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November 6, 2019

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November 6, 2019
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Public Record

Ms. Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

Re: Docket No. FD 36365, *3i RR Holdings GP LLC, 3i Holdings Partnership L.P., 3i RR LLC, Regional Rail Holdings, LLC, and Regional Rail, LLC—Control Exemption—Florida Central Railroad Company, Inc., Florida Midland Railroad Company, Inc., and Florida Northern Railroad Company, Inc.*

Dear Ms. Brown:

Enclosed for efilings is a Notice of Exemption under 49 CFR 1180.2(d). A filing fee of \$1,500.00 has been paid through Pay.gov.

Thank you for your assistance. If you have any questions, please contact me.

Sincerely yours,

/s/ *Louis E. Gitomer*

Louis E. Gitomer
Attorney for 3i RR Holdings GP LLC,
3i Holdings Partnership L.P., 3i RR LLC, Regional
Rail Holdings, LLC, and Regional Rail, LLC

Enclosures

FEE RECEIVED
November 6, 2019
SURFACE
TRANSPORTATION BOARD

FILED
November 6, 2019
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. FD 36365

3i RR HOLDINGS GP LLC, 3i HOLDINGS PARTNERSHIP L.P., 3i RR LLC,
REGIONAL RAIL HOLDINGS, LLC, AND REGIONAL RAIL, LLC
—CONTROL EXEMPTION—
FLORIDA CENTRAL RAILROAD COMPANY, INC., FLORIDA MIDLAND RAILROAD
COMPANY, INC., AND FLORIDA NORTHERN RAILROAD COMPANY, INC.

VERIFIED NOTICE OF EXEMPTION

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Attorney for 3i RR Holdings GP LLC,
3i Holdings Partnership L.P., 3i RR LLC,
Regional Rail Holdings, LLC, and Regional
Rail, LLC

Dated: November 6, 2019

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. FD 36365

3i RR HOLDINGS GP LLC, 3i HOLDINGS PARTNERSHIP L.P., 3i RR LLC,
REGIONAL RAIL HOLDINGS, LLC, AND REGIONAL RAIL, LLC
—CONTROL EXEMPTION—
FLORIDA CENTRAL RAILROAD COMPANY, INC., FLORIDA MIDLAND RAILROAD
COMPANY, INC., AND FLORIDA NORTHERN RAILROAD COMPANY, INC.

VERIFIED NOTICE OF EXEMPTION

3i RR Holdings GP LLC, 3i Holdings Partnership L.P., 3i RR LLC, and Regional Rail Holdings, LLC (collectively “3i RR”), and Regional Rail, LLC (“Regional Rail”), all noncarriers, pursuant to 49 C.F.R. §§1180.2(d)(2) and 1180.4(g), file this Verified Notice of Exemption with the Surface Transportation Board (the “Board”) seeking exemption from the prior approval requirements of 49 U.S.C. §§11323-11325, to acquire from Pinsly Railroad Company (“Pinsly”) the stock and control of Florida Central Railroad Company, Inc. (“Central”), Florida Midland Railroad Company, Inc. (“Midland”), and Florida Northern Railroad Company, Inc. (“Northern”) (the “Florida Railroads”), all located in the State of Florida.

a. 1180.6(a)(1)(i). A brief summary of the proposed transaction, the name of applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed.

Pursuant to the Stock Purchase Agreement dated as of October 27, 2019, Regional Rail has agreed to acquire from Pinsly 100% of the stock of Central, Midland, and Northern, and thereby acquire direct control of Central, Midland, and Northern (the “Proposed Transaction”). The 3i RR entities will acquire indirect control of the Florida Railroads.

3i RR Holdings GP LLC controls 3i Holdings Partnership L.P., which in turn controls 3i RR, which in turn controls Regional Rail Holdings, LLC. Regional Rail Holdings, LLC (“Holdings”) controls Regional Rail, LLC. Holdings is a non-carrier holding company that directly controls the following three class III railroads: (1) East Penn Railroad, LLC (“ESPN”), which operates in Delaware and Pennsylvania; (2) Middletown & New Jersey Railroad, LLC (“MNJ”), which operates in New York; and (3) Tyburn Railroad LLC (“Tyburn”), which operates in Pennsylvania (collectively referred to as the “Subsidiary Railroads”).¹ As a result of the Proposed Transaction, the instant Notice of Exemption seeks exemption for 3i RR to acquire indirect control of and for Regional Rail to acquire direct control of the Florida Railroads.

The Florida Railroads do not connect with each other or with the Subsidiary Railroads, the acquisition of control of the Florida Railroads is not intended to connect with any railroads in the corporate family of 3i RR, and a Class I carrier is not involved. The proposed transaction meets the requirements of 49 C.F.R. §1180.2(d)(2).

Applicants 3i RR and Regional Rail are located at One Grand Central Place, 60 E. 42nd Street, Suite 4100, New York, NY 10165, (212) 848-1455.

Counsel to whom questions concerning the transaction can be addressed is:

Louis E. Gitomer, Esq.
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b. 1180.6(a)(1)(ii). The proposed time schedule for consummation of the proposed transaction.

¹ Holdings acquired control of the Subsidiary Railroads pursuant to *Regional Rail Holdings, LLC-Acquisition of Control Exemption-Regional Rail, LLC*, Docket No. FD 35945 (served August 5, 2015) and 3. Direct control of Holdings and indirect control of the Subsidiary Railroads was acquired in *3i RR Holdings GP LLC, 3i Holdings Partnership L.P., and 3i RR LLC—Control Exemption—Regional Rail Holdings, LLC*, Docket No. FD 36289 (served April 19, 2019).

3i RR and Regional Rail intend to acquire control of the Florida Railroads on or after January 3, 2020.

c. 1180.6(a)(1)(iii). The purpose sought to be accomplished by the proposed transaction, e.g., operating economies, eliminating excess facilities, improving service, or improving the financial viability of the applicants.

3i RR and Regional Rail intend to implement operating economies where feasible without disrupting service to shippers and to use its financial resources to improve the financial viability of the Florida Railroads.

d. 1180.6(a)(5). A list of the State(s) in which any part of the property of each applicant carrier is situated.

Central is a Class III railroad that operates in Florida between Umatilla and Orlando, with branch lines between Toronto and Winter Garden and between Tavares and Sorrento.

Midland is a Class III railroad that operates in Florida between Frostproof and West Lake Wales and Gordonville and Winter Haven.

Northern is a Class III railroad that operates in Florida between Red Level Jct. and north of Newberry and between Candler and Lowell.

ESPN is a Class III railroad that operates in Pennsylvania and Delaware.

MNJ is a Class III railroad that operates in New York.

Tyburn is a Class III railroad that operates in Pennsylvania.

e. 1180.6(a)(6). Map (Exhibit B). Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the map accompanying each application, 20 unbound copies of the map shall be filed with the Board.

See Exhibit B.

f. 1180.6(a)(7)(ii). Agreement (Exhibit A). Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction.

A redacted copy of the Stock Purchase Agreement dated as of October 27, 2019 is attached hereto in Exhibit A. A non-redacted Confidential copy of the Stock Purchase Agreement is being concurrently been filed under seal along with a Motion for Protective Order.

g. Labor Protection.

Central, Midland, Northern, ESPN, MNJ, and Tyburn are all class III railroads. As such, under 49 U.S.C. §11326(c), labor protection does not apply to this transaction.

h. Interchange Commitment.

3i RR and Regional Rail certify that the Proposed Transaction will not create a provision or agreement that may limit future interchange with a third-party connecting carrier. The terms of agreements between the Florida Railroads and third-party railroads will not be altered as part of the Proposed Transaction.

i. Environmental and Historical Documentation.

This transaction qualifies for classification under 49 C.F.R. §§1105.6(c)(1)(i) and 1105.8(b)(3), and thus neither an Environmental Report nor a Historic Report is required to be filed.

Respectfully submitted,

/s/ *Louis E. Gitomer*

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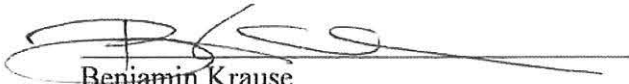
Attorney for 3i RR Holdings GP LLC,
3i Holdings Partnership L.P., 3i RR LLC,
and Regional Rail Holdings, LLC

Dated: November 6, 2019

VERIFICATION

I, Benjamin Krause, Partner of 3i RR LLC, 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 November 4, 2019.



Benjamin Krause

CERTIFICATE OF SERVICE

I hereby certify that I have caused the Verified Notice of Exemption in Docket No. FD 36365, *3i RR Holdings GP LLC, 3i Holdings Partnership L.P., 3i RR LLC, Regional Rail Holdings LLC, and Regional Rail, LLC—Control Exemption—Florida Central Railroad Company, Inc., Florida Midland Railroad Company, Inc. and Florida Northern Railroad Company, Inc.*, to be served by first class mail, postage pre-paid on the Secretary of the United States Department of Transportation, the Attorney General of the United States, the Federal Trade Commission and on the Governor, Public Service Commission, and Department of Transportation of the State of Florida.

/s/ *Louis E. Gitomer*

Louis E. Gitomer
November 6, 2019

**EXHIBIT A-AGREEMENT
(REDACTED)**

STOCK PURCHASE AGREEMENT

by and between

PINSLY RAILROAD COMPANY

and

REGIONAL RAIL, LLC

Dated as of October 27, 2019

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STOCK PURCHASE AGREEMENT

STOCK PURCHASE AGREEMENT, dated as of October 27, 2019 (this “Agreement”), by and between Pinsly Railroad Company, a Delaware corporation (the “Seller”), and Regional Rail, LLC, a Delaware limited liability company (the “Buyer”).

W I T N E S S E T H:

WHEREAS, Florida Central Railroad Company, Inc., a Florida corporation (“FCEN”), Florida Midland Railroad Company, Inc., a Florida corporation (“FMID”), Florida Northern Railroad Company, Inc., a Florida corporation (“FNOR”), and Railroad Distribution Services, Inc., a Florida corporation (“RDS” and, together with FCEN, FMID and FNOR, the “Acquired Entities”) are engaged in the business of operating short line railroads and distribution and transportation services (the “Business”);

WHEREAS, the Seller owns, beneficially and of record, all of the issued and outstanding shares of the Acquired Entities Stock (defined below);

WHEREAS, the Buyer desires to purchase from the Seller, and the Seller desires to sell to the Buyer (or its designee), all of the issued and outstanding shares of Acquired Entities 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:

“Acquired Entities” – See Recitals hereto;

“Acquired Entities Stock” shall mean, collectively, (i) the authorized capital stock of FCEN, consisting of 750,000 shares of Common Stock, par value \$0.01 per share, (ii) the authorized capital stock of FMID, consisting of 100 shares of Common Stock, par value \$1.00 per share, (iii) the authorized capital stock of FNOR, consisting of 100,000 shares of Common Stock, par value \$.01 per share, and (iv) the authorized capital stock of RDS, consisting of 100 shares of Common Stock, without par value;

“Action” shall mean any claim, action, cause of action, suit, demand, citation, summons, subpoena, complaint, proceeding, labor dispute, inquiry, audit, notice of violation, arbitration, investigation of any nature 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 or cause the direction of 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(e);

“Allocation Schedule Illustration” – See SECTION 2.1(e);

“Ancillary Agreements” means the Transition Services Agreement and each other agreement, document, certificate or instrument delivered pursuant to, or in connection with, this Agreement;

“Balance Sheet” shall mean the unaudited consolidated balance sheet of the Acquired Entities as of July 31, 2019 as set forth in SECTION 3.6 of the Disclosure Schedules;

“Bonus Payments” shall mean the aggregate bonus payments to be paid by the Acquired Entities to their employees in respect of any customary bonus or similar annual discretionary payment to be paid in relation to employee performance during fiscal year 2019 as set forth in Section 1.1(a) of the Disclosure Schedules;

“Business” – See Recitals hereto;

“Business Day” shall mean any day other than a Saturday, a Sunday or a day on which banks in Orlando, Florida, are closed generally;

“Buyer” – See Preamble hereto;

“Buyer Benefit Plan” – See SECTION 6.5;

“Buyer Severance Obligation” – See Section 6.6(a);

“Cash” means, with respect to any Acquired Entity, all cash, cash equivalents and marketable securities held by such Acquired Entity as of the Determination Time, determined in accordance with GAAP. For the avoidance of doubt, Cash shall (i) be calculated net of issued but uncleared checks and drafts and (ii) include checks and drafts deposited for the account of such Acquired Entity but not yet reflected as available proceeds in such Acquired Entity’s account.

“Closing” – See SECTION 2.2;

“Closing Date” – See SECTION 2.2;

“Closing Date Net Working Capital” means the Net Working Capital as of the Determination Time;

“Closing Payment Amount” – See SECTION 2.1(c);

“Closing Receivables” – See SECTION 5.6(d);

“Closing Working Capital Report” – See SECTION 2.3(c);

“Closing Working Capital Statement” – See SECTION 2.3(b);

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

“Company Continuing Employee” – See SECTION 6.5;

“Company Intellectual Property” means all Intellectual Property that is owned or purported to owned by the Acquired Entities;

“Company IP Agreements” means all licenses, sublicenses, consent to use agreements, settlements, coexistence agreements, covenants not to sue, waivers, releases, permissions and other contracts, whether written or oral, relating to Intellectual Property to which the Acquired Entities are a party, beneficiary or otherwise bound;

“Company IP Registrations” means all Company Intellectual Property that is subject to any issuance, registration or application by, to or with any Governmental Entity or authorized private registrar in any jurisdiction, including issued patents, registered trademarks, domain names and copyrights, and pending applications for any of the foregoing;

“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, or (iv) can be demonstrated in writing that it was independently developed by the receiving Person;

“Confidentiality Agreement” shall mean that certain Confidentiality Agreement entered into by and among the Seller, the Buyer and BMO Capital Markets Corp dated June 21, 2019;

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

“Current Assets” shall mean accounts receivable, net, materials and supplies and prepaid expenses and other current assets of the Acquired Entities, but excluding (a) Cash, (b) the portion of any prepaid expense of which Buyer will not receive the benefit following the Closing, (c) deferred tax assets (e.g., refunds or credits), and (d) receivables from any of the Seller or its Affiliates, directors, employees, officers or stockholders and any of their respective Affiliates, all as determined in accordance with GAAP as applied historically to the Acquired Entities using the same accounting methods, practices, principles, policies and procedures, with consistent classifications, judgments and valuation and estimation methodologies that were used in the preparation of the Financial Statements. Current Assets shall be calculated in accordance with the Net Working Capital Methodology;

“Current Liabilities” shall mean accounts payable, accrued Taxes and accrued expenses, but excluding (a) payables to or accruals with respect to any of the Seller or its Affiliates, directors, employees, officers or stockholders and any of their respective Affiliates, (b) current or deferred income Tax liabilities, (c) the current portion of any Indebtedness of the Acquired Entities, and (d) Transaction Expenses, all as determined in accordance with GAAP as applied historically to the Acquired Entities using the same accounting methods, practices, principles, policies and procedures, with consistent classifications, judgments and valuation and estimation methodologies that were used in the preparation of the Financial Statements. Current Liabilities shall be calculated in accordance with the Net Working Capital Methodology;

“D & O Policy” shall mean certain insurance policy or policies, to be purchased by [REDACTED] at its sole cost and expense, insuring the directors and officers of the Acquired Entities for a “run-off” or “tail” period of six (6) years following the Closing for losses incurred due to those directors’ and officers’ actions during their tenure as directors and officers of the Acquired Entities prior to the Closing. The insurer, limits and coverages under the D & O Policy shall be subject to the approval of the Seller, not to be unreasonably withheld or delayed;

“Deficit Amount” – See SECTION 2.3(c);

“Determination Date” – See SECTION 2.3(c);

“Determination Time” means 12:01 a.m. Eastern time on the Closing Date.

“Disclosure Schedules” – See preamble to Article 3;

“Employees” shall mean all employees of the Acquired Entities that are employed by the Acquired Entities as of the date of this Agreement and as updated as of the Closing;

“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 manufacture, processing, distribution, use, handling, generation, labeling, transportation, storage, treatment, disposal, emission, discharge, presence, release, or threatened release of, or exposure to, any harmful or deleterious substance, chemical, petroleum, pollutant, contaminant, or hazardous or toxic material, substance or waste;

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

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

“ERISA Affiliate” means with respect to any entity, any other entity which, together with such first entity, is treated as a single employer within the meaning of Section 414(b), (c), (m) or (o) of the Code;

“Estimated Cash” – See SECTION 2.3(a);

“Estimated Closing Date Net Working Capital” – See SECTION 2.3(a);

“Estimated Closing Working Capital Statement” – See SECTION 2.3(a);

“Estimated Indebtedness” – 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];

“Estimated Seller’s Transaction Expenses” – See SECTION 2.3(a);

“Excluded Liabilities” – See SECTION 2.5;

“Existing Policies” – See SECTION 3.18;

“FCC” – See SECTION 5.14;

“FCEN” – See Preamble hereto;

“Final Cash” – See SECTION 2.3(c);

“Final Closing Date Net Working Capital” – See SECTION 2.3(c);

“Final Indebtedness” – See SECTION 2.3(c);

“Final Seller’s Transaction Expenses” – See SECTION 2.3(c);

“Financial Statements” – See SECTION 3.6(a);

“FMID” – See Preamble hereto;

“FNOR” – See Preamble hereto;

“Former Employee” – See SECTION 6.6;

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

“Grants” – See SECTION 3.26;

“Governmental Entity” shall mean any national, federal, state, provincial, local or international governmental or public body, political subdivision thereof, arbitrator, court, tribunal of competent jurisdiction, agency or regulatory authority or commission, or other governmental authority or instrumentality or quasi-governmental authority or any self-regulated organization or other non-governmental regulatory authority or any arbitrator, including the Federal Railroad Administration, the STB and the Railroad Retirement Board;

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

“Inbound Licenses” – See SECTION 3.11(d);

“Increase Amount” – See SECTION 2.3(e);

“Indebtedness” shall mean, with respect to any Person, without duplication (a) the unpaid principal amount of and accrued interest on: (i) all indebtedness for borrowed money or with respect to deposits or advances of any kind; (ii) all indebtedness or obligations evidenced by any bonds, debentures, notes or similar instruments, including, in the case of each of clauses (i) and (ii), any prepayment penalties or premium, make-whole payments, indemnities, breakage costs (including breakage fees payable on termination of the arrangements), fees and other costs and expenses associated with the repayment of any indebtedness in connection with the transactions contemplated hereby; (b) all obligations upon which interest charges are customarily paid; (c) all obligations of such Person under conditional sale or other title retention agreements relating to assets purchased by such Person; (d) all obligations of such Person issued or assumed as the deferred purchase price of property or services; (e) 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; (f) all guarantees by such Person of Indebtedness of others; (g) all capital lease obligations of such Person required to be capitalized under GAAP; (h) all net liabilities or obligations of such Person in respect of interest rate protection agreements, future and forward contracts, foreign currency exchange agreements, principal only trades, treasury trades or other interest or exchange rate hedging arrangements; and (i) all reimbursement obligations under letters of credit or similar facilities, to the extent such letters of credit have been drawn. 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. Notwithstanding the foregoing, “Indebtedness” shall not include: (A) operating or lease obligations (other than as set forth in (g), above); (B) deferred grant revenue; and (C) letters of credit, performance bonds, bankers’ acceptances or similar obligations, to the extent undrawn;

