of any

securities exchange on which such party's securities are listed. Before a party to this Agreement makes any such announcement or other disclosure, it agrees to give the other parties hereto prior notice and an opportunity to comment on the proposed disclosure. For purposes of this Section 12.8, the term "public announcement" shall include communications with employees, customers and vendors of, and other parties with material commercial relationships with, the Sellers and/or the Acquired Entities, except as contemplated by this Agreement.

SECTION 12.9 Entire Agreement. This Agreement (including the Disclosure Letter and the other Schedules attached hereto) contains the entire agreement and understanding among the parties hereto with respect to the transactions contemplated hereby and supersedes and replaces all prior agreements and understandings, oral or written with regard to such transactions. All Schedules hereto and any documents and instruments delivered pursuant to any provision hereof are expressly made a part of this Agreement as fully as though completely set forth herein.

SECTION 12.10 Parties in Interest. Nothing in this Agreement is intended to confer any rights or remedies under or by reason of this Agreement on any Person other than the parties hereto and their respective successors and permitted assigns and any Person entitled to indemnity under Article 7. Nothing in this Agreement is intended to relieve or discharge the obligations or liability of any third Person to the Sellers or the Buyer. No provision of this Agreement shall give any third parties any right of subrogation or action over or against the Sellers or the Buyer.

SECTION 12.11 Scheduled Disclosures. Disclosure of any matter, fact or circumstance in a schedule to this Agreement shall be specific as to the Section and Subsection of this Agreement to which such disclosure applies and shall not be deemed to be disclosure thereof for purposes of any other Section, Subsection or Schedule hereto unless the relevance of such disclosure to such other Section, Subsection or Schedule is readily apparent on its face.

SECTION 12.12 Section and Paragraph Headings; Neutral Construction

(a) The Section and paragraph headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

(b) The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

(c) Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation".

SECTION 12.13 Knowledge. References in this Agreement to the "knowledge of the Sellers" shall refer to the knowledge, after due inquiry, of any of [REDACTED] and [REDACTED]

SECTION 12.14 Confidentiality. For a period of [REDACTED] following the Closing or the termination of this Agreement pursuant to Section 10.1 hereof, unless otherwise required by Law, (a) each Seller shall, and shall cause its Affiliates to, keep secret and retain in strictest confidence, and shall not (other than as expressly permitted by this Agreement) use for the benefit of themselves or others any Confidential Information relating to (i) the Buyer or its business to the extent such Confidential Information was disclosed by the Buyer, its Affiliates, or their representatives and agents in the preparation, negotiation and delivery of this Agreement and the transactions contemplated herein, or (ii) the Acquired Entities including with respect to the business thereof, and (b) the Buyer shall keep secret and retain in strictest confidence, and shall not use for the benefit of themselves or others any Confidential Information relating to any Seller or its business (other than, following the Closing, insofar as such information relates to the Acquired Entities) to the extent such Confidential Information was disclosed by such Seller, its Affiliates or their representatives and agents in the preparation, negotiation and delivery of this Agreement (including such information that was disclosed to the Buyer during the course of the Buyer's due diligence investigation of the Acquired Entities) and the transactions contemplated herein.

SECTION 12.15 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute the same instrument.

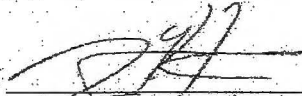
SECTION 12.16 Specific Performance. The parties hereto agree that if any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached, irreparable damage would occur, no adequate remedy at law would exist and damages would be difficult to determine, and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.

SECTION 12.17 Joint and Several Obligations. All representations, warranties, covenants, liabilities and obligations of the Sellers under this Agreement shall be joint and several, whether so expressed or not.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

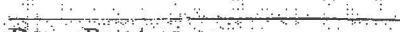
GENESEE & WYOMING INC.

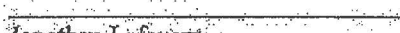
By: 

Name: *Thomas D. Savage*
Title: *VP Capital Development / Treasurer*

SELLERS:


Brad Lafeyers


Duane Broxterman


Jonathan Lafeyers

And solely with respect to Section 6.4:

CORDELE INTERMODAL SERVICES, INC.

By: _____

Name: _____
Title: _____

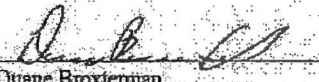
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

GENESSEE & WYOMING INC.

By: _____
Name:
Title:

SELLERS:


Brad Lafeyers


Duane Broxterman


Jonathan Lafeyers

And solely with respect to Section 6.4:

CORDELE INTERMODAL SERVICES, INC.

By: 
Name:
Title:

Schedule A

EMPLOYEE ROSTER

Schedule A

HEART OF GEORGIA RAILROAD EMPLOYEES

Name	Yrs. Worked	Service Months	Amt./Month	Total Bonus

Schedule B

Acquired Entities Net Working Capital
Illustrative Example

Schedule B

As of Nov 30, 2016	Total	Acq. Adjustments	Adjusted
Cash			
Accounts Receivable			
Other Current Assets			
Prepaid Expenses			
Advances to Stockholders			
Total Current Assets			
Accounts Payable			
Other Current Liabilities			
Unapplied cash			
Lease & Brush Accruals			
Cafeteria Plan			
Taxes Payable			
State WH			
SUTA Payable			
Total Other Current Liabilities			
Net Working Capital			

Schedule C