“Independent Accounting Firm” – See SECTION 2.3(c);

“Information Laws” means all applicable Laws concerning or relating to privacy, electronic communications, electronic marketing, data protection and/or data security, including with respect to the collection, storage, transmission, transfer (including cross-border transfers), use, processing, disclosure, breach notification, unauthorized access, destruction, encryption, confidentiality, security, safeguarding, and loss of Personal Information (including Personal Information of employees, contractors, customers, patients, and third parties), and telephone, email and mobile communications, including any approvals or notices required in connection therewith. Information Laws include any rules, rulings, executive orders, supervisory requirements, directives, circulars, opinions, interpretive letters and official releases of or by any government, or any authority, department or agency thereof. Information Laws include, to the extent applicable to Acquired Entities or the information it collects, HIPAA, the GDPR, the American Recovery and Reinvestment Act of 2009, state data breach notification Laws, state social security number protection Laws, the FTC Act, the Gramm-Leach-Bliley Act, the Fair Credit Reporting Act, the

Fair and Accurate Credit Transaction Act and state consumer protection Laws, and as such Information Laws may be amended, replaced or superseded from time to time;

“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 and other confidential and proprietary information; (iv) registered and material unregistered copyrights, database rights, and works of authorship (whether or not copyrightable) in all works, including software programs; (v) websites and domain names, and all related content and data; (vi) all rights in mask works; and (vii) all computer software;

“IT Assets” means Software, systems, servers, computers, hardware, firmware, middleware, networks, data communications lines, routers, hubs, switches and all other information technology equipment, in each case, used in the operation of the businesses of the Acquired Entities;

“Law” shall mean any law, common law, constitution, statute, treaty, ordinance, rule, regulation, order, writ, judgment, injunction, settlement agreement, guideline, code, decree, edict 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 3.10(a);

“Leased Real Property” – See SECTION 3.10(a);

“Liability” means any liability, debt, claim or obligation of any nature (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether direct or indirect, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due);

“Licenses and Permits” – See SECTION 3.13;

“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 (other than a grade crossing or utility installation affecting any portion of the Acquired Entities’ Owned Real Property or Leased Real Property whether or not memorialized by a written agreement), easement, restrictive covenant, limitation, restriction, assessment or defect in title;

“Listed Intellectual Property” – See SECTION 3.11;

“Material Adverse Effect” shall mean any event, development, circumstance, effect or change that either (a) has had a material adverse effect on the business, operations, rights, properties, assets, liabilities, condition (financial or otherwise), or results of operations of the Acquired Entities taken as a whole, or (b) would materially impair the ability of the Seller to perform any of its obligations under, and to consummate the transactions contemplated by, this

Agreement or any other related agreements, except any of the foregoing attributable to: (i) the negotiation, execution or announcement of the Stock Sale and its pendency, including losses or threatened losses of employees, customers, suppliers, distributors or others having relationships with the Seller or Acquired Entities; (ii) any condition affecting any industry or market in which the Acquired Entities participate including the short-line railroad industry, the United States or world economy, or the United States or global capital, banking, securities or financial markets in general, including any disruption thereof and any decline in the price of any security or any market index or any change in prevailing interest rates; (iii) compliance with, or taking action required by, this Agreement; (iv) any action (A) taken at the request of the Buyer, (B) taken by the Buyer, (C) or required by Law; (v) any matter disclosed in any schedule to this Agreement; (vi) any change or absence of anticipated change in (A) applicable Law or the enforcement, implementation or interpretation thereof, (B) GAAP or other accounting requirements or principles or the implementation or interpretation thereof, (C) terms or availability of Buyer's financing; (vii) national or international political or social conditions, such as (A) the commencement, continuation or escalation of war (in each case, whether or not declared), (B) calamities, or (C) acts of terrorism; (viii) any action taken (or omitted to be taken) with the written consent of the Buyer; (ix) any matter of which the Buyer is aware on the date hereof; (x) any natural or manmade disasters or acts of God; or (x) any failure of the Acquired Entities to meet financial forecasts, projections or estimates (provided that the underlying causes of such failures (subject to other provisions of this definition) shall not be excluded);

"Material Contracts" – See SECTION 3.16(a);

"Net Working Capital" – See SECTION 2.4;

"Net Working Capital Methodology" shall mean the accounting methods, practices, principles, policies and procedures, with consistent classifications, judgments, valuation and estimation methodologies, used to calculate the Net Working Capital of the Acquired Entities in accordance with GAAP as historically applied to the Acquired Entities, and as illustrated in the example calculation as of July 31, 2019 set forth on SCHEDULE A

, attached hereto and incorporated herein;

"Outbound Licenses" – See SECTION 3.11(d);

"Outside Date" – See Section 10.1(f);

"Owned Real Property" – See SECTION 3.9(a);

"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 Information” – See SECTION 3.12(a);

“Pinsly” means, for purposes of the definition “Westfield Bank Credit Agreement”, collectively, the Seller, each of the Acquired Entities, Pioneer Valley Railroad Company, Inc., and Railroad Distribution Services, Inc. (a Massachusetts corporation);

“Plans” – See SECTION 3.17(a);

“Post-Closing Tax Period” shall mean any taxable period (or portion of a taxable period) ending after the Closing Date;

“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;

“Privacy Contracts” means past and present internal or external policies of the Acquired Entities, and all contracts between the Acquired Entities and any person that are applicable to the creation, collection, obtaining, tracking, retention, storage, processing, sharing, transmission, security, confidentiality protection, use and/or disclosure of Personal Information, trade secrets or confidential information, including, without limitation, all such contracts used in the provision of any deliverables or services to third parties;

“Privacy Laws” means any Laws that relate to and/or address privacy, security, data use, consumer tracking, consumer targeting, data protection and destruction, data breach notification or data transfer issues, including, without limitation, HIPAA, the CAN-SPAM Act and all current and former implementing Laws, rules, regulations, and all guidelines and industry standards applicable to the Acquired Entities and the businesses of the Acquired Entities;

“Privacy Policies” means all written policies applicable to the Acquired Entities relating to the collection, use, storage, processing, transfer, disclosure, and protection of Personal Information, including all website and mobile application privacy policies;

“Purchase Price” – See SECTION 2.1(b);

“RDS” – See Preamble hereto;

“Real Property” – See Section 3.10(c);

“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;

“Releasing Person” – See SECTION 5.13;

“Restricted Business” – See SECTION 5.10;

“RWI Policy” shall mean that or those certain “buy-side” representations and warranties insurance policy or policies, to be purchased by the Buyer at its sole cost and expense, providing bound coverage as of the date of this Agreement insuring the Buyer for losses incurred by the Buyer resulting from the Seller’s breach(es) of those representations and warranties contained in Article 3 of this Agreement;

“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;

“Security Breach” means breach, security breach, breach of personal information and all similar terms as defined under any relevant Laws, including without limitation Privacy Laws;

“Security Incident” means any material unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations of IT Assets;

“Seller” – See Preamble hereto;

“Severance Funds” – See SECTION 6.6(b);

“Severance Payment” – See SECTION 6.6(b);

“Severance Payment Notice” – See SECTION 6.6(b);

“Shares” – See Recitals hereto;

“Software” means any and all (i) computer programs, including any and all software implementation of algorithms, models and methodologies, development tools, user interfaces and application programming interfaces, whether in source code or object code, (ii) databases and computations, including any and all data and collections of data, whether machine readable or otherwise, (iii) documentation, including user manuals, training materials, design notes and programmers’ notes relating to any of the foregoing and (iv) the content and information contained in any web site;

“STB” shall mean the United States Surface Transportation Board;

“Stock Sale” – See SECTION 2.1(a);

“Straddle Period” means any taxable period that includes (but does not end on) the Closing Date.

“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;

"Target Closing Date" shall mean January 3, 2020;

"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, value added, escheat, unclaimed 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;

"Tax Year 2018 45G Tax Credits" shall mean those so-called "Railroad Track Maintenance Tax Credits" that will become applicable to the 2018 tax year pursuant to an appropriate amendment to Section 45G(f) of the Code with the value of such credits associated with the Acquired Entities' Business to be calculated consistent with past years when in effect under the Code;

"Tax Year 2019 45G Tax Credits" shall mean those so-called "Railroad Track Maintenance Tax Credits" that will become applicable to the 2019 tax year pursuant to an appropriate amendment to Section 45G(f) of the Code with the value of such credits associated with the Acquired Entities' Business to be calculated consistent with past years when in effect under the Code;

"Top Customers" – See SECTION 3.27;

"Top Suppliers" – See SECTION 3.27;

"Track" means any railroad track and any other track materials (OTM) including all rails, ties, tie plates, spikes, angle bars, bolts, fasteners, switches, switch control devices, ballast, signals and other support structures used in the operation of a railroad;

"Transaction Bonuses" shall mean special bonuses to be paid by the Acquired Entities prior to the Closing, as determined by the Seller, in appreciation of services during Seller's ownership of the Acquired Entities;

"Transaction Expenses" – See SECTION 12.4;

"Transferred IP" – See SECTION 5.5(a);

“Transition Services Agreement” shall mean the Transition Services Agreement to be entered into among the Seller, the Acquired Entities and the Buyer at the Closing, which agreement shall set forth such transition services reasonably necessary for the Acquired Entities’ operation of the Business after the Closing for a period of 60-90 days at the expense of Buyer (to include reasonable cooperation in the completion of Tax Returns and post-Closing calculations), and shall be in a commercially reasonable form consistent with Exhibit A, attached hereto and incorporated herein;

“Unauthorized Code” means any virus, Trojan horse, worm, or other software routines or hardware components designed to permit unauthorized access, to disable, erase, or otherwise harm Software, hardware or data;

“Westfield Bank Credit Agreement” shall mean, collectively, that certain Loan and Security Agreement among Pinsly and Westfield Bank, dated May 28, 2003, as amended by a First Amendment to Loan and Security Agreement between Pinsly and Westfield Bank, dated May 27, 2011, as further amended by a Second Amendment to Loan and Security Agreement between Pinsly and Westfield Bank, dated November 27, 2012, as further amended by a Release of Security Interest as to Certain Borrowers between Pinsly and Westfield Bank, dated December 23, 2014 and a Letter Agreement Re: Termination of Liens and Release of Liability between Pinsly and Westfield Bank, dated December 23, 2014, and the notes and other documentation executed in connection therewith; and

“Written Response” – See SECTION 2.1(c).

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 Seller set forth below, at the Closing:

(a) The Buyer shall purchase from the Seller, and the Seller shall sell, transfer, convey and deliver to the Buyer (or the Buyer’s designee), all of the issued and outstanding shares of the Acquired Entities Stock (the “Shares”), free and clear of all Liens (such transaction, the “Stock Sale”);

(b) The aggregate purchase price for the Shares shall be (i) [REDACTED] *plus* (ii) the Estimated Net Working Capital Adjustment Amount (which may be positive or negative) *less* (iii) Estimated Indebtedness, *plus* (iv) the Estimated Cash, *less* (v) the Estimated Seller’s Transaction Expenses, 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 Seller 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, 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 any of the Acquired Entities) 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, in exchange for which the Buyer shall deliver (or cause to be delivered) to the Seller at the Closing an amount in cash equal to the Purchase Price (the "Closing Payment Amount"). Payment of the Closing Payment Amount shall be made by wire transfer of immediately available funds to such account as the Seller 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 otherwise payable 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 and consistent with the illustrative example of such an allocation set forth as SCHEDULE B (the "Allocation Schedule Illustration"), attached hereto and incorporated herein. 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 Seller. Within thirty (30) days after receipt of the Buyer's calculation of the Allocation, the Seller shall deliver a written response to the Buyer setting forth whether the Seller agrees with or disputes the Buyer's calculation (the "Written Response") and, if the Seller disputes 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, that adjustment to the Purchase Price shall be allocated in manner consistent with the Allocation Schedule Illustration. The Buyer and the Seller 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 Seller 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 Seller 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 by the Buyer and the Seller in the amounts determined by using the procedure set forth in Section 2.3(c).

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

Doherty, Wallace, Pillsbury & Murphy, P.C., One Monarch Place, Suite 1900, 1414 Main Street, Springfield, Massachusetts 01144-1900, which the parties may participate in electronically and/or telephonically, at 10:00 a.m. local time on the third 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"); provided, that in no event shall the Closing Date occur before the Target Closing Date except upon the mutual agreement of the Buyer and the Seller.

SECTION 2.3 Purchase Price Adjustment.

(a) At least three (3) Business Days prior to the Closing Date, the Seller shall prepare and deliver to the Buyer a written statement (the "Estimated Closing Working Capital Statement") setting forth its good faith estimate of (i) the Closing Date Net Working Capital as of the Determination Time (the "Estimated Closing Date Net Working Capital"), (b) the amount of Cash of the Acquired Entities as of the Determination Time (the "Estimated Cash"), (c) the amount of Indebtedness of the Acquired Entities as of the close of business on the Closing Date (the "Estimated Indebtedness"), and (d) the Seller's Transaction Expenses that remain unpaid as of the Closing (the "Estimated Seller's Transaction Expenses"), in each case, together with reasonable supporting materials used in the preparation of the Estimated Closing Working Capital Statement, and any additional information that Buyer reasonable requests to verify the amounts reflected in the Estimated Closing Working Capital Statement. The Estimated Closing Working Capital Statement (x) shall be prepared in accordance with the Net Working Capital Methodology 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 Seller a written statement (the "Closing Working Capital Statement") setting forth a calculation of (a) the Closing Date Net Working Capital, (b) the amount of Cash of the Acquired Entities as of the Determination Time, (c) the amount of Indebtedness of the Acquired Entities as of the close of business on the Closing Date, and (d) the Seller's Transaction Expenses that remain unpaid as of the Closing, if any such tax credits exist at the time of Closing. The Closing Working Capital Statement (x) shall be prepared in accordance with the Net Working Capital Methodology 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, the Seller 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 Seller, and the Seller 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 Seller 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 Seller 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 Seller takes exception and shall explain the Seller's proposed adjustment and be accompanied by appropriate information and documentation in reasonable detail supporting the Seller's calculations. If the Seller fails to deliver to the Buyer a Closing Working Capital Report within thirty (30) calendar days following receipt of the Closing Working Capital Statement, the Seller 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 Seller delivers to the Buyer a Closing Working Capital Report listing the Seller's 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 Seller of the Buyer's objections to the Closing Working Capital Report. If the Buyer fails to notify the Seller 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 Closing Working Capital Report for the purposes of any adjustment to the Purchase Price under this Article 2. If the Buyer gives the Seller notice of its objections to the Closing Working Capital Report, and if in good faith the Seller and the Buyer are unable, within fifteen (15) calendar days after receipt by the Seller of the notice from the Buyer of such objections, to resolve the disputed exceptions, such disputed exceptions will be referred to Grant Thornton LLP or, if such firm is providing accounting or other services to either the Buyer or the 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 Seller and the Buyer. The Buyer and the Seller 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 Seller 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 shall be allocated between Buyer and Seller based upon the percentage which the portion of the contested amount not awarded to each party bears to the amount actually contested by such party. For example, if the Seller claims the Closing Date Net Working Capital is \$1,000 greater than the amount determined by the Buyer's accountants, the Buyer contests only \$500 of the amount claimed by the Seller, and the Independent Accounting Firm ultimately resolves the dispute by awarding the Seller \$300 of the \$500 contested, then the costs and expenses of the Independent Accounting Firm will be allocated 60% (i.e., $\$300 \div \500) to the Buyer and 40% (i.e., $\$200 \div \500) to the Seller. The Buyer agrees that following the Closing until such time as the Adjustment Amount is determined, it will not take any action, and the Seller agrees that prior to the Closing it 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 amount of Cash as of the Determination Time, the amount of Indebtedness as of the close of business on the Closing Date, the Closing Date Net Working Capital, and the amount of Seller's Transaction Expenses unpaid as of the Closing, in each case as finally determined pursuant to this Section 2.3(c), shall be referred to herein as the "Final Cash," the "Final Indebtedness," the "Final Closing Date Net Working Capital," and the "Final Seller's Transaction Expenses". The date on which the Final Cash, Final Indebtedness, Closing Date Net Working Capital, and the Final Seller's Transaction Expenses are 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 Final Closing Date Net Working Capital *minus* (ii) the Estimated Closing Date Net Working Capital. In addition, the Adjustment Amount will include aggregate differences between the Estimated Cash and Final Cash, the Estimated Indebtedness and the Final Indebtedness, and the Estimated Seller's Transaction Expenses and the Final Seller Transaction Expenses. 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(e).

(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 Seller an amount in cash equal to the Increase Amount, less any applicable withholding (subject to SECTION 2.1(d)). 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 Seller shall pay to the Buyer 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 Current Assets less Current Liabilities, of the Acquired Entities (on a consolidated basis), each determined in accordance with the Net Working Capital Methodology. For the avoidance of doubt, current liabilities shall not include any amounts owed or owing as Bonus Payments, which such payments the Seller shall make prior to the Closing Date.

SECTION 2.5 Excluded Liabilities. Notwithstanding anything contained in this Agreement to the contrary, (i) any and all payables of the Acquired Entities owed to the Seller or any of its 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, including the Bonus Payments (collectively, the "Excluded Liabilities"), and (iii) the Seller's Transaction Expenses, in each case, shall not be liabilities or obligations of the Buyer or the Acquired Entities at or after the Closing.

ARTICLE 3.
REPRESENTATIONS AND WARRANTIES OF THE SELLER

The Seller hereby represents and warrants 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 schedules to this Agreement (the “Disclosure Schedules”), as follows:

SECTION 3.1 The Seller.

(a) Corporate Organization. The Seller is a corporation duly organized, validly existing, and in good standing under the Laws of the state of Delaware, and has all requisite corporate power and authority to own, lease or otherwise hold its properties and assets, and to conduct its business in all material respects as presently 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.

(b) Authorization and Validity. The Seller has all requisite power and authority to enter into and deliver this Agreement and the Ancillary Agreements, to consummate the transactions contemplated hereby and thereby and to carry out its obligations hereunder and thereunder. The execution and delivery by the Seller of this Agreement and the Ancillary Agreements and the performance by the Seller of its obligations hereunder and thereunder have been duly authorized by all necessary corporate action by the board of directors of the Seller, and no other corporate proceedings on the part of the Seller are necessary to authorize such execution, delivery and performance. This Agreement and the Ancillary Agreements have been duly executed and delivered by the Seller and, assuming the due authorization, execution and delivery of this Agreement and the Ancillary Agreements by the other parties thereto, this Agreement and the Ancillary Agreements constitute the valid and binding obligation of the Seller, enforceable against the Seller in accordance with their respective terms.

(c) Ownership of Shares. The Shares comprise all of the issued and outstanding capital stock or other ownership interests of the Acquired Entities, and the Shares are owned, beneficially and of record, by the Seller, free and clear of any Liens other than (i) liens described on SECTION 3.16(a)(iii) of the Disclosure Schedules held by Westfield Bank (which will be terminated prior to Closing) and (ii) such as may be created by or on behalf of the Buyer, and has been duly authorized and validly issued and is fully paid, nonassessable and was not issued in violation of any preemptive rights, rights of first refusal or any similar rights. There are no outstanding or authorized obligations, warrants, convertible or exchangeable securities, subscriptions, equity appreciation rights, options or other rights (including preemptive rights), to subscribe for or purchase from any Acquired Entity, or other Contracts, commitments of any character, or agreements 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. None of the Acquired Entities has any outstanding or authorized any stock appreciation, phantom stock, profit participation or similar rights. At Closing, the Buyer shall have good and valid title to all of the capital stock and other ownership interests of each Acquired Entity, 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 Seller is not bound by any Contract restricting its right to transfer the Shares.

(d) There are no securities or rights of any Acquired Entity or contracts, commitments, understandings or arrangements by which the any Acquired Entity is bound obligating any Acquired Entity to redeem or otherwise acquire any Shares or other equity interests of any Acquired Entity. No Acquired Entity has any outstanding bonds, debentures, notes or other similar obligations, the holders of which have the right to vote (or which are convertible into or exercisable for securities having the right to vote) with the shareholders of such Acquired Entity. None of the issued and outstanding shares, capital stock, equity interests or other equity securities of any Acquired Entity was issued, sold or transferred in violation of the Securities Act of 1933, as amended, or any other applicable securities Law.

(e) There are no (i) preemptive rights, rights of first refusal, options, put or call rights or obligations or anti-dilution rights related by or to which any Acquired Entity is subject with respect to the issuance, sale or redemption of any shares, capital stock, equity interests, assets or other equity securities of any Acquired Entity or (ii) rights to have any shares, capital stock, equity interests or other equity securities of any Acquired Entity registered for sale to the public in connection with the Laws of any jurisdiction.

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). Each of the Acquired Entities has all requisite power and authority to enter into, and deliver any Ancillary Agreements to which it is a party, to consummate the transactions contemplated thereby and to carry out its obligations thereunder. The execution and delivery by each Acquired Entity of the Ancillary Agreements and the performance by each Acquired Entity of its obligations hereunder and thereunder have been

duly authorized. Each Ancillary Agreements to which any Acquired Entity is a party has been duly executed and delivered by such Acquired Entity, assuming the due authorization, execution and delivery of the Ancillary Agreements by each of the parties thereto, the Ancillary Agreements constitute the valid and binding obligation of the Acquired Entities, enforceable against each Acquired Entity in accordance with their respective terms.

(b) SECTION 3.2(b) of the Disclosure Schedules 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 SECTION 3.2(c) of the Disclosure Schedules. Except as set forth in SECTION 3.2(c) of the Disclosure Schedules, 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.

(a) The execution, delivery and performance by the Seller of this Agreement, the Ancillary Agreements to which it is a party and the transactions contemplated hereby and thereby 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 the Seller or any of the Acquired Entities, (ii) violate or breach any Law, order, judgment or decree of any Governmental Entity applicable to the Seller or any of the Acquired Entities or any of their respective assets or business, or (iii) except as set forth on Section 3.3(a) of the Disclosure Schedules, 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 or notice 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 Acquired Entities' 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 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 Seller, threatened Action before any Governmental Entity by or against the Seller or any Acquired Entity relating to (i) the Seller's ownership of the Shares or (ii) any actual or potential bankruptcy or insolvency of the Seller or any Acquired Entity.

SECTION 3.4 Consents and Approvals. Except as set forth on SECTION 3.4 of the Disclosure Schedules, the execution, delivery and performance of this Agreement by the Seller and the Ancillary Agreements to which the Seller is a party or the consummation of the transactions contemplated hereby and thereby by the Seller 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 Indebtedness. Except as set forth on SECTION 3.5 of the Disclosure Schedules, none of the Acquired Entities has any Indebtedness.

SECTION 3.6 Financial Statements; Undisclosed Liabilities.

(a) SECTION 3.6(a) of the Disclosure Schedules consists of the following consolidated financial statements (the “Financial Statements”): (i) the Balance Sheet and related statement of income for the period then ended; and (ii) the unaudited consolidated balance sheet of the Acquired Entities as of December 31, 2017 and December 31, 2018 and the related statements of income for the fiscal years then ended. The Financial Statements have been based upon the information contained in the Acquired Entities’ books and records, have been prepared in accordance with GAAP applied on a consistent basis throughout the period involved, and present fairly in all material respects the financial condition, results of operations and income of the Acquired Entities as of the times and for the periods referred to therein, subject in the case of the unaudited Financial Statements to (i) the absence of footnote disclosures and other presentation items and (ii) changes resulting from normal year-end adjustments.

(b) The Acquired Entities maintain books and records accurately reflecting, in all material respects, their respective assets and liabilities and maintain proper and adequate internal accounting controls that provide assurance that (i) transactions are executed with such Acquired Entities management’s authorization; (ii) transactions are recorded as necessary to permit preparation of the Financial Statements and to maintain accountability for such Acquired Entity’s assets, as applicable; (iii) access to the Acquired Entities respective assets is permitted only in accordance with such Acquired Entity’s management’s authorization; (iv) the reporting of the Acquired Entities assets is compared with existing assets at regular intervals; and (v) accounts, notes and other receivables and inventory are recorded accurately, and proper and adequate procedures are implemented to effect the collection thereof on a current and timely basis.

(c) The accounts receivable reflected on the Balance Sheet and the accounts receivable arising after the date thereof (a) have arisen from bona fide transactions entered into by the Acquired Entities involving the sale of goods or the rendering of services in the ordinary course of business consistent with past practice; and (b) constitute valid claims of the Acquired Entities not subject to claims of set-off or other defenses or counterclaims other than normal cash discounts accrued in the ordinary course of business consistent with past practice.

(d) To the knowledge of the Seller no Acquired Entity has any Liabilities, except (i) Liabilities that are accrued or reserved against in the Financial Statements, (ii) Liabilities which have arisen since the date of the Balance Sheet that were incurred in the ordinary course of business (none of which results from, arises out of, relates to, is in the nature of or was caused by

any breach of contract, breach of warranty, tort, infringement, misappropriation or violation of any Law) or (iii) Liabilities otherwise disclosed on SECTION 3.6(d) of the Disclosure Schedules.

SECTION 3.7 Conduct in the Ordinary Course; Absence of Certain Changes, Events and Conditions.

(a) Except as set forth on SECTION 3.7(a) of the Disclosure Schedules, since the date of the Balance Sheet, 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 3.7(b) of the Disclosure Schedules, have not taken any action that if taken after the date hereof would be prohibited by SECTION 5.1.

SECTION 3.8 Tax Matters. Except as set forth on SECTION 3.8 of the Disclosure Schedules:

(a) Each Acquired Entity has filed all Tax Returns required to have been filed by it (taking into account any extensions of time to file) and such Tax Returns are true, complete and correct in all respects. Each Acquired Entity has paid or properly accrued all Taxes (whether or not shown as due on such Tax Returns) except those that are being contested in good faith and that have been provided for in accordance with GAAP. All Taxes that any Acquired Entity is obligated to withhold from amounts owing to any employee, creditor or third party have been fully paid or properly accrued.

(b) No Tax audits or administrative or judicial Tax proceedings are presently being conducted with respect to any Acquired Entity. No Acquired Entity has received from any taxing authority any written notice of deficiency or proposed adjustment for any amount of Tax that has not been fully paid or settled. No Acquired Entity has waived any statute of limitations in respect of Taxes beyond the date hereof or agreed to any extension of time beyond the date hereof with respect to a Tax assessment or deficiency, which waiver or extension is still outstanding.

(c) No Acquired Entity (i) has been a member of an affiliated group filing a consolidated federal income Tax Return (other than a group the common parent of which is the Seller) or (ii) has any liability for the Taxes of any Person under Section 1.1502-6 of the Treasury Regulations (or any similar provision of state, local or non-U.S. Law), as a transferee or successor, by contract or pursuant to any Law (other than ordinary course agreements, such as leases or loans, the primary focus of which is not Taxes).

(d) No Acquired Entity has distributed stock of another Person, or has had its stock distributed by another Person, in a transaction within the two (2)-year period ending on the date of this Agreement that was purported or intended to be governed in whole or in part by Section 355 or 361 of the Code.

(e) There are no Liens for material Taxes (other than Permitted Liens) upon any of the assets of any Acquired Entity.

(f) No Acquired Entity is a party to, or bound by, any Tax sharing, allocation or indemnity agreement, arrangement or similar Contract.

(g) Each Acquired Entity has properly collected and remitted sales, use, property, value-added, goods and services and similar Taxes with respect to sales, services and similar transactions.

(h) No claim or assertion has been made, or has been threatened, by any Governmental Entity against any Acquired Entity in any jurisdiction where such Acquired Entity does not currently file a Tax Return that it is or may be subject to Tax by such jurisdiction.

(i) No Acquired Entity has been a party to any “reportable transaction,” as defined in Code Section 6707A(c)(1) and Treasury Regulations Section 1.6011-4(b).

(j) No Acquired Entity 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 made prior to the Closing Date for a taxable period ending on or prior to the Closing Date; (ii) “closing agreement” as described in Code Section 7121 (or any corresponding or similar provision of state, local, or non-U.S. tax Law) executed on or prior to the Closing Date; (iii) intercompany transactions or any excess loss account described in the Treasury Regulations under Code Section 1502 (or any corresponding or similar provision of state, local or non-U.S. income tax Law); (iv) installment sale or open transaction disposition made on or prior to the Closing Date; (v) prepaid amount received on or prior to the Closing Date; or (vi) election under Code Section 108(i).

(k) Seller is a “United States person” as such term is used in Section 1445 of the Code, and no Acquired Entity is, or has been, a “U.S. real property holding corporation” within the meaning of Section 897 of the Code.

(l) As of the Closing, Seller is, and has been since January 1, 2013, taxed as an S corporation for U.S. federal income Tax purposes. No event has occurred (or fact has existed) prior to the Closing that would preclude Seller from initially qualifying as an S corporation under Code Section 1361(a) or which would terminate Seller’s S corporation status. The Seller does not hold any asset the disposition of which would be subject to Section 1374 of the Code, assuming such asset was sold for an amount greater than its adjusted tax basis.

(m) Since January 1, 2013, each Acquired Entity has properly elected and been properly classified as a qualified subchapter S subsidiary (within the meaning of Section 1361(b)(3)(B) of the Code).

The representations and warranties set forth in Section 3.6, Section 3.7, this Section 3.8, and Section 3.17 are the only representations and warranties in this Agreement with respect to Tax matters, and any claim for breach of representation or warranty with respect to Tax matters shall be based on the representations and warranties made in such sections and shall not be based on the representations and warranties set forth in any other provision of this Agreement. No representation or warranty is made in this Agreement with respect to the amount, sufficiency or usability of any net operating loss, capital loss, Tax basis or other Tax attribute, or the availability of any Tax positions in periods after the Closing.

SECTION 3.9 Owned Real Property.

(a) SECTION 3.9(a) of the Disclosure Schedules sets forth a list, which is complete and accurate, of all real property (including the fee title holder) owned by the Acquired Entities (the “Owned Real Property”). Each of the Acquired Entities has good and marketable fee title to the Owned Real Property owned by it free and clear of all Liens except for (i) Permitted Liens or (ii) minor title defects, recorded easements or Liens that do not, individually or in the aggregate, impair the continued use, occupancy, value or marketability of title. The Seller has made available to Buyer true and correct copies of (A) all deeds and other instruments (as recorded) by which the Acquired Entities acquired their respective interests in the Owned Real Property and (B) all surveys with respect to the Owned Real Property, in the case of clauses (A) and (B), to the extent in the Acquired Entities’ possession or control. There are no outstanding options, rights of first offer or rights of first refusal to purchase or lease any Owned Real Property or any portion thereof or interest therein.

(b) None of the Seller 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.

SECTION 3.10 Leased Real Property.

(a) SECTION 3.10(a) of the Disclosure Schedules sets forth a list of all material leases and subleases, together with all amendments and supplements thereto, with respect all material 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 is referred to herein as the “Leased Real Property”). Complete and accurate copies of each Lease have been made available to Buyer prior to the date hereof, together with all amendments and supplements thereto.

(b) Each Lease is in full force and effect and valid and binding on the applicable Acquired Entity that is a party thereto, and to the knowledge of the Seller the applicable Acquired Entity holds a valid and enforceable leasehold interest in the Leased Real Property to which each Lease relates, subject to proper authorization and execution of such Lease by any other party thereto and the application of any bankruptcy Laws, other similar Laws affecting creditors’ rights and general principles of equity affecting the availability of specific performance and other equitable remedies. No Acquired Entity, and to the Seller’s knowledge, no other party, is in material default under any Lease. Each Acquired Entity, and, to the knowledge of Seller, each of the other parties thereto, has performed in all material respects all material obligations required to be performed by it under each Lease. No Acquired Entity has collaterally assigned or granted any security interest in any Leased Real Property or any interest therein. With respect to each Leased Real Property, no Acquired Entity has knowledge of or received any written notice of, any pending or contemplated rezoning, eminent domain or condemnation proceeding affecting any Leased Real Property.

(c) The Leased Real Property and the Owned Real Property (collectively, the “Real Property”) constitute all of the real property used in or necessary to conduct the Business and each railroad right of way within each individual railway segment is contiguous and

continuous. Each Acquired Entity has such consents, easements, rights-of-way, permits and licenses as are necessary and sufficient to conduct the Business. There are no violations or alleged violations of any Law with respect to the Real Property, including zoning Law, which would, individually or in the aggregate, be reasonably likely to have a Material Adverse Effect. There are no material inquiries, complaints, proceedings or investigations (excluding routine, periodic inspections) pending regarding compliance of the Real Property with any such Law. All material improvements located on, under, over or within the Real Property (i) are in good operating condition and repair and are structurally sound and free of any material defects and (ii) are in material compliance with building, zoning and other applicable land use Law for their current use, except where the failure to be so, individually or in the aggregate, would not be reasonably likely to have a Material Adverse Effect.

SECTION 3.11 Intellectual Property.

(a) SECTION 3.11(a) of the Disclosure Schedules sets forth a complete, correct and current list of all (i) Company IP Registrations, and (ii) any material unregistered trademarks included in the Company Intellectual Property, and (iii) all other Company Intellectual Property material to the Acquired Entities' business as currently conducted (the "Listed Intellectual Property"). All Listed Intellectual Property is in compliance with all Laws, and, to the extent issued, are valid, enforceable, and in good standing.

(b) The Acquired Entities have taken all reasonable and necessary steps to maintain and enforce the Company Intellectual Property and to preserve the confidentiality of all trade secrets included in the Company Intellectual Property.

(c) Each Acquired Entity owns or has a valid and enforceable license or otherwise has the right to use all Listed Intellectual Property used in the Business as currently conducted and such use and the conduct of the Business have not infringed, violated or conflicted with, or misappropriated the rights of any third party. To the knowledge of the Seller, no third party is infringing, violating or misappropriating any Listed Intellectual Property in any material respect. The Acquired Entities have taken commercially reasonable steps to maintain the confidentiality of their confidential information in connection with the business of the Acquired Entities. Except as set forth on Section 3.11(c) of the Disclosure Schedules, all Listed Intellectual Property (and as of the Closing the Transferred IP) is owned solely and exclusively by one of the Acquired Entities, free and clear of all Liens, other than Permitted Liens, and free and clear of any rights of the Seller or its other Affiliates (other than the Acquired Entities). There has not been communicated to the Seller or its 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.

(d) Section 3.11(d) of the Disclosure Schedules contains a correct, current and complete list of all Company IP Agreements which are material to the Acquired Entities' business, including those agreements under which: (i) an Acquired Entity is a licensee or has licensed or otherwise has been granted any rights, immunity from suit or covenant not to sue with respect to any Intellectual Property by any Person (other than shrink-wrap, click-wrap, and similar licenses for commercially available off-the shelf software) ("Inbound Licenses"); and (ii) any Person is a

licensee or has licensed or otherwise has been granted any rights, immunity from suit or covenant not to sue with respect to any Intellectual Property by the Acquired Entities (“Outbound Licenses”). Each Company IP Agreement is valid and binding on the Acquired Entities in accordance with its terms and is in full force and effect. Neither the Acquired Entities nor any other party thereto is, or is alleged to be, in breach of or default under, or has provided or received any notice of breach of, default under, or intention to terminate (including by non-renewal), any Company IP Agreement.

SECTION 3.12 Information Technology; Privacy and Security.

(a) In connection with their collection, storage, transfer (including, without limitation, any transfer across national borders) and/or use of any personally identifiable information from any individuals, including, without limitation, any customers, prospective customers, employees and/or other third parties (collectively “Personal Information”), the Acquired Entities are and have been, in compliance with all applicable laws in all relevant jurisdictions, the Acquired Entities’ privacy policies and the requirements of any contract or codes of conduct to which the Acquired Entities are a party. The Acquired Entities are and have been in compliance in all material respects with all laws relating to data loss, theft and breach of security notification obligations.

(b) The IT Assets (A) are in operating order and are fulfilling the purposes for which they were acquired, licensed or established in an efficient manner without material downtime or errors, (B) have not, in the past five (5) years, experienced any material errors and/or breakdowns, (C) to the Seller’s knowledge, do not contain Unauthorized Code, (D) have not experienced any Security Incidents or Security Breaches, and (E) are considered by the Acquired Entities to effectively perform all information technology operations necessary to conduct the businesses of the Acquired Entities as it is currently conducted. In the past five (5) years, the IT Assets or disaster recovery plans, technologies, procedures or facilities have not experienced a shutdown for a continuous period of twenty-four (24) hours or more.

(c) The Acquired Entities have not experienced any material Security Breaches or material Security Incidents affecting Personal Information, and the Acquired Entities are not aware of any written notices or complaints from any Person regarding such a Security Breach or material Security Incident. The Acquired Entities have not received any written complaints, claims, demands, inquiries or other notices, including a notice of investigation, or any other written notices from any Person (including any Governmental Entity or self-regulatory authority or entity) (A) regarding the Acquired Entities’ collection, processing, use, storage, transfer or disclosure of Personal Information, (B) alleging that Acquired Entities’ collection, processing, use storage, security, transfer of disclosure of Personal Information is in violation of any applicable Privacy Laws, Privacy Policies or Privacy Contracts or otherwise constitutes an unfair, deceptive, or misleading trade practice, or (C) regarding the Acquired Entities’ failure to comply in any material respect with any applicable Privacy Laws. The Acquired Entities maintain processes reasonably intended to respond to complaints received alleging violation of an individual’s rights in Personal Information in the possession or under the control of the Acquired Entities.

(d) The Acquired Entities have always been in material compliance with (i) all applicable Privacy Laws, (ii) all applicable Privacy Policies, and (iii) all applicable Privacy

Contracts, and, have collected, processed, stored, maintained, secured, shared, and otherwise used Personal Information in compliance with all Privacy Laws and with appropriate disclosures and consents as required to provide the Personal Information to third parties in the course of the businesses of the Acquired Entities. The Acquired Entities have a valid and legal right (whether contractually or otherwise) to access or use all Personal Information that is accessed and used by or on behalf of the Acquired Entities in connection with the use and/or operation of any of their products, services or businesses.

(e) The Acquired Entities have implemented reasonable physical, technical and administrative safeguards designed to protect Personal Information in their possession or control from material unauthorized access by any Person, including the Acquired Entities' employees, contractors, and vendors, and to ensure material compliance in all respects with all applicable Privacy Laws, Privacy Contracts and Privacy Policies.

(f) The Acquired Entities have a valid and legal right (whether contractually, by applicable Law or otherwise) to access or use all Personal Information and any other information of any Person that is accessed and used by or on behalf of the Acquired Entities in connection with the sale, use and/or operation of their products, services and businesses. Neither the execution, delivery or performance of this Agreement, nor the consummation of any of the transactions contemplated by this Agreement (including any transfer of any Personal Information from the Acquired Entities to Buyer), will violate in any material respect any Privacy Policies, Privacy Agreements or any applicable Law (including any Information Laws) governing the Acquired Entities' collection, use, access to, transmission, disclosure, alteration or handling of Personal Information, or result in or give rise to any right of termination or other right to impair or limit the Acquired Entities' rights to own or use any Personal Information used in or necessary for the conduct of its businesses.

(g) The Acquired Entities have not received any, nor to the Seller's knowledge are there any pending, written complaints, claims, demands, inquiries, proceedings, or other notices, including any notices of any investigation or other Legal Proceedings, regarding the Acquired Entities, initiated by (i) any Person; (ii) any Governmental Entity including the FTC, a state attorney general, data protection authority or similar state official, or a supervisory authority; or (iii) any self-regulatory authority or entity, alleging that any activity of the Acquired Entities: (A) is in violation of any applicable Information Laws, (B) is in violation of any Privacy Agreements, (C) is in violation of any Privacy Policies, (D) is otherwise in violation of any Person's privacy, personal or confidentiality rights, or (E) otherwise constitutes an unfair, deceptive, or misleading trade practice.

(h) The execution, delivery, or performance of this Agreement and the consummation of the Transactions will not violate any applicable Privacy Laws, Privacy Policies or Privacy Contracts or result in or give rise to any right of termination or other right to impair or limit the Acquired Entities' rights to own or use any Personal Information used in or necessary for the conduct of the businesses of the Acquired Entities.

SECTION 3.13 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 and all Licenses and Permits are valid and in full force and effect. The operations of the Acquired Entities are being, and since December 31, 2018 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 3.14 Compliance with Law.

(a) Except as set forth on SECTION 3.14(a) of the Disclosure Schedules, each Acquired Entity is and for the past five (5) years has been in compliance in all material respects with all applicable Laws of all applicable Governmental Entities.

(b) Except as set forth in SECTION 3.14(b) of the Disclosure Schedules, since January 1, 2019 no Acquired Entity (x) has received (i) any material citations, complaints, compliance schedules, or other similar enforcement orders, (ii) notice of a requirement to pay or paid any material fines or penalties to, or (iii) any other material notice from, any Governmental Entity, and (y) is not in default under, and no condition exists (whether covered by insurance or not) that with or without notice or lapse of time or both would constitute a default under, or material breach or violation of, any Law or permit applicable to such Acquired Entity. No Acquired Entity is subject to any order, injunction, judgment, award, decree, ruling, writ, or assessment from any arbitrator or any Governmental Entity.

SECTION 3.15 Litigation. Except as set forth on SECTION 3.15 of the Disclosure Schedules, there are no Actions pending or, to the knowledge of the Seller, threatened, of any nature, brought by or against the 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, and there are no outstanding Governmental Orders and no unsatisfied judgments, penalties or awards against or affecting any Acquired Entity or any of its properties or assets.

SECTION 3.16 Contracts.

(a) Except as set forth on SECTION 3.16(a) of the Disclosure Schedules (such contracts disclosed therein, the “Material Contracts”), no Acquired Entity is a party to any written:

(i) bonus, pension, profit sharing, retirement or other form of deferred compensation plan, labor or collective bargaining agreement or other Contract with any union or other employee representative body, other than as described in SECTION 3.17 of the Disclosure Schedules relating thereto;

(ii) Contract for the employment of any officer, individual employee or other person on a full-time or contract for the retention of an individual on a consulting basis providing for base compensation in excess of [REDACTED];

(iii) agreement or indenture relating to Indebtedness, mortgaging, pledging or otherwise placing a Lien (other than Permitted Liens) on any assets of any Acquired Entity;

(iv) guaranty of any obligation for borrowed money or other material guaranty involving more than [REDACTED];

(v) lease, sublease or agreement (including with respect to Real Property, rail lines, or rail segments other than those Leases with CSX Transportation, Inc. set forth in Section 3.10(a) of the Disclosure Schedules) that individually (A) the breach, nonperformance, cancellation, termination, forfeiture, or nonrenewal of which would materially impact the ability of the Acquired Entities to operate its business as currently conducted, or (B) under which it is lessee of, or holds or operates any personal property owned by any other party, for which the annual rental, or rental due over the remaining term of the agreement, exceeds [REDACTED];

(vi) lease or agreement under which it is lessor of or permits any third party to hold or operate any of its personal property, for which the annual rental, or rental due over the remaining term of the agreement, exceeds [REDACTED];

(vii) Contract or group of related contracts with the same party (other than standard purchase orders or pricing agreements or programs) for the purchase by any Acquired Entity of products or services which provide for annual payments, or payment due over the remaining term of the contract, in excess of [REDACTED];

(viii) Contract or group of related contracts with a customer (other than standard purchase orders or pricing agreements or programs) that provide for annual revenues, or payment due over the remaining term of the contract, to any Acquired Entity in excess of [REDACTED];

(ix) Contract or group of related contracts with the same party or customer, that cannot be cancelled by the applicable Acquired Entity without penalty or without more than ninety (90) days' notice;

(x) agreement relating to any business acquisition or disposition by any Acquired Entity, related to the sale or purchase of stock, assets or any real property since January 1, 2017;

(xi) agreements or Contracts that relate to any acquisition of a business by any Acquired Entity pursuant to which such Acquired Entity has any material continuing "earn out" or other contingent or fixed payment obligations;

(xii) Contract which (A) prohibits or purports to prohibit any Acquired Entity from freely engaging in business anywhere in the world, (B) contains any restrictions pursuant to "paper barriers" "interchange commitments" (as such term is generally understood in the railroad industry), that are applicable to the Acquired Entity, (C) contains any restrictions on soliciting customers or suppliers anywhere in the world, or (D) contains any restrictions on soliciting or hiring any employee or consultant, other than restrictions that are part of the terms and conditions of any "requirements" or similar

agreement under which the Acquired Entity has agreed to procure goods or services exclusively from any Person;

(xiii) Contracts that relate to transportation or transportation related activities (other than tariffs) pursuant to which any Acquired Entity generated in excess of [REDACTED] during the prior fiscal year;

(xiv) agreements between or among any Acquired Entity on the one hand and Seller or any Affiliate of Seller (other than any Acquired Entity) on the other hand;

(xv) Contracts that are settlement or similar contracts with any Governmental Entity or that are any other settlement or similar contracts pursuant to which any Acquired Entity is obligated to pay consideration after the date of this Agreement in excess of [REDACTED];

(xvi) any Contract that prohibits the pledging of the equity interests of any Acquired Entity or prohibits the issuance of guarantees by any Acquired Entity; and

(xvii) any Contract that grants any right of first refusal or right of first offer or similar right with respect to any Acquired Entity to third parties or that limits or purports to limit the ability of any Acquired entity to pledge, sell, transfer or otherwise dispose of any material amounts of assets other than in the ordinary course of business.

(b) With respect to each Material Contract: (i) such contract is a valid and binding agreement of the applicable Acquired Entity, enforceable in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy Laws, other similar Laws affecting creditors' rights and general principles of equity affecting the availability of specific performance and other equitable remedies; (ii) no Acquired Entity is in breach or default in any material respect, nor has any Acquired Entity taken any action which, with notice or lapse of time, would constitute a breach or default in any material respect, or permit termination, material modification or acceleration, as applicable, under such contract; and (iii) to the knowledge of the Seller, no other party is in breach or default in any material respect under such contract. No Acquired Entity has received written notice from any other party to a Material Contract that such other party intends to terminate, not renew, or renegotiate in any material respects the terms of, any such Material Contract.

SECTION 3.17 Employee Plans.

(a) Except as set forth on SECTION 3.17(a) of the Disclosure Schedules, none of the Seller or any of its ERISA Affiliates or any of the Acquired Entities maintains, sponsors, is a party to, participates in, has a commitment to create or has any liability or contingent liability with respect to: (i) any "employee welfare benefit plan" or "employee pension benefit plan" (as those terms are defined in sections 3(1) and 3(2), respectively, of ERISA); (ii) any retirement or deferred compensation plan, incentive compensation plan, stock plan, retention plan or agreement, unemployment compensation plan, vacation pay, change in control, severance pay, bonus or benefit arrangement, insurance or hospitalization program, flexible benefit plan, cafeteria plan, dependent care plan or any fringe benefit arrangements for any current or former employee, director, consultant or agent, whether pursuant to contract, arrangement, custom or informal

understanding, which does not constitute an employee benefit plan (as defined in section 3(3) of ERISA); or (iii) any employment agreement or consulting agreement (collectively referred to as the “Plans”). None of the Plans are sponsored or maintained by the Acquired Companies, and none of the Plans are solely for the benefit of Employees. As of the date of this Agreement and the Closing, the Acquired Entities have no Liability with respect to the Plans.

(b) The Seller has made available to the Buyer true and complete copies of, to the extent applicable, (i) each Plan, (ii) the most recent determination letter received from the Internal Revenue Service regarding each Plan, if any, and (iii) the latest Form 5500 annual report for each Plan. For purposes of this Subsection 3.17(b) only, the term “Plan” is limited to those Plans with applicability to the Acquired Entities and/or their employees.

(c) Each of the Plans that is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service or is a prototype plan that is entitled to rely on an opinion letter issued by the Internal Revenue Service to the prototype plan sponsor regarding qualification of the form of the prototype plan, and no event has occurred which will or could give rise to disqualification of any such plan under such section. The Plans comply in form and in operation in all material respects with their terms and in all material respects with the requirements of the Law, including the Code and ERISA, and no event has occurred which will or could cause any such Plan to fail to comply with such requirements and no notice has been issued by any governmental authority questioning or challenging such compliance. All Plans which are subject to section 409A of the Code comply with section 409A in form and have been administered in accordance with their terms and section 409A of the Code.

(d) None of the assets of any Plan are invested in employer securities or employer real property. There have been no “prohibited transactions” (as described in section 406 of ERISA or section 4975 of the Code) with respect to any Plan and none of the Seller or any of its ERISA Affiliates or the Acquired Entities has engaged in any prohibited transaction. With respect to the Plans, all material required contributions have been made or properly accrued. No Plan is subject to Title IV of ERISA.

(e) There have been no acts or omissions by the Seller or any of its ERISA Affiliates or the Acquired Entities which have given rise to or may give rise to interest, fines, penalties, taxes or related charges under section 502 of ERISA or Chapters 43, 47, 68 or 100 of the Code for which the Seller or any of its ERISA Affiliates or the Acquired Entities may be liable or under Section 409A of the Code for which the Seller, any of its ERISA Affiliates or the Acquired Entities or any participant in any Plan that is a nonqualified deferred compensation plan (within the meaning of section 409A of the Code) may be liable. The Acquired Entities, and each Plan that is a “group health plan” as defined in Section 733(a)(1) of ERISA (a “Health Plan”) (I) is currently in compliance in all material respects with the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (“PPACA”), the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152 (“HCERA”), and the regulations and guidance issued thereunder (collectively, with PPACA and HCERA, the “Healthcare Reform Laws”), and (II) has been in compliance in all material respects with all applicable Healthcare Reform Laws since March 23, 2010. No event has occurred, and no conditions or circumstance exists, that would reasonably be expected to subject the Acquired Entities, or any Health Plan, to material penalties or excise taxes

under Sections 4980D, 4980H, or 4980I of the Code or any other provision of the Healthcare Reform Laws.

(f) Neither consummation of the transactions contemplated by this Agreement nor this Agreement (whether separately or together with any other action) will accelerate the time of vesting or the time of payment, or increase the amount, of compensation due to any current or former director, officer or employee of the Seller or any of its ERISA Affiliates or the Acquired Entities. None of the payments contemplated by the Plans (including the Bonus Payments) would, in the aggregate, constitute excess parachute payments (as defined in section 280G of the Code (without regard to subsection (b)(4) thereof)) or would exceed the amount deductible pursuant to section 162(m) of the Code. None of the Seller or any of its ERISA Affiliates or the Acquired Entities is a nonqualified entity within the meaning of section 457A of the Code.

(g) There are no actions, suits or claims (other than routine claims for benefits) pending or threatened involving any Plan or the assets thereof and no facts exist which could give rise to any such actions, suits or claims (other than routine claims for benefits). Each Plan which constitutes a “group health plan” (as defined in section 607(i) of ERISA or section 4980B(g)(2) of the Code), including any plans of current and former affiliates which must be taken into account under sections 4980B and 414(t) of the Code or sections 601-608 of ERISA, have been operated in compliance with applicable law, including the continuation coverage requirements of section 4980B of the Code and section 601 of ERISA and the portability and nondiscrimination requirements of sections 9801 and 9802 of the Code and sections 701-707 of ERISA, to the extent such requirements are applicable. None of the Seller or any of its subsidiaries or the Acquired Entities has any liability or contingent liability for providing, under any Plan or otherwise, any post-retirement medical or life insurance benefits, other than statutory liability for providing group health plan continuation coverage under Part 6 of Title I of ERISA and section 4980B of the Code or applicable state law. None of the Employee Benefit Plans is a multiple employer pension plan or a multiple employer welfare arrangement (within the meaning of section 3(40) of ERISA). None of the Seller nor any of its ERISA Affiliates nor the Acquired Entities contributes to, has contributed to, or has any liability or contingent liability with respect to a multiemployer plan.

(h) Each Plan which constitutes a “group health plan” (as defined in section 607(i) of ERISA or section 4980B(g)(2) of the Code), including any plans of current and former affiliates which must be taken into account under sections 4980B and 414(t) of the Code or sections 601-608 of ERISA, have been operated in compliance with applicable law, including the continuation coverage requirements of section 4980B of the Code and section 601 of ERISA and the portability and nondiscrimination requirements of sections 9801 and 9802 of the Code and sections 701-707 of ERISA, to the extent such requirements are applicable.

(i) The Acquired Entities are in compliance in all material respects with the requirements of the Railroad Retirement Act of 1974 and the applicable regulations of the United States Railroad Retirement Board.

SECTION 3.18 Insurance. Prior to the date hereof, the Seller has furnished to the Buyer a true, complete and accurate original or 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 assets and operations (the

“Existing Policies”). SECTION 3.18 of the Disclosure Schedules sets forth a list, as of the date hereof, of all such Existing Policies. All the Existing Policies (i) are in full force and effect, (ii) have no outstanding premiums due thereunder that have not been paid and (iii) no Acquired Entity is in material default with respect to its obligations under any such insurance policy. Except as set forth on SECTION 3.18 of the Disclosure Schedules, no Acquired Entity maintains any self-insurance or co-insurance programs. Except as set forth in SECTION 3.18 of the Disclosure Schedules, there are no claims related to the Business of the Acquired Entities pending under any such insurance policies as to which coverage has been questioned, denied or disputed or in respect of which there is an outstanding reservation of rights.

SECTION 3.19 Transactions with Directors, Officers and Affiliates. Except as set forth on SECTION 3.19 of the Disclosure Schedules, none of the Acquired Entities is a party to any Contract, agreement or arrangement with the Seller or any of the directors, executive officers or stockholders of the 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 the Seller or of any Acquired Entity, other than salary advances and advances of travel expenses in the ordinary course of business consistent with past practice.

SECTION 3.20 Labor Matters.

(a) No Acquired Entity is a party to any collective bargaining agreement, and, to the knowledge of the Seller, no union organizing efforts are underway with respect to employees of any Acquired Entity. Except as set forth on SECTION 3.20(a) of the Disclosure Schedules: (a) there are no material unfair labor practice charges, material unfair labor practice complaints, material labor arbitrations or material labor grievances pending, or, to the knowledge of the Seller, threatened, against any Acquired Entity; (b) there is no strike, slowdown, work stoppage or lockout, or, to the knowledge of the Seller, threat thereof, by or with respect to any employees of any Acquired Entity; and (c) there are no material charges, complaints, suits or proceedings, or, to the knowledge of the Seller, threat thereof, against any Acquired Entity alleging breach or violation in any material respect of any labor or employment Law.

(b) Section 3.20(b) of the Disclosure Schedules sets forth a true, correct and complete list of each Employee of, and independent contractor providing services to, the Acquired Entities and in the case of each such employee and contractor, the following information, if applicable, as of the date hereof: (a) title or position; (b) date of hire or commencement of service; (c) work location; (d) whether full-time or part-time and whether exempt or non-exempt from the overtime regulations of the Fair Labor Standards Act; (e) whether covered by the terms of a collective bargaining or similar agreement or an employment or consulting agreement; (f) whether absent from active employment or service and if so, the date such absence commenced, the reason for such absence and the anticipated date of return to active employment or active service; (g) annual salary or annual consulting payments, as the case may be, and, if applicable, target bonus and other incentive compensation, such salary and other compensation data to include current information and such information for the prior 12 month period; and (h) accrued unused vacation, sick days and other paid days off. None of such employees providing services to any Acquired Entity is a leased employee.

(c) The Acquired Entities have been and is in compliance with (i) all applicable Laws respecting employment and employment practices, terms and conditions of employment, collective bargaining, disability, immigration, health and safety, wages, hours and benefits, harassment, non-discrimination in employment, workers' compensation, unemployment compensation and the collection and payment of withholding or payroll Taxes and similar Taxes and (ii) all obligations of each Acquired Entity under any employment agreement, consulting agreement, severance agreement, collective bargaining agreement or any similar employment or labor-related agreement or understanding. All independent contractors and consultants providing personal services to the Acquired Entities have been properly classified as independent contractors for purposes of all Laws, including Laws with respect to employee benefits, and all Employees have been properly classified under the Fair Labor Standards Act and similar state laws.

(d) A Form I-9 has been completed and retained with respect to each such current Employee and, where required by law, former Employees. The Acquired Entities have not been the subject of any audit or other action, suit, proceeding, claim, demand, assessment or judgments nor, to Sellers' knowledge, have the Acquired Entities been the subject of an investigation, inquiry or other any audit or other action, suit, proceeding, claim, demand, assessment or judgments from the U.S. Department of Homeland Security, including the Immigration and Customs Enforcement, (or any predecessor thereto, including the U.S. Customs Service or the Immigration and Naturalization Service) or any other immigration-related enforcement proceeding.

(e) There is not currently pending, and to the knowledge of the Seller, in the last five (5) years, there have not been any allegations of sexual harassment or other sexual misconduct made against any officer or executive of an Acquired Entity, (ii) in the past five (5) years, none of the Acquired Entities has entered into a settlement agreement to resolve any allegations of sexual harassment or other sexual misconduct by any of its officers or executives, and (iii) Seller is not aware of any circumstances or conduct by any officer or executive of an Acquired Entity that would lead to material liability related to allegations of sexual harassment or other sexual misconduct.

SECTION 3.21 Environmental Matters. Except as set forth on SECTION 3.21 of the Disclosure Schedules:

(a) Each Acquired Entity is, and for the last five (5) years has been, in compliance in all material respects with all applicable Environmental Laws.

(b) Each Acquired Entity has obtained and possesses all material Environmental Permits required by Environmental Laws to operate its facilities and to conduct its business and is, and for the last five (5) years has been, in material compliance with such Environmental Permits, and all such Environmental Permits are valid and in good standing in all material respects.

(c) No Acquired Entity has received, since January 1, 2017, any written notice of any material violation of or material liability arising under Environmental Laws, including with respect to any material investigatory, remedial or corrective obligation, relating to any Acquired

Entity or its facilities and arising under Environmental Laws, or that any Acquired Entity is a potentially responsible party for such obligation, the subject of which is unresolved.

(d) There are no material suits or proceedings pending or, to the knowledge of the Seller, threatened against any Acquired Entity, pursuant to Environmental Laws.

(e) No Acquired Entity is subject to any material judgment, order or decree of any court or other Governmental Entity, or any material settlement or consent agreement, that is outstanding and was issued or entered pursuant to Environmental Laws.

(f) To the Seller's knowledge, in the past five (5) years, no Acquired Entity has caused or permitted any release or stored, treated, disposed of, arranged for or permitted the disposal of, transported, handled, manufactured, or distributed any regulated substance so as to give rise to material liability arising under Environmental Laws.

(g) To the knowledge of the Seller, no property or facility currently or formerly owned, leased, operated, or used by any Acquired Entity is listed or proposed for listing on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation and Liability Act or on any similar state list of sites actually or potentially requiring investigation, corrective action, or remediation.

(h) All environmental assessment, investigation, response and remedial action reports for any property currently or, to the knowledge of the Seller, formerly owned, leased, or operated by any Acquired Entity that are in the possession of the Acquired Entities have been made available to Buyer, including all agreements containing unexpired (or expired with claims outstanding) environmental indemnities. To the knowledge of the Seller, all material issues identified by any environmental assessment, investigation, response and remedial action reports for any property currently or, to the knowledge of the Seller, formerly owned, leased, or operated by any Acquired Entity that was prepared during the last five (5) years are set forth on SECTION 3.21 of the Disclosure Schedules.

SECTION 3.22 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 Seller or the Acquired Entities other than BMO Capital Markets Corp.

SECTION 3.23 International Trade Matters. Each Acquired Entity is, and since January 1, 2016 has been, in compliance with and has not been in violation of all applicable International Trade Laws. No Acquired Entity has received any written or, threatened order, notice, or other communication from any Governmental Entity of any actual or potential violation or failure to comply with any International Trade Law.

SECTION 3.24 Absence of Unlawful Payments. No Acquired Entity, nor any director or officer of any Acquired Entity nor, any employee, agent or other Person acting on behalf of any Acquired Entity: (a) has used any corporate or other funds for unlawful contributions, payments, gifts or entertainment, or offers or payment of anything of value; made any unlawful offers or expenditures relating to political activity to officials or employees of any Governmental Entity or to other Persons or established or maintained any unlawful or unrecorded funds; (b) made

any direct or indirect unlawful offer or payment of anything of value to any official or employee of any Governmental entity or violated any provision of the Foreign Corrupt Practices Act or any applicable anti-corruption laws; or (c) has accepted or received any unlawful contributions, payments, gifts or expenditures, or offers or payments of anything of value.

SECTION 3.25 Condition of Track and Bridges. True and complete copies of all periodic Track inspection reports (which have been made available to Buyer only at the Acquired Entities headquarters) and bridge inspections for the 2019 calendar year in the possession or under the control of any Acquired Entity or such Acquired Entity's agents describing the condition of all of the Track and bridges owned or operated by such Acquired Entity have been provided to the Buyer. All of the Track and bridges owned or operated by the Acquired Entities are maintained and operated in material compliance with all applicable Laws and requirements of grants, except as otherwise indicated on **SECTION 3.25** of the Disclosure Schedule.

SECTION 3.26 Grants. **SECTION 3.26** of the Disclosure Schedules attached hereto contains an accurate and complete list of all Federal and state grants, but not including any signal crossing or other reimbursement agreements (the "Grants") received or to be received by any Acquired Entity and includes (a) the original amount of each Grant; and (b) with respect to each such Grant: (i) the funds received to date, and (ii) remaining amounts which may be received in the future and the basis for such future payment(s). Except as set forth on **SECTION 3.26** of the Disclosure Schedules, all conditions precedent to the receipt of funds under such Grants, including future payments, have been satisfied in full.

SECTION 3.27 Customers and Suppliers. **SECTION 3.27** of the Disclosure Schedules sets forth a list of the ten (10) largest customers (the "Top Customers") as measured by the annual carloads as of December 31, 2018 and the ten (10) largest suppliers of the Acquired Entities (the "Top Suppliers"), as measured by the dollar amount of payments to suppliers or purchases therefrom, during the twelve (12) month period ended December 31, 2018, in each case showing the applicable carloads and purchases by and payments to the Acquired Entities from and to each such supplier and customer during such periods. Since the date of the Balance Sheet except as set forth in **Section 3.27** of the Disclosure Schedules, no Top Customer or Top Supplier has terminated its relationship with any Acquired entity, and no such customer or supplier has notified any Acquired Entity in writing or, to the knowledge of the Seller, orally, that it (a) intends to terminate its relationship with any Acquired Entity or (b) will otherwise materially and adversely modify its business relationship with any Acquired Entity. There have been no material disputes or controversies with any Top Customer or Top Supplier.

ARTICLE 4.

REPRESENTATIONS AND WARRANTIES OF THE BUYER

The Buyer hereby represents and warrants to the Seller 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 necessary 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. Authorization and Validity. The Buyer has the requisite power and authority to enter into and deliver this Agreement and the Ancillary Agreements to which the Buyer is a party, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by the Buyer of this Agreement and the Ancillary Agreements and the performance by the Buyer of its obligations hereunder and thereunder 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 and the Ancillary Agreements have been duly executed and delivered by the Buyer and, assuming the due authorization, execution and delivery of this Agreement and the Ancillary Agreements by the other parties thereto, this Agreement and the Ancillary Agreements constitute the Buyer's valid and binding obligation enforceable against the Buyer in accordance with its terms.

SECTION 4.2 No Conflict or Violation. The execution, delivery and performance by the Buyer of this Agreement the Ancillary Agreements to which it is a party and the transactions contemplated hereby and thereby 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, except in the cases of clauses (ii) and (iii), where the violation, breach, conflict, default, acceleration or failure to give notice would not have a material adverse effect on the Buyer's ability to consummate the transactions contemplated hereby.

SECTION 4.3 Consents and Approvals. Neither the execution and delivery of this Agreement and the Ancillary Agreements to which the Buyer is a party, by the Buyer nor the consummation of the transactions contemplated hereby and thereby by the Buyer require any consent, waiver, approval, license, authorization or permit of, or filing with or notification to, any Person, except as set forth on SECTION 4.3 of the Disclosure Schedules.

SECTION 4.4 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 Seller would be liable.

SECTION 4.5 Financial Ability. The Buyer has received an executed commitment letter from the party identified therein committing, subject to (and only to) the terms and conditions expressly set forth therein, to provide equity financing of up to [REDACTED] in the aggregate to the Person(s) identified in such commitment letter (such commitment letter, the "Equity

Commitment Letter”). A true, correct and complete copy of the Equity Commitment Letter has been delivered to the Seller. The Buyer will have at the Closing sufficient cash to enable it to pay the Purchase Price as and when it becomes due. Notwithstanding anything in this Section 4.5 or elsewhere in this Agreement to the contrary, the Buyer affirms that it is not a condition to the Closing or to any of its obligations under this Agreement that it obtains financing for or related to any of the transactions contemplated by this Agreement.

SECTION 4.6 Investment Representation; Independent Investigation.

(a) 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.

(b) The Buyer has conducted its own independent investigation, review and analysis of the Business, the results of operations, prospects, condition (financial and otherwise) and assets of the Acquired Entities, and acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of the Acquired Entities for such purpose. The Buyer acknowledges and agrees that: (i) in making its decision to enter into this Agreement and to consummate the transactions contemplated hereby, the Buyer has relied solely upon its own investigation and the express representations and warranties of the Seller set forth in Article III of this Agreement (including the related portions of the Disclosure Schedule); and (ii) none of Seller, any Acquired Entity or any other Person has made any representation or warranty as to the Seller, any Acquired Entity or this Agreement, except as expressly set forth in Article III of this Agreement (including the related portions of the Disclosure Schedule).

ARTICLE 5. COVENANTS OF THE SELLER

The Seller hereby covenants 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 Seller 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 Seller shall use its commercially reasonable efforts to maintain and preserve intact its assets, the present organization of the Acquired Entities, the Business, 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 Schedules, from the date of this Agreement to the Closing, the Seller 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) mortgage, pledge or subject to any material Lien, any material portion of its assets, except Permitted Liens;

(ii) sell, assign or transfer any of its tangible assets, other than sales in the ordinary course of business;

(iii) acquire by merger or consolidate with, or by purchase of a substantial portion of the assets or stock of, or by any other manner, any business or any Person or any division thereof;

(iv) adopt any plan of merger, consolidation, reorganization, liquidation or dissolution or filing of 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;

(v) sell, assign, transfer or license any material Intellectual Property other than licenses granted to distributors in the ordinary course of business;

(vi) enter into any transactions with any Affiliate outside the ordinary course of business;

(vii) issue, sell or transfer any of its equity securities or warrants, options or other rights to acquire its equity securities or declare, set aside or pay any non-cash dividend or made any non-tax distribution with respect to its equity securities or redeemed, purchased or otherwise acquired any of its equity securities;

(viii) make any loan to, or enter into any other material transaction with, any of its Affiliates, the members of its board of Directors or its executive officers outside the ordinary course of business;

(ix) enter into any employment contract providing for a base salary in excess of [REDACTED] per year;

(x) make any material change in employment terms (including compensation) for any of its directors or executive officers or for any employees having employment contracts with base salary exceeding [REDACTED] per year (except for the grant and payment of any Transaction Bonus payments in connection with the consummation of the transactions contemplated by this Agreement);

(xi) adopt, amend or terminate any Plan or agree to provide any compensation or benefits pursuant to any plan, agreement or arrangement that would constitute a Plan if adopted;

(xii) make any material capital investment in, or any material loan to, any other Person other than as set forth in capital expenditure budgets of an Acquired Entity;

(xiii) make any capital expenditures (or commitments therefor), except in the ordinary course of business;

(xiv) effect any split, recapitalization, reclassification or similar change in the capitalization of any Acquired Entity;

(xv) effect any amendments to any charter, by-laws or other organizational document of any Acquired Entity; or

(xvi) fail to comply with any Law in any material respect or with its material obligations under any Material Contract;

(xvii) fail to maintain its books and records in accordance with past practices;

(xviii) voluntarily accelerate or decelerate any of the Acquired Entities accounts receivables or accounts payable or otherwise operated the Business outside of the ordinary course of business as it relates to accounts receivable and accounts payable;

(xix) modify, amend, or terminate any insurance policies, except as provided for in Section 5.7;

(xx) enter into, modify, amend or terminate any Material Contract;

(xxi) take any action that would result in the cancellation, modification, termination or suspension of any License and Permit.

(xxii) stop payment on any undisputed debt, Taxes and other obligations when due;

(xxiii) create, incur, assume or guarantee or otherwise become responsible for any Indebtedness applicable to any Acquired Entities, in each case, except in the ordinary course of business;

(xxiv) make any material change in any method of accounting or accounting practice of any Acquired Entity, except as required by GAAP or applicable Law or as disclosed in the notes to the Financial Statements;

(xxv) change in its accounting policies or revenue recognition policies, including in applying ASC 606 – Revenue From Contracts With Customers;

(xxvi) change any Tax election or method of accounting or reporting for Tax purposes, file any amended Tax Return, enter into any closing agreement, settle any Tax claim, assessment or audit, surrender any right to claim a refund of Taxes, extend or waive the limitation period applicable to any Tax claim or assessment or changed accounting bases, practices, policies or procedures;

(xxvii) voluntarily terminate operations on a rail line under circumstances that will result in a liability to refund grant receipts; or

(xxviii) enter into any agreement or commit to do, or resolve, authorize or approve any of the foregoing, or any action or omission that would result in any of the foregoing.



(b) During the period from the date hereof to the Closing Date, Seller 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 Action pending against or with respect to an Acquired Entity in respect of any material Tax matters (or any significant developments with respect to ongoing Actions in respect of such material Tax matters).

SECTION 5.2 Consents and Approvals.

(a) The Seller shall, and the Seller shall cause the Acquired Entities to, timely make any required filings with, and use reasonable efforts to obtain requisite consents and approvals 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 the Acquired Entities, 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 Seller shall, and shall cause the Acquired Entities to, at the cost and expense of the Seller, (i) use reasonable best efforts to obtain all necessary consents, waivers, exemptions, authorizations, orders and approvals of all Persons required in connection with the execution, delivery and performance by the Seller 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 Seller 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 Seller 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 Seller shall keep the Buyer reasonably informed as to the status of obtaining any consents and estoppel certificates.

(d) The Seller 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 the Seller or any Acquired Entity is a party is not obtained prior to the Closing, the Seller 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 Seller shall use its 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 Seller provides 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 Seller shall, and shall cause the Acquired Entities to, (a) 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, assets, books, Contracts, commitments, title insurance policies currently in effect with respect to the Owned Real Property and files and records of the Acquired Entities, (b) furnish to the Buyer and its representatives such financial, operating and other data and information related to any Acquired Entity as Buyer or any of its representatives may reasonably request; and (c) instruct the representatives of the Seller and the Acquired Entities to cooperate with the Buyer in its investigation of any Acquired Entity, 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 and neither the Buyer nor its representatives shall perform environmental testing activities or otherwise disturb the Owned Real Property or Leased Real Property without the prior written consent of the Seller in each instance. 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 Seller or the Acquired Entities, the Seller 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 on the Target Closing Date or as soon as reasonably practicable thereafter.

SECTION 5.5 Intellectual Property.

(a) Concurrent with or immediately after the Closing, the Seller 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) all of the Seller's or its Affiliates' right, title and interest in all Intellectual Property that is used primarily in the Business, except for the Pinsly and RDS trademarks, including the Listed Intellectual Property (collectively, the "Transferred IP"); provided, however, that (x) the Seller and its Affiliates hereby, effective as of the Closing, grant the Buyer and its Affiliates a non-exclusive, non-transferable license to use the Pinsly and RDS trademarks for a transitional period of no greater than twelve (12) months after the Closing and (y) the Buyer shall indemnify and hold the Seller and its Affiliates harmless from and against any and all third-party claims, demands and liabilities (including but not limited to reasonable fees and expenses) resulting from the use by the Buyer of such trademarks pursuant to the license described in SECTION 5.5(a)(x), except to the extent (A) resulting from any action or omission of the Seller or any of its Affiliates or any breach or inaccuracy of any of the representations or warranties of the Seller in this Agreement or (B) relating to an allegation that such trademarks infringe the rights of any third party. The Seller agrees that as of the Closing Date, the Seller and its Affiliates shall not, 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.

(b) At the Buyer's request, for one-hundred eighty (180) days after the Closing, the Seller will display on all of its and its Affiliates' websites and social media sites that reference the Business a mutually-agreed link to websites and social media sites of Buyer or its designee and a mutually-agreed statement about the transactions herein.

SECTION 5.6 Intercompany Arrangements.

(a) Prior to the Closing, the Seller shall cause any contract or arrangement that is disclosed in SECTION 3.19 of the Disclosure Schedules, other than those Contracts or arrangements set forth in SECTION 5.6 of the Disclosure Schedules, 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 Seller 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 the Seller and its Affiliates (other than the other Acquired Entities) as of the Closing and (ii) the intercompany Indebtedness owed by the 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 the 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 the Seller or any of its Affiliates receives any payment related to the Business after the Closing, the 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 the Seller any checks or drafts received with respect to any Closing Receivables.

SECTION 5.7 Insurance. The Seller 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 Seller shall or shall cause the Acquired Entities to notify the carriers under the Existing Policies of all matters of which the 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 Seller and its 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 the Seller and its Affiliates shall not 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 assets of the Acquired Entities before Closing is assumed by the Seller. In the event that any Owned Real Property, Leased Real Property or any other assets of the Acquired Entities shall suffer any such loss or damage, the Seller agrees to, at the Buyer’s election, (i) repair the damage at its sole cost and expense before the Closing to the extent the insurance proceeds are available for such purpose, (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; provided, however, that in the case of (i) and (ii) in the preceding sentence, the Buyer shall assign to the Seller its rights or the rights of the Acquired Entity, if any, to receive such proceeds up to the amount of costs incurred by Seller (in the case of clause (i)) or the amount of the reduction in Purchase Price (in the case of clause (ii)).

SECTION 5.9 Resignation of Officers and Directors. Effective as of the Closing Date, the Seller shall either cause the directors and officers of the Acquired Entities to resign or remove them from such positions. The Seller shall deliver such written resignations to the Buyer.

SECTION 5.10 Non-Competition.

(a) The Seller hereby agrees that the Seller shall not and shall not permit any of its Affiliates to: (i) for a period of five (5) years after the Closing Date, directly or indirectly engage in, permit Seller’s name to be used by others in connection with, or assist others in engaging in (as a partner, joint venturer, investor, shareholder, employee, consultant, agent or otherwise) the operation of a freight railroad and transload sites business in the State of Florida (the

“Restricted Business”); (ii) for a period of five (5) years after the Closing Date call upon, contact or communicate with (for business purposes), solicit, contract with, or enter into any Contract with, divert or attract, or attempt to do so, or do or accept business with, any customer as to its operations within the State of Florida or, to the actual knowledge of the Seller, any prospective customer as to that customer’s operations in the State of Florida of any Acquired Entity as of the Closing Date, in each case solely with respect to the Restricted Business, or (iii) for a period of five (5) years after the Closing Date cause, induce or encourage any material actual customer, railroad partner, vendor, or supplier of any Acquired Entity as of the Closing Date, in each case solely with respect to the Restricted Business, or any other Person who has a material business relationship with any Acquired Entity as of the Closing Date, to terminate or modify any such actual relationship; and (iv) for a period of two (2) years after the Closing Date, directly or indirectly solicit, hire, engage, call upon, recruit or employ any person who is an employee of any Acquired Entity on the date of Closing or encourage such employee to leave such employment or engagement; provided, however, that the foregoing shall not prohibit any general advertisements or solicitation of employment not specifically directed at such employees or hiring employees as the result of such general advertisement or solicitation, or hiring of employees who contact the Seller after such an employee’s employment with the relevant Acquired Entity has been terminated.

(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 the 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 Bonus Payments. Prior to Closing, the Seller shall cause the Bonus Payments, including any and all withholding and applicable payroll or other Taxes, to be paid in full.

SECTION 5.12 Further Assurances; Personal Items. 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. The Buyer agrees that Seller shall be entitled to remove from the offices of the Acquired Entities photographs, plaques, and personal items (not related to the operation of the Business) solely to the extent the value is *de minimis* and is not reflected on the Balance Sheet.

SECTION 5.13 Release by the Seller. As of the Closing, the Seller and its Affiliates, successors and assigns (in each case, solely in their capacity as such) (each, a “Releasing Person”) hereby unconditionally release and forever discharge the Buyer and 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 (including any intercompany liabilities owed to the Seller or its Affiliates (other than an Acquired Entity), on the one hand, by any Acquired Entity); provided that the Seller 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 Seller shall, and prior to the Closing the Seller shall cause FCEN 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 FCEN under call sign WNHV836. Promptly following execution of this Agreement, but not later than November 1, 2019, the Seller 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. Prior to the Closing Date, Seller shall take, and shall cause the Acquired Entities to take, all necessary actions to effect the cessation of, and withdrawal from, participation by the Acquired Entities as a participating employer in all Plans, with such actions to be effective as of the Closing Date. Seller shall be responsible for the provision of group health plan continuation coverage pursuant to COBRA with respect to each Person who is an “M&A qualified beneficiary,” as defined in Treasury Regulations Section 54.4980B-9, with respect to the transactions contemplated by this Agreement, who experiences a “qualifying event” as defined in Section 4980B(f)(3) of the Code (other than any Company Continuing Employee or his or her dependents who experience a “qualifying event” after the Closing Date). Seller shall be responsible for all liabilities with respect to all Plans.

SECTION 5.16 Westfield Bank Credit Agreement Matters. The Seller shall perform any action necessary to transfer the Shares free of any Lien including any payments due and owing under the Westfield Bank Credit Agreement, if applicable, in order to simultaneously (A) effectuate the termination of the guaranty of each Acquired Entity under the Westfield Bank Credit Agreement, (B) release the pledge on the Shares, and (C) release any Liens on the assets of each Acquired entity, arising under the Westfield Bank Credit Agreement.

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, (i) 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 (i) diligently assist and cooperate with the Seller in preparing and filing all documents required to be submitted by the Seller 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 Seller in connection with such transactions, which assistance and cooperation shall include timely furnishing to the Seller all information concerning the Buyer that counsel to the Seller 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 Seller, at the Buyer's sole cost and expense, for obtaining an exemption from, the STB for the transactions contemplated by this Agreement. Within [REDACTED] days following execution of this Agreement, Buyer shall file with the STB a Notice of Exemption pursuant 49 C.F.R. 1180.2(d)(2) to acquire control of FCEN, FMID and FNOR as required under 49 U.S.C, 11323(a). 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. Seller shall cooperate with Buyer in preparing Buyer's filings with the STB, and Buyer shall afford Seller 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 Certain Insurance Policies. The Buyer shall purchase the D & O Policy, to be effective immediately following the Closing and shall provide a copy of such policy to the Seller.

SECTION 6.3 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 on the Closing Date.

SECTION 6.4 No Benefit to Third-Party. Nothing in this Agreement, express or implied, is intended to confer upon any current or former employee, director, officer or consultant any rights, remedies or obligations under or by reason of this Agreement, including this Article 6.

SECTION 6.5 [REDACTED]

[REDACTED]

SECTION 6.6 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

ARTICLE 7.
LIMITATIONS ON CLAIMS

[REDACTED]

ARTICLE 8.
CONDITIONS PRECEDENT TO PERFORMANCE BY THE SELLER

The obligations of the Seller 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 Seller in its 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 shall be true and correct in all material respects (except for each of the representations and warranties made by the Buyer 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 Buyer 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 Buyer that are limited by materiality, which shall be true and correct in all respects (as so limited)) on and as of such specified date;

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.

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 which 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.

(a) At the Closing, the Buyer shall deliver (or caused to be delivered) to the Seller:

(i) the Closing Payment Amount by wire transfer in immediately available funds as provided in SECTION 2.1(c);

(ii) a certificate of a duly authorized officer of the Buyer certifying as to the matters set forth in Sections 8.1 and 8.2; and

(iii) the Transition Services Agreement, duly executed by the Buyer.

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 Seller. All representations and warranties made by the Seller (on behalf of the Seller or any of the Acquired Entities) in this Agreement shall be true and correct in all material respects (except for each of the representations and warranties made by the Seller (on behalf of the Seller or any of the Acquired Entities) 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 Seller (on behalf of the Seller or any of the Acquired Entities) 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 Seller (on behalf of the Seller or any of the

Acquired Entities) that are limited by materiality, which shall be true and correct in all respects (as so limited)) on and as of such specified date.

SECTION 9.2 Performance of the Obligations of the Seller. The Seller shall have performed (or caused to be performed) in all material respects all obligations required under this Agreement to be performed by the Seller or any of the Acquired Entities on or before 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. Any exemption, authorization or approval of 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 Seller 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 Schedules, if any.

SECTION 9.6 FIRPTA. The Seller 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 Seller for purposes of Section 1445 of the Code or such facts as to establish that transactions contemplated hereby are exempt from withholding pursuant to 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 Release of Liens. The Seller shall have obtained (i) written agreements and/or instruments sufficient to fully release each of the Acquired Entities from all obligations and liabilities under the Westfield Bank Credit Agreement, and further to release all Liens on the Acquired Entities Stock and the Acquired Entities' property, rights and assets (including via executed and filed UCC-3s), and (ii) a written agreement with Westfield Bank confirming that the Acquired Entities are no longer a party to, and have no further obligations pursuant to, the Westfield Bank Credit Agreement or any related documents; provided that, in the

case of each of clause (i) and (ii), any such agreements and/or instruments shall be in form and substance reasonably satisfactory to the Buyer and shall be obtained by the Seller without the Buyer or the Acquired Entities incurring any liabilities or obligations.

SECTION 9.9 Closing Deliveries by the Seller. At the Closing, the Seller 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, such shares being delivered free and clear of all Liens;

(b) a receipt for the Closing Payment Amount;

(c) the Transition Services Agreement, duly executed by the Seller;

(d) a duly executed certificate of the Seller 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 Seller as set forth in SECTION 9.6;

(f) the duly executed resignations of all directors and officers of the Acquired Entities;

(g) evidence satisfactory to the Buyer that the Seller shall have paid and discharged the Excluded Liabilities, including the Bonus Payments;

(h) evidence of termination of any intercompany arrangements, as contemplated in SECTION 5.6(a);

(i) the Estimated Closing Working Capital Statement contemplated in SECTION 2.3(a);

(j) a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of the Seller, certifying that attached thereto are true and complete copies of (a) the organizational documents of each Acquired Entity, (b) all resolutions adopted by the board of directors of the Seller authorizing the execution, delivery and performance of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby and thereby;

(k) a certificate of the Secretary or an Assistant Secretary (or equivalent officer) of the Seller certifying the names and signatures of the officers of the Seller authorized to sign this Agreement and the Ancillary Agreements; and

(l) good standing certificates for each Acquired Entity.

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 Seller and the Buyer;
- (b) by the Buyer if the Seller 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 Seller 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 Seller 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 Seller 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;
- (d) by the Seller 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) by the Buyer if there is a determination by the STB that 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 either the Seller or the Buyer at any time after 5:00 p.m. Eastern Time on [REDACTED] (the "Outside Date") if the Closing shall not have occurred by such date; provided, however, that the right to terminate this Agreement under this SECTION 10.1(f) shall not be available to any party whose failure to perform any of its obligations under this Agreement has been the primary cause of the failure of the Closing to occur by the Outside Date.

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 Seller 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 12.2, 12.3, 12.4 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 and the Seller for certain tax matters following the Closing Date:

SECTION 11.1 Tax Returns.

(a) The Buyer shall, at the Buyer's expense, prepare or cause to be prepared and file or cause to be filed all Tax Returns of the Acquired Entities applicable to the Post-Closing Tax Period or Straddle Period (except in the case of a Straddle Return that is an Acquired Entity income tax return, if any). The Buyer shall deliver to the Seller a copy of any such Straddle Period Tax Return twenty (20) calendar days prior to the due date (including extensions) for the filing of such Tax Return for review and comment by the Seller. The Seller shall, at the Seller's expense, prepare or cause to be prepared and file or cause to be filed (in a manner consistent with past practices) all Tax Returns of or relating to the Acquired Entities for the Pre-Closing Tax Period and, if applicable, a Straddle Period Return that is an Acquired Entity's income tax return (but no other Straddle Period Tax Returns). The Seller shall deliver to the Buyer 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 for review, comment, and to the extent the Tax Returns are entity-level Tax Returns of the Acquired Companies, approval (which approval shall not be unreasonably withheld, conditioned or delayed), by the Buyer.

(b) For purposes of SECTION 11.1(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 and the Seller 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 arrears 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. For purposes of this SECTION 11.1(b)(ii), to the extent permissible under applicable Law, all Transaction Expenses incurred by the Acquired Entities at the direction and for the benefit of the Seller shall be included in the relevant Pre-Closing Tax Period.

(c) Notwithstanding anything to the contrary contained herein, in the event the Code is amended so that either or both the Tax Year 2018 45G Tax Credits or the Tax Year 2019 45G Tax Credits are extended with retroactive effect, the Seller shall be entitled to amend its and the Acquired Entities' Tax Return(s) for tax year 2018 and for tax year 2019 in order to claim such credits and the Seller shall be entitled to retain the benefit of the Tax Year 2018 45G Tax Credits and the benefit of the Tax Year 2019 45G Tax Credits following the Closing, provided that the Seller shall provide the Buyer with an opportunity to review and approve such amended Tax Return(s) (which approval shall not be unreasonably withheld, conditioned or delayed) in accordance with the procedures set forth in SECTION 11.1(a).

SECTION 11.2 Tax Cooperation. The Buyer and the Seller shall reasonably cooperate, and shall cause their respective Affiliates (including the Acquired Entities), officers, employees, agents, auditors and representatives to reasonably cooperate (including by maintaining in accordance with the applicable record retention policies of the Buyer or the Seller, as applicable, and 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 Seller and the Buyer agree 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 Seller, any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any taxing authority. The Buyer and the Seller further agree, upon request, to use commercially reasonable 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 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 [REDACTED], and the Seller 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 11.4 Tax Sharing Agreement. Any Tax sharing or Tax indemnification agreement or similar contract or arrangement (whether written or not) and all powers of attorney 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 11.5 Tax Assets. To the extent of any deferred tax asset included in the calculation of Net Working Capital for which Buyer does not otherwise retain or receive, Seller shall make immediate payment to Buyer for the amount of economic benefit of such tax asset. In the event of any Tax refunds or Tax credits in lieu of a Tax refund that actually reduce cash Taxes payable by the Buyer or its Affiliates that are received by Buyer or its Affiliates attributable to Taxes paid by either the Seller or an Acquired Entity on or before the Closing Date with respect to any Pre-Closing Tax Period, the Buyer shall pay or cause to be paid to Seller any such refund or the amount of any such credit (for overpayment of Tax) within thirty (30) days after actual

receipt of such refund or credit against Taxes, net of reasonable, out-of-pocket Taxes and other expenses incurred to obtain such Tax refunds or Tax credits; provided; however; that no such obligation of Buyer or payment shall apply to the extent of any Tax refund or credit included in the calculation of Net Working Capital.

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 party 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 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 without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction). 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 Seller shall pay (a) any financial advisory (including BMO Capital Markets Corp.), legal, accounting and other fees, including data room fees, expenses and costs incurred by or on behalf of the Seller or the Acquired Entities up to the Closing Date (or thereafter) in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, (b) all Transaction Bonuses or similar payments due to any employee, officer or director directly as a result of the Transaction, including the employer portion of any withholding and payroll Taxes thereon and (c) all Excluded Liabilities (collectively, the “Transaction Expenses”). The Buyer shall pay any legal, accounting and other fees, expenses and costs incurred by the Buyer up 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, or if sent via email (with confirmation of transmission), (iii) when received by the addressee if sent through 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 Seller:

Pinsly Railroad Company
94 North Elm Street, Suite 404
Westfield, MA 01085
Attention: John P. Levine
Email: [REDACTED]
Facsimile No.: [REDACTED]

If to the Buyer:

Regional Rail, LLC
c/o 3i RR LLC
One Grand Central Place
60 E. 42nd Street, Suite 4100,
New York, NY 10165
Attention: Benjamin Krause
Email: [REDACTED]

With a copy to:

Doherty, Wallace, Pillsbury & Murphy, P.C.
One Monarch Place
1414 Main Street, Suite 1900
Springfield, MA 01144
Attention: Michael D. Sweet
Email: [REDACTED]
Facsimile No.: [REDACTED]

With a copy to:

Mayer Brown LLP
71 South Wacker Drive
Chicago, IL 60606
Attention: William R. Kucera
Email: [REDACTED]
Facsimile No.: [REDACTED]

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 Seller 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 review and approve 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 Seller and/or the Acquired Entities, except as contemplated by this Agreement.

SECTION 12.9 Entire Agreement. This Agreement (including the Disclosure Schedules and the other Schedules attached hereto) and the Ancillary Agreements contain 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 to any Person other than the parties hereto and their respective successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any current or former employee, director, officer or consultant any rights, remedies or obligations under or by reason of this Agreement, including

Article 6. Nothing in this Agreement is intended to relieve or discharge the obligations or liability of any third Person to the Seller or the Buyer. No provision of this Agreement shall give any third parties any right of subrogation or action over or against the Seller or the Buyer.

SECTION 12.11 Scheduled Disclosures. Disclosure of any matter, fact or circumstance in a schedule to this Agreement shall be deemed to have been disclosed on all applicable Sections of the Disclosure Schedules to which such disclosure could relate or apply.

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 Seller” shall refer to the actual knowledge of any of [REDACTED] and, strictly for purposes of Section 3.27, [REDACTED]

SECTION 12.14 Confidentiality.

(a) For a period of five (5) years following the Closing or the termination of this Agreement pursuant to SECTION 10.1 hereof, unless otherwise required by Law, (a) the Seller shall, and shall cause its Affiliates to, keep secret and retain in strictest confidence 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 the 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 the 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.

(b) The Buyer acknowledges and agrees that, notwithstanding anything to the contrary contained in this Agreement, the Confidentiality Agreement remains in full force and effect and, in addition, covenants and agrees to keep confidential, in accordance with the provisions of the Confidentiality Agreement, information provided to the Buyer pursuant to this

Agreement. If this Agreement is, for any reason, terminated prior to the Closing, the Confidentiality Agreement shall nonetheless continue in full force and effect.

SECTION 12.15 Access to Books and Records.

(a) In order to facilitate the resolution of any claims made against or incurred by the Seller prior to the Closing, or for any other reasonable purpose, for a period of five (5) years after the Closing, the Buyer shall: (A) retain the books and records (including personnel files) of the Acquired Entities relating to periods prior to the Closing in a manner consistent with the historical practices of the Acquired Entities; and (B) upon reasonable notice, afford the Seller and its agents reasonable access (including the right to make, at the Seller's expense, photocopies), during normal business hours, to such books and records.

(b) In order to facilitate the resolution of any claims made by or against or incurred by the Buyer or the Acquired Entities after the Closing, or for any other reasonable purpose, for a period of five (5) years following the Closing, the Seller shall: (A) retain the books and records (including personnel files) of the Seller which relate to the Acquired Entities in a manner consistent with the historical practices of the Seller and its operations for periods prior to the Closing; and (B) upon reasonable notice, afford the Buyer or the Acquired Entities and its or their agents reasonable access (including the right to make, at the Buyer's expense, photocopies), during normal business hours, to such books and records.

(c) Neither the Buyer nor the Seller shall be obligated to provide the other party with access to any books or records (including personnel files) pursuant to this Section 12.15 where such access would violate any Law.

SECTION 12.16 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 12.17 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.

[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.

PINSLY RAILROAD COMPANY

By: _____

Name: John P. Levine

Title: Chief Executive Officer

REGIONAL RAIL, LLC

By: _____

Name:

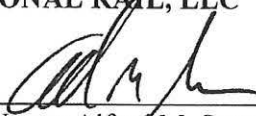
Title:

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

PINSLY RAILROAD COMPANY

By: _____
Name: John P. Levine
Title: Chief Executive Officer

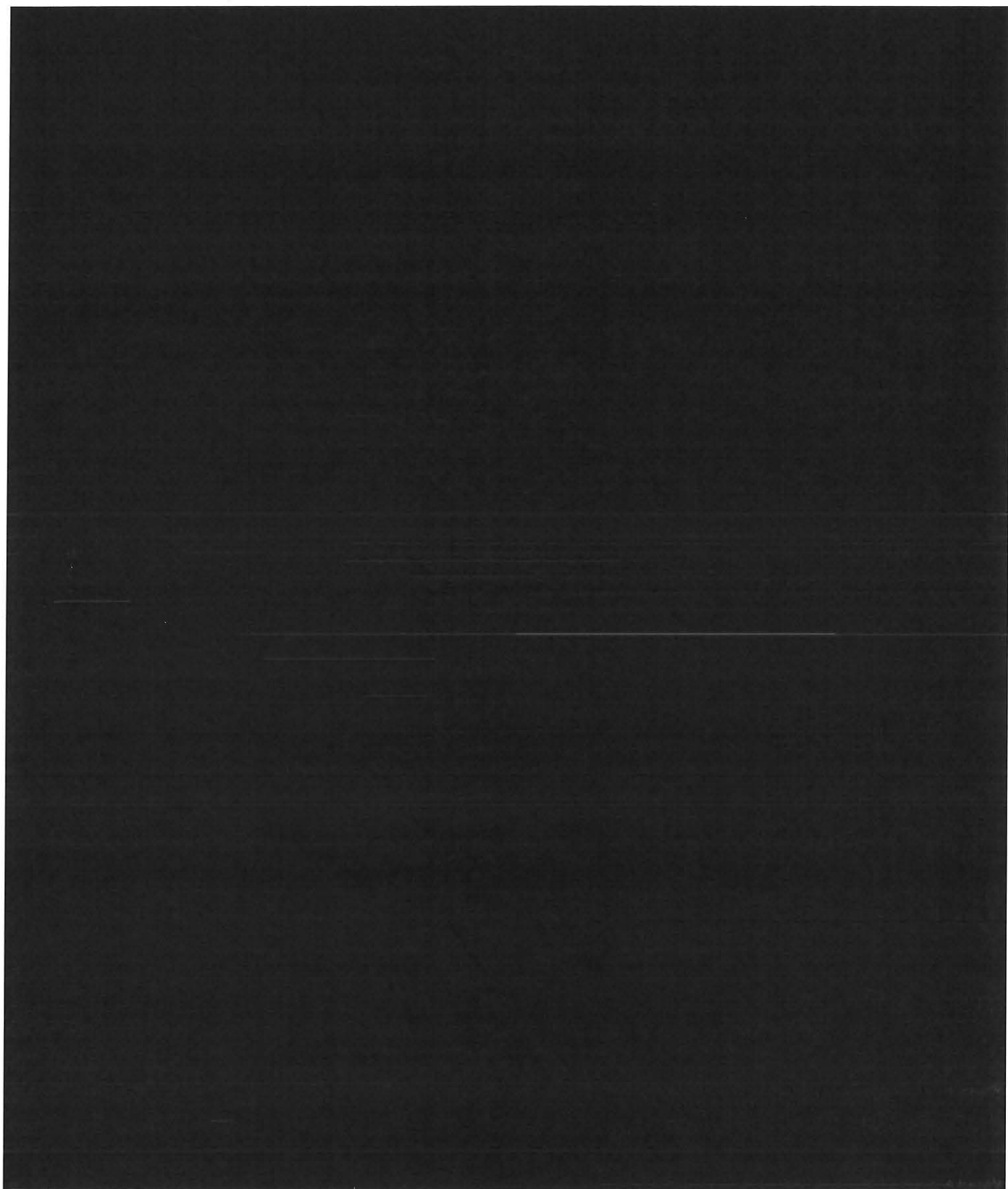
REGIONAL RAIL, LLC

By:  _____
Name: Alfred M. Sauer
Title: President & Chief Executive Officer

SCHEDULE A

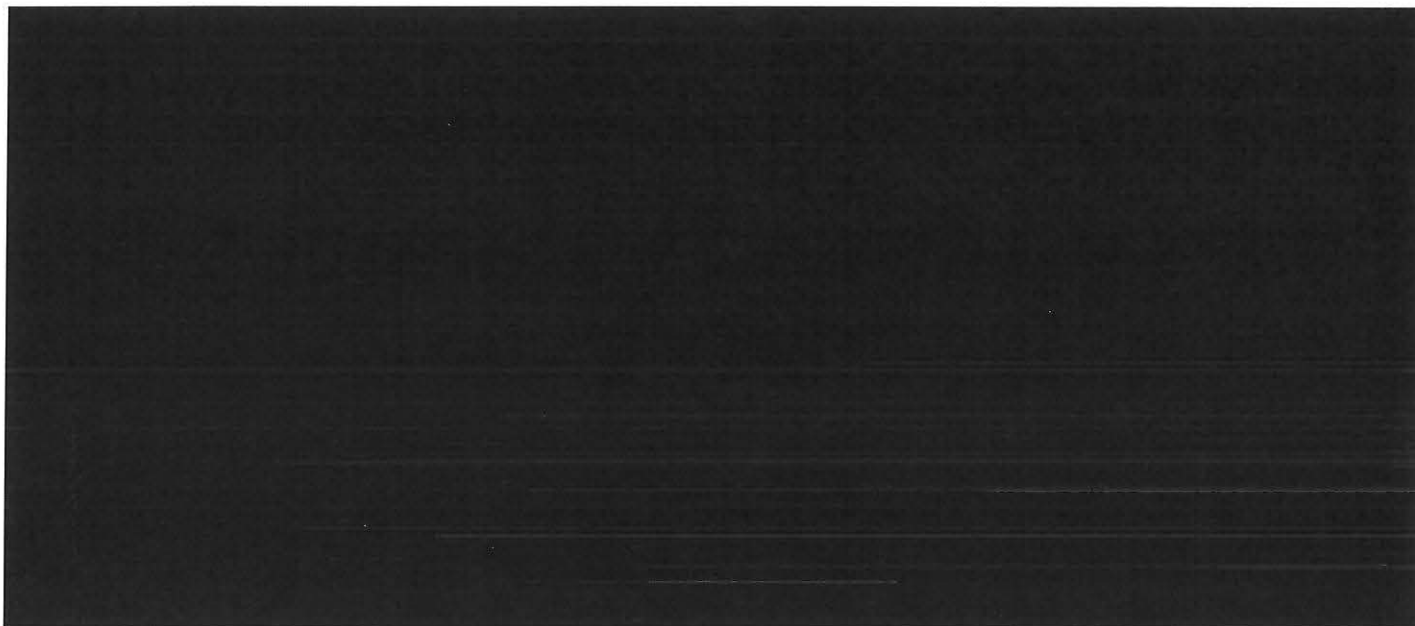
**Net Working Capital Methodology
(Illustrative Example As of July 31, 2019)**

See attached.



SCHEDULE B
Allocation Schedule

See attached.



List of Exhibits

Exhibit A – Transition Services Agreement

TRANSITION SERVICES AGREEMENT

This TRANSITION SERVICES AGREEMENT is made as of [●], 2019 (the “Effective Date”), among Pinsly Railroad Company, a Delaware corporation (“Service Provider”), and Regional Rail, LLC, a Delaware limited liability company (“Buyer”), Florida Central Railroad Company, Inc., a Florida corporation (“FCEN”), Florida Midland Railroad Company, Inc., a Florida corporation (“FMID”), Florida Northern Railroad Company, Inc., a Florida corporation (“FNOR”), and Railroad Distribution Services, Inc., a Florida corporation (“RDS” and, together with the Buyer, FCEN, FMID and FNOR, the “Service Recipients” and, each individually, a “Service Recipient”). Service Provider and Service Recipients are each sometimes referred to in this Agreement as a “Party,” and collectively as the “Parties.”

PRELIMINARY STATEMENTS

- A. Service Provider and the Buyer have entered into a Stock Purchase Agreement (the “Purchase Agreement”), dated as of [●], 2019, pursuant to which Service Provider has agreed to sell to the Buyer, and the Buyer has agreed to purchase from Service Provider, the Acquired Entities Stock.
- B. On the date of this Agreement, Service Provider and the Buyer are consummating the transactions contemplated by the Purchase Agreement and, in connection therewith, Service Provider and Service Recipients are entering into this Agreement, pursuant to which Service Provider will provide, or cause to be provided, to Service Recipients certain transition services, upon the terms and subject to the conditions contained in this Agreement.
- C. Capitalized terms used but not defined in this Agreement shall have the respective meanings set forth in the Purchase Agreement.

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants, and agreements contained in this Agreement, Service Provider and Service Recipients agree as follows:

ARTICLE I THE SERVICES

Section 1.1 The Services. On the terms and subject to the conditions contained in this Agreement, Service Provider shall provide, or cause to be provided, to Service Recipients the applicable services set forth on Schedule 1 (the “Services”). Each Service Recipient shall (a) use the Services in substantially the same manner and for the same purposes as the Services were used by such Service Recipient prior to the Effective Date, (b) use the Services in accordance with all applicable Laws, and (c) use its reasonable best efforts to cease using the Services as soon as possible following the Effective Date but in any event no later than the termination date for any particular Service as set forth on Schedule 1.

Section 1.2 Service Standards. Service Provider shall use commercially reasonable efforts to provide, or cause to be provided, the Services in a manner that is generally consistent, in all material respects, with the manner in which the Services were provided to Service Recipients by Service Provider and its Affiliates immediately prior to the Effective Date

(including with at least the same level of quality, timeliness, performance, cost and service levels), except as may be necessary to comply with applicable Law or to keep Confidential Information of Service Recipients separate from other data and information of Service Provider and its Affiliates. Service Provider's obligation to provide the Services in accordance with the standards set forth in this Section 1.2 will be subject to the right of Service Provider and its Affiliates to (a) select the means, manner, and method of performing the Services and (b) supplement, modify, substitute, or otherwise alter any of the Services from time to time in a manner that is generally consistent with supplements, modifications, substitutions, or alterations made for similar services provided or otherwise made available by Service Provider or its Affiliates to itself, its Affiliates, or other businesses of the Seller.

Section 1.3 Use of Affiliates and Third Parties. Service Provider may (a) provide any of the Services through one or more of its Affiliates or Third Parties or (b) use one or more of its Affiliates or Third Parties to render ancillary administrative and support services to assist Service Provider in performing its obligations under this Agreement. Service Provider will remain responsible for performance of all Services provided under this Agreement; provided, however, that neither Service Provider nor its Affiliates will be liable for or with respect to any interruption, disruption, or downtime in any Service caused by acts or omissions of a Third Party or any other Person other than Service Provider or its Affiliates.

Section 1.4 Input from Service Recipients. Each Service Recipient shall, at its sole cost, provide any information to Service Provider that, in the opinion and at the request of Service Provider, Service Provider reasonably requires in order to perform fully its duties under this Agreement. To the extent any of the Services relies upon input, instructions, or policies from any Service Recipient, until such Service Recipient provides such input, instructions, or policies, Service Provider may, at its option, either be excused from providing the Services or provide the Services in accordance with its own applicable policies and practices as of the date the Services are to be provided.

Section 1.5 Access to Facilities and Personnel. Upon the request of Service Provider, each Service Recipient shall provide Service Provider, its Affiliates, and any Third Parties that provide any of the Services with reasonable access to the applicable facilities and personnel of such Service Recipient as may be reasonably necessary to provide the Services. Service Provider, its Affiliates, and such Third Parties shall enter such facilities subject to, and shall comply with, such Service Recipient's standard rules for safety and security, and such other reasonable rules or conditions such Service Recipient may impose, for its facilities. Each Service Recipient shall take reasonable measures to ensure the safety of the employees or contractors of Service Provider, its Affiliates, and such Third Parties who visit the facilities of such Service Recipient.

Section 1.6 Third Party Consents. Where the consent of a Third Party is required for the provision of any Services, Service Provider shall use commercially reasonable efforts, at Service Recipients' sole cost, to obtain the consent, but will not have (a) any Liability under this

Agreement for any failure to obtain such consent or (b) any obligation to provide or cause the provision of such Services until such consent has been obtained.¹

Section 1.7 Independent Contractors. In providing the Services hereunder, the Parties acknowledge that Service Provider and its Affiliates will be considered independent contractors with respect to Service Recipients. Nothing in this Agreement will be construed as creating a partnership, joint venture, trust, or other association of any kind between or among the Parties or their Affiliates. All personnel of Service Provider and its Affiliates who are engaged in providing the Services shall be under the direction, control, and supervision of Service Provider and its Affiliates, and Service Provider and its Affiliates shall have the sole right to exercise all authority with respect to the employment (including termination of employment), assignment, and compensation of such personnel.

Section 1.8 Limitations. Notwithstanding anything in this Agreement to the contrary:

(a) Service Provider and its Affiliates will not be required to alter, modify, upgrade, customize, or enhance their information technology systems, operations, procedures, method of doing business, or reporting mechanisms in connection with providing, or in order to provide, any Service;

(b) Service Provider and its Affiliates will not be required to provide any services (i) that are not set forth on Schedule 1, (ii) that support any business or operations of Service Recipients or any of their Affiliates other than such business or operations that were conducted immediately prior to the Effective Date, or (iii) at a level of quantity or volume in excess of the levels provided by Service Provider and its Affiliates to the Business immediately prior to the Effective Date;

(c) Service Provider and its Affiliates will not be obligated to maintain the employment of any specific employee; and

(d) Service Recipients shall not, and shall not permit their Affiliates or representatives to, directly or indirectly, resell, transfer, or assign the Services to, or permit access to or use of any of the Services by, any Person other than Service Recipients.

Section 1.9 Disclaimer of Representations and Warranties. Except as expressly set forth in Section 1.2, and subject to ARTICLE VII, Each Service Recipient acknowledges that the Services are being provided "AS IS," that each Service Recipient assumes all risk and Liabilities arising from or relating to its receipt, use of, and reliance on the Services, and that none of Service Provider, any of its Affiliates, or any of their respective representatives has made, or is making, any representation or warranty, express or implied, regarding the Services, and Service Provider hereby disclaims any such other representations and warranties, including any representations or warranties with respect to (a) merchantability or fitness of the Services for any particular use or purpose, (b) quality, performance, or non-infringement of the Services, (c) the

¹ Note to Draft: If Pinsly's provision of any services is contingent on receiving third party consent, this section will need to be revisited.

condition, design, or workmanship of the Services, or (d) the compliance of the Services with applicable Law.

ARTICLE II SERVICE FEES; INVOICING AND PAYMENT

Section 2.1 Service Fees. As consideration for providing, or causing to be provided, the Services, Service Provider shall be entitled to receive the fees (the "Service Fees") set forth on Schedule 1.

Section 2.2 Third Party Costs. If any Third Party costs associated with the provision of the Services increase, Service Provider shall be entitled, upon prior written notice and the provision of reasonable documentation to Service Recipients, to increase the Service Fees to reflect such increase.

Section 2.3 Invoicing and Payment.

(a) Service Provider shall invoice the Service Fees on a monthly basis, in arrears. Service Recipients shall pay all invoices in full within fifteen (15) days of its receipt of each such invoice by wire transfer in United States dollars of immediately available funds to the account or accounts designated in writing by Service Provider, without any set-off, deduction, or counterclaim whatsoever, whether arising under this Agreement, the Purchase Agreement, any other Ancillary Agreement, or otherwise.

(b) Without limiting Service Provider's right to terminate this Agreement pursuant to Section 8.2(a), any past due payments shall bear interest at a rate from but not including the due date to and including the date on which payment is made at a rate per annum equal to the United States Prime Rate as published by *The Wall Street Journal* on the date on which such payment was due or, if such date is not a Business Day, the next Business Day, plus one percent (1%), and calculated on the basis of the actual number of days elapsed divided by 360.

Section 2.4 Taxes.

(a) The Service Fees exclude any and all Taxes imposed on the sale and performance of the Services or that may otherwise be imposed on, sustained, or incurred with respect to, or applicable to, the Services. Service Recipients shall bear any and all sales, use, goods and services, and other similar Taxes imposed on the sale and performance of the Services or otherwise assessed on either Party in connection with the Services or this Agreement. Service Provider shall collect from Service Recipients and remit any such sales, use, goods and services, and other similar Taxes if required to do so by applicable Law.

(b) If any Service Recipient is required by any applicable Law to deduct Taxes from or in respect of any sum payable to Service Provider hereunder, the Service Fees invoiced to Service Recipients shall be automatically increased by an amount necessary so that, after making all such required deductions, Service Provider receives an amount equal to the sum that would have been received had no such deductions been required.

ARTICLE III CONFIDENTIALITY

Section 3.1 Confidentiality. Subject to Section 3.2, during the Term and for a period of five (5) years after the expiration or termination of this Agreement, the Receiving Party shall, and shall cause its representatives to, keep confidential and not disclose or reveal to any Person any Confidential Information of the Disclosing Party, except that the Receiving Party may disclose or reveal Confidential Information of the Disclosing Party to those of its representatives (a) who are actively involved in the performance or receipt of the Services and (b) whom the Receiving Party has directed to comply with the terms of this ARTICLE III. The Receiving Party shall be responsible for any act or omission by any of its representatives that would constitute a breach of this ARTICLE III if done or omitted to be done by the Receiving Party.

Section 3.2 Disclosure Required by Law. If the Receiving Party is required by any applicable Law to disclose any Confidential Information of the Disclosing Party, the Receiving Party shall, to the extent legally permitted and in advance of such disclosure, provide the Disclosing Party with prompt written notice of such requirement, together with a list of any Confidential Information the Receiving Party intends to disclose, so that the Disclosing Party may (a) seek an appropriate protective order or other remedy, (b) consult with the Receiving Party with respect to steps the Disclosing Party may take to resist or narrow the scope of such requirement, or (c) waive compliance, in whole or in part, with the terms of this Agreement. If the Disclosing Party decides to seek a protective order or other remedy, at the Disclosing Party's request the Receiving Party shall cooperate with the Disclosing Party to obtain such order or other remedy. If a protective order or other remedy is not sought or obtained, or the Disclosing Party waives compliance, in whole or in part, with the terms of this agreement, the Receiving Party shall (x) before making any disclosure, provide the Disclosing Party with the text of the proposed disclosure and consider in good faith the Disclosing Party's suggestions concerning the scope and content of the information to be disclosed, (y) disclose only the portion of the Confidential Information the Receiving Party is advised in writing by its counsel is legally required to be disclosed, and (z) use its reasonable best efforts to preserve the confidentiality of all Confidential Information so disclosed. The Disclosing Party shall reimburse the Receiving Party for its reasonable documented out-of-pocket expenses in connection with its cooperation and efforts under this Section 3.2.

Section 3.3 Return or Destruction of Confidential Information. Upon the termination or expiration of this Agreement, or at any earlier time upon the Disclosing Party's request, the Receiving Party shall return or destroy (at the Receiving Party's election) all Confidential Information (including all copies or reproductions in whatever form or medium) of the Disclosing Party; provided, however, that the Receiving Party will not be required to destroy Confidential Information (a) contained in an archived computer back-up system which is not available to an end user (other than an information technology professional) and cannot be destroyed without considerable effort or (b) retained in order to comply with any applicable Law; and provided, further, that Service Provider will not be required to return or destroy any Confidential Information that is commingled with other data or information of Service Provider or its Affiliates or that pertains to time periods prior to the Effective Date. Within two (2) Business Days following such return or destruction, the Receiving Party shall certify its compliance with this Section 3.3 in writing to the Disclosing Party. Following such return or

destruction, the Receiving Party shall continue to comply with all of its duties and obligations under this ARTICLE III.

ARTICLE IV FORCE MAJEURE EVENTS

Section 4.1 Occurrence of Force Majeure Event. If Service Provider, any of its Affiliates, or any Third Party is wholly or partially prevented from, or delayed or restricted in, providing one or more Services, or one or more Services are interrupted or suspended, in any case as a result of any Force Majeure Event, (a) Service Provider will not be obligated to deliver or perform the affected Services so long as such Force Majeure Event is occurring or affecting such Services, (b) no Service Recipient will be obligated to pay for any Services not delivered or performed during such period, other than any Termination Fees, and (c) the Term will not be tolled during or extended for all or part of such period.

Section 4.2 Notification of Force Majeure Event. Service Provider shall notify Service Recipients, orally or in writing, of the occurrence of a Force Majeure Event within a reasonable period of time after it learns of the same.

Section 4.3 Cessation of Force Majeure Event. As soon as reasonably practicable following the cessation of a Force Majeure Event, Service Provider shall, or shall cause its affected Affiliate or Third Party to, resume delivery or performance of the Services previously affected by such Force Majeure Event.

ARTICLE V SERVICE MANAGERS; DISPUTE RESOLUTION

Section 5.1 Service Managers. Service Provider and Service Recipients will each designate a service manager (that Party's "Service Manager") who will be directly responsible for coordinating and managing the delivery or receipt of the Services and who will have the authority to act on such Party's behalf with respect to matters relating to this Agreement. The Service Managers will also discuss progress in the transition of the Services hereunder and may establish a set of procedures, including frequency of meetings and reporting, and other reasonable structures for their cooperation and the cooperation of the Parties in the performance of their obligations under this Agreement. Unless otherwise agreed to by the Parties, all communications relating to this Agreement and the Services shall be directed to the Service Managers. With respect to matters requiring dispute resolution, the Parties and their respective Service Managers shall follow the dispute resolution process set forth in Section 5.2. Service Provider's initial Service Manager will be [●], and Service Recipients' initial Service Manager will be [●]. Each Party may, in its sole discretion, replace its Service Manager from time to time with a substitute manager upon written notice to the other Party.

Section 5.2 Informal Dispute Resolution. Subject to the last sentence of this Section 5.2, the Parties agree that any dispute arising out of or relating to this Agreement or the Services (a "Dispute") shall be first submitted for resolution to the Service Managers prior to the initiation of any legal or arbitration proceedings with respect to such Dispute. If the Service Managers fail to resolve a Dispute within a reasonable time following its submission to the Service Managers,

but in no event more than ten (10) Business Days, then, at the request of either Party, such Dispute shall be submitted to a senior officer of each of the Parties, and such senior officers shall attempt in good faith to resolve the Dispute. If such senior officers cannot resolve the Dispute in such manner within a reasonable time, but in no event more than twenty (20) Business Days, then either Party may pursue litigation or other available means of resolving the Dispute. The Parties agree that all discussions, negotiations, and other information exchanged between the Parties during the foregoing escalation proceedings shall be without prejudice to the legal position of a Party in any subsequent litigation or arbitration proceeding. Notwithstanding the foregoing, nothing in this Agreement will prevent either Party from seeking or obtaining temporary or provisional injunctive or other equitable relief in order to prevent or enjoin any actual or threatened breach of this Agreement by the other Party.

ARTICLE VI DATA AND INTELLECTUAL PROPERTY

Section 6.1 Ownership of Data. As between the Parties: (a) Service Recipients shall own all data that is generated exclusively for Service Recipients by Service Provider or any of its Affiliates in performing the Services ("Service Recipient Data"); and (b) Service Provider and its Affiliates shall be the sole and exclusive owners of all other data generated by Service Provider, its Affiliates, or its Third Party contractors in performing the Services.

Section 6.2 Intellectual Property.

(a) Ownership of Intellectual Property. Subject to Service Recipients' rights in Service Recipient Data pursuant to Section 6.1, as between the Parties, all Intellectual Property developed, generated, or created by or for Service Provider or any of its Affiliates, whether alone or jointly with Service Recipients, in connection with providing the Services shall be owned solely and exclusively by Service Provider.

(b) Limited License to Use Work Processes and Software. To the extent required for Service Recipients to receive the Services, Service Provider grants to Service Recipients a limited, non-exclusive, non-assignable license to use, during the Term, any work processes and Software owned by Service Provider and its Affiliates that is made available to Service Recipients by Service Provider and its Affiliates solely for the purpose of permitting Service Recipients to receive Services under this Agreement.

Section 6.3 No Implied Licenses. Except as expressly set forth in Section 6.1 and Section 6.2(b), nothing in this Agreement shall be deemed to grant or transfer to Service Recipients or any of their Affiliates any right, title, or interest in any technology, inventions, work processes, hardware, Software, Intellectual Property, or other tangible or intangible properties or assets owned, leased, or licensed by Service Provider or any of its Affiliates, or developed, generated, or created by Service Provider or any of its Affiliates in providing the Services.

ARTICLE VII INDEMNIFICATION; LIMITATION OF LIABILITY

Section 7.1 Indemnification by Service Provider. Subject to the provisions of this ARTICLE VII, Service Provider shall indemnify each Service Recipient and its Affiliates (each, a "Recipient Indemnified Party") against, be liable to the Recipient Indemnified Parties for, and hold each Recipient Indemnified Party harmless from any and all Losses incurred by such Recipient Indemnified Party to the extent arising out of any gross negligence or willful misconduct by Service Provider, any of its Affiliates, or any Third Party in providing the Services.

Section 7.2 Indemnification by Service Recipients. Subject to the provisions of this ARTICLE VII, each Service Recipient shall indemnify Service Provider, its Affiliates, and its Third Party contractors (each, a "Provider Indemnified Party") against, be liable to the Provider Indemnified Parties for, and hold each Provider Indemnified Party harmless from any and all Losses incurred by such Provider Indemnified Party to the extent arising out of the provision of the Services, except for any Losses as to which Service Provider is required to indemnify a Recipient Indemnified Party pursuant to Section 7.1.

Section 7.3 Limitations on Liability.

(a) In no event shall Service Provider's aggregate Liability under this Agreement with respect to any claim for indemnification under this ARTICLE VII exceed the amount of the Service Fees actually received by Service Provider from Service Recipients for the Service with respect to which the claim is made during the three (3) months preceding the last act or omission giving rise to such claim or, in the event such last act or omission occurs during the first three (3) months following the Effective Date, an amount equal to three (3) times the Service Fees paid in the month preceding such last act or omission for such Service.

(b) Any claim for indemnification under this ARTICLE VII must be given to the Party obligated to provide such indemnification within one (1) year after the occurrence of act or omission giving rise to such claim.

(c) IN NO EVENT WILL EITHER PARTY OR ANY OF THEIR RESPECTIVE AFFILIATES HAVE ANY LIABILITY UNDER THIS AGREEMENT OR OTHERWISE IN CONNECTION WITH THE PROVISION OF THE SERVICES FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, SPECULATIVE, INDIRECT, REMOTE, OR CONSEQUENTIAL DAMAGES, DAMAGES FOR LOST PROFITS, DAMAGES BASED UPON A MULTIPLE OF EARNINGS, OR DIMINUTION IN VALUE, OR ANY SIMILAR DAMAGES, REGARDLESS OF WHETHER SUCH DAMAGES WERE REASONABLY FORESEEABLE.

(d) With respect to any obligation of Service Provider pursuant to this Agreement to cause or otherwise bring about any action by any of its Affiliates or any Third Party, if such action is not taken by the applicable Affiliate or Third Party, Service Recipients' and their Affiliates' sole cause of action or recourse shall be against Service Provider pursuant to this Agreement, and neither Service Recipients nor their Affiliates shall have any cause of action or recourse against such Affiliate or Third Party.

(e) The Person seeking indemnification under this ARTICLE VII shall have the burden of proof in establishing the amount of Losses incurred by it.

Section 7.4 Exclusive Remedy. The sole and exclusive Liability and responsibility of Service Provider and its Affiliates under this Agreement or in connection with the provision of the Services (including for any breach of or failure to perform any covenant or agreement, or for any other reason and regardless of the theory upon which any claim may be based, whether contract, equity, tort, fraud, warranty, strict liability, or any other theory of liability), and the sole and exclusive remedy of the Recipient Indemnified Parties with respect to any of the foregoing, shall be as set forth in this ARTICLE VII and Section 10.13. Any and all claims by any Recipient Indemnified Party arising out of or in connection with this Agreement and the provision of the Services must be brought against Service Provider under and in accordance with the terms of this Agreement. To the extent that Service Recipients or any of their Affiliates incurs any Losses for which it would otherwise be entitled to assert any claim or right to indemnification, contribution, or recovery against Service Provider or any of its Affiliates in connection with this Agreement or the performance of the Services, other than pursuant to the exclusive remedies described in this Section 7.4, each Service Recipient hereby waives, releases, and agrees not to assert such claim or right, and such Service Recipient agrees to cause each of its Affiliates to waive, release, and agree not to assert such claim or right, in each case regardless of the theory upon which any claim may be based, whether contract, equity, tort, fraud, warranty, strict liability, or any other theory of liability.

ARTICLE VIII TERM AND TERMINATION

Section 8.1 Term. This Agreement will commence on the Effective Date and, unless earlier terminated in accordance with its terms, expire [three] months after the Effective Date (the "Term"). For each Service set forth on Schedule 1, Service Provider's obligation to provide such Service will terminate on the earlier of the end of the corresponding service period set forth on Schedule 1 or the expiration of the Term.

Section 8.2 Termination.

(a) Service Provider may terminate this Agreement or suspend performance of its obligations under this Agreement upon written notice to Service Recipients if any Service Recipient (i) fails to pay in full when due any invoice sent to such Service Recipient or (ii) breaches in any material respect any of its covenants or agreements contained in this Agreement (other than a payment obligation), which breach (A) if capable of being cured, has not been cured by such Service Recipient within thirty (30) days after such Service Recipient's receipt of written notice from Service Provider stating Service Provider's intention to terminate this Agreement pursuant to this Section 8.2(a) or (B) is incapable of being cured.

(b) Service Recipients may terminate this Agreement upon written notice to Service Provider if Service Provider breaches in any material respect any of its covenants or agreements contained in this Agreement, which breach (i) if capable of being cured, has not been cured by Service Provider within thirty (30) days after Service Provider's receipt of written

notice from a Service Recipient stating Service Recipients' intention to terminate this Agreement pursuant to this Section 8.2(b) or (ii) is incapable of being cured.

(c) Either Party may terminate this Agreement, with immediate effect, upon written notice to the other Party if the other Party (i) files for bankruptcy, (ii) becomes or is declared insolvent or is the subject of any Proceeding (that is not dismissed within sixty (60) days) related to its liquidation or insolvency or the appointment of a receiver or similar officer, (iii) makes an assignment for the benefit of all or substantially all of its creditors, (iv) takes any corporate action for its winding-up, dissolution, or administration, or (v) enters into an agreement for the extension or readjustment of substantially all of its obligations.

(d) The Parties may mutually agree in writing to terminate this Agreement or any Service at any time.

Section 8.3 Effect of Termination.

(a) Within thirty (30) days after the termination or expiration of this Agreement, Service Recipients shall pay to Service Provider all amounts accrued for Services performed prior to termination or expiration that have not then already been paid. In addition, if this Agreement is terminated or any Service is suspended by Service Provider pursuant to Section 8.2(a) or Section 8.2(c), Service Recipients shall pay to Service Provider an amount equal to Service Provider's and its Affiliates' out-of-pocket costs and expenses that arise in whole or in part as a result of or in connection with such early termination of this Agreement or suspension of any Service (collectively, "Termination Fees"), including early termination charges, kill fees, wind-down costs, minimum volume make-up fees, unamortized costs that Service Provider or its Affiliates previously incurred or are required to pay for services, equipment, licenses, or other assets used for the provision of the Services, and other costs and expenses that have been paid in advance or are payable by Service Provider or any of its Affiliates. The Termination Fees shall be invoiced and paid in accordance with Section 2.3.

(b) On termination or expiration of this Agreement, this Agreement will immediately become void and have no further force or effect, and neither Party will have any Liability to the other Party; provided, however, that Section 1.9, Section 2.3, Section 2.4, ARTICLE III, ARTICLE VI, ARTICLE VII, this Section 8.3, ARTICLE IX, and ARTICLE X will survive such termination.

ARTICLE IX DEFINITIONS AND INTERPRETATION

Section 9.1 Definitions. The following terms shall have the following meanings for purposes of this Agreement:

"Agreement" means this Transition Services Agreement, including Schedule 1.

"Buyer" has the meaning set forth in the preliminary statements to this Agreement.

"Confidential Information" means all information, data, documents, agreements, files, and other materials provided directly or indirectly by a Party (in such context, the "Disclosing

Party”) or any of its Affiliates to the other Party (in such context, the “Receiving Party”) or any of its Affiliates in the course of performance of this Agreement, including the terms and conditions of this Agreement and information relating to the Services, whether oral or written, and regardless of the manner or form in which it is provided, other than any information or material the Receiving Party can demonstrate (i) was or becomes generally available to and known by the public other than as a result of a disclosure by the Receiving Party in violation of this Agreement, (ii) was or becomes available to the Receiving Party on a non-confidential basis from a Person (other than the Disclosing Party) who is not prohibited from disclosing such information or material to the Receiving Party by a legal, contractual, or fiduciary obligation, (iii) was previously in the Receiving Party’s possession, as demonstrated by its written records, provided, that such information or material is not known by the Receiving Party, after reasonable inquiry, to be subject to a confidentiality obligation to the Disclosing Party, or (iv) is independently developed by the Receiving Party without the use of, benefit of, or reference to Confidential Information and without violating any of the Receiving Party’s obligations under this Agreement.

“Dispute” has the meaning set forth in Section 5.2.

“Force Majeure Event” means any event beyond Service Provider’s, any of its Affiliates’, or any Third Party’s reasonable control, including failure by Service Recipients to comply with this Agreement, failure by any Third Party to comply with any Contract with Service Provider or its Affiliates, acts of God, acts of nature, acts or orders of Governmental Authorities, fire, explosion, lack of utilities, accident, embargoes, disruption or delay in transportation, epidemics, war, acts of terrorism, nuclear disaster, labor strikes, lockouts, industrial disputes, work stoppages or slowdowns, changes in or the enforcement of any applicable Law or order, civil unrest, riots, or disruption of Internet access (including access disruptions as a result of any virus, worm, Trojan horse, or similar item).

“Party” and “Parties” have the meaning set forth in the preamble to this Agreement.

“Provider Indemnified Party” has the meaning set forth in Section 7.2.

“Purchase Agreement” has the meaning set forth in the preliminary statements to this Agreement.

“Recipient Indemnified Party” has the meaning set forth in Section 7.1.

“Service Fees” has the meaning set forth in Section 2.1.

“Service Provider” has the meaning set forth in the preamble to this Agreement.

“Service Recipients” has the meaning set forth in the preamble to this Agreement.

“Services” has the meaning set forth in Section 1.1.

“Term” has the meaning set forth in Section 8.1.

“Termination Fees” has the meaning set forth in Section 8.3(a).

"Third Party" means any Person that is not a Party or an Affiliate of a Party.

Section 9.2 Interpretation. The headings preceding the text of Articles and Sections included in this Agreement and the headings to Schedules attached to this Agreement are for convenience only and shall not be deemed part of this Agreement or be given any effect in interpreting this Agreement. The use of the masculine, feminine, or neuter gender or the singular or plural form of words in this Agreement shall not limit any provision of this Agreement. The meaning assigned to each term defined in this Agreement shall be equally applicable to both the singular and the plural forms of such term. The use of "including" or "include" will in all cases mean "including, without limitation" or "include, without limitation," respectively. The use of "or" is not intended to be exclusive unless expressly indicated otherwise. Reference to any Person includes such Person's successors and assigns to the extent such successors and assigns are permitted by the terms of any applicable Contract, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually. Reference to any Contract (including this Agreement), document, or instrument shall mean such Contract, document, or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms of this Agreement. Reference to any statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. Underlined references to Articles, Sections, clauses, or Schedules shall refer to those portions of this Agreement. The use of the terms "hereunder," "hereof," "hereto," and words of similar import shall refer to this Agreement as a whole and not to any particular Article, Section, paragraph, or clause of, or Schedule to, this Agreement.

ARTICLE X MISCELLANEOUS

Section 10.1 Expenses. Except as provided in Section 1.6, Section 2.2, Section 3.2, ARTICLE VII, and Section 8.3(a), each Party shall bear its own fees and expenses with respect to this Agreement and the transactions contemplated by this Agreement.

Section 10.2 Amendments. The Parties may amend, modify, or supplement this Agreement only by a written agreement signed by both Parties.

Section 10.3 Notices. Any notice, request, instruction, or other communication to be given under this Agreement by a Party shall be in writing and shall be deemed to have been given to the other Party (a) when delivered, if delivered in person or by overnight delivery service (charges prepaid), (b) on the date of transmission, if sent by facsimile transmission (receipt confirmed) on a Business Day during or before the normal business hours of the intended recipient, and if not so sent on such a day and at such a time, on the following Business Day, (c) when sent, if sent via email, provided that no undeliverable message is received by the sender, or (d) when received, if sent by registered or certified mail, return receipt requested, in each case to the address, facsimile number, or email address of such Party set forth below and marked to the attention of the designated individual:

If to Service Recipients, to:

Attention:
Facsimile:
Email:

with a copy (which will not constitute notice) to:

Attention:
Facsimile:
Email:

If to Service Provider, to:

Attention:
Facsimile:
Email:

with a copy (which will not constitute notice) to:

Mayer Brown LLP

Attention:
Facsimile:
Email:

or to such other individual or address, facsimile number, or email address as a Party may designate for itself by notice given in accordance with this Section 10.3.

Section 10.4 United States Dollars. All payments pursuant to this Agreement shall be made by wire transfer in Dollars in immediately available funds to the account or accounts designated in writing by the payee to the payor, without any set-off, deduction, or counterclaim whatsoever.

Section 10.5 Waivers. Except as provided in ARTICLE VII, no failure or delay by a Party in enforcing any of such Party's rights under this Agreement will be deemed to be a waiver of such rights. No single or partial exercise of a Party's rights will be deemed to preclude any other or further exercise of such Party's rights under this Agreement. No waiver of any of a Party's rights under this Agreement will be effective unless it is in writing and signed by such Party.

Section 10.6 Assignment. This Agreement will be binding on and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party may, by operation of law or otherwise, assign this Agreement or any of such Party's rights or obligations under this Agreement without the written consent of the other Party, except that Service Provider may, without the consent of Service Recipients, assign any of its rights under this Agreement, but no such assignment will relieve Service Provider of any of its obligations under this Agreement.

Section 10.7 No Third Party Beneficiaries. Except as provided in ARTICLE VII (with respect to the Provider Indemnified Parties and the Recipient Indemnified Parties), this Agreement is solely for the benefit of the Parties and their respective successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to or will confer on any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

Section 10.8 Publicity. Neither Party nor any of their respective representatives may make any press release or other public disclosure regarding the existence of this Agreement or the Ancillary Agreements, its or their contents, or the transactions contemplated by this Agreement or the Ancillary Agreements without the written consent of the other Party, in any case, as to the form, content, and timing and manner of distribution or publication of such press release or other public disclosure (which consent may not be unreasonably withheld, conditioned, or delayed). Each Party shall hold confidential the terms and provisions of this Agreement and the Ancillary Agreements and the terms of the transactions contemplated by this Agreement and the Ancillary Agreements. Notwithstanding the foregoing, nothing in this Section 10.8 will prevent either Party or its representatives from making any press release or other disclosure required by Law or the rules of any stock exchange, in which case the Party required to make such press release or other disclosure shall use commercially reasonable efforts to allow the other Party reasonable time to review and comment on such release or disclosure in advance of its issuance.

Section 10.9 Severability. If any provision of this Agreement is declared invalid, illegal, or unenforceable, (a) all other provisions of this Agreement will remain in full force and effect and (b) the Parties shall negotiate in good faith to amend or modify this Agreement to replace such invalid, illegal, or unenforceable provision with a valid, legal, and enforceable provision giving effect to the Parties' intent to the maximum extent permitted by Law.

Section 10.10 Entire Agreement. This Agreement (including Schedule 1) and the Purchase Agreement contain the entire agreement between the Parties and supersede all prior agreements, arrangements, and understandings, written or oral, between the Parties relating to the subject matter of this Agreement.

Section 10.11 No Strict Construction. The Parties have each participated in the negotiation and drafting of the terms of this Agreement. The Parties agree that any rule of legal interpretation to the effect that any ambiguity is to be resolved against the drafting party will not apply in interpreting this Agreement.

Section 10.12 Governing Law; Jurisdiction and WAIVER OF JURY TRIAL. Sections 12.2 and 12.3 of the Purchase Agreement are hereby, *mutatis mutandis*, incorporated by reference in this Agreement, as though specifically set forth herein.

Section 10.13 Equitable Relief. Each Party acknowledges that (a) money damages would be an insufficient remedy for any actual or threatened breach of this Agreement by such Party, (b) any such breach would cause the other Party irreparable harm, and (c) in addition to any other remedies available at law or in equity, the other Party will be entitled to equitable relief by way of injunction, specific performance, or otherwise, without posting any bond or other undertaking, for any actual or threatened breach of this Agreement by such Party. Neither Party will contest the appropriateness of any injunction or specific performance as a remedy for a breach of this Agreement.

Section 10.14 Counterparts. This Agreement may be signed in any number of counterparts, each of which is an original and all of which taken together shall constitute one and the same instrument.

[Remainder of page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered as of the date first written above.

PINSLY RAILROAD COMPANY

By: _____
Name: _____
Title: _____

REGIONAL RAIL, LLC

By: _____
Name: _____
Title: _____

FLORIDA CENTRAL RAILROAD COMPANY,
INC.

By: _____
Name: _____
Title: _____

FLORIDA MIDLAND RAILROAD COMPANY,
INC.

By: _____
Name: _____
Title: _____

FLORIDA NORTHERN RAILROAD COMPANY,
INC.

By: _____
Name: _____
Title: _____

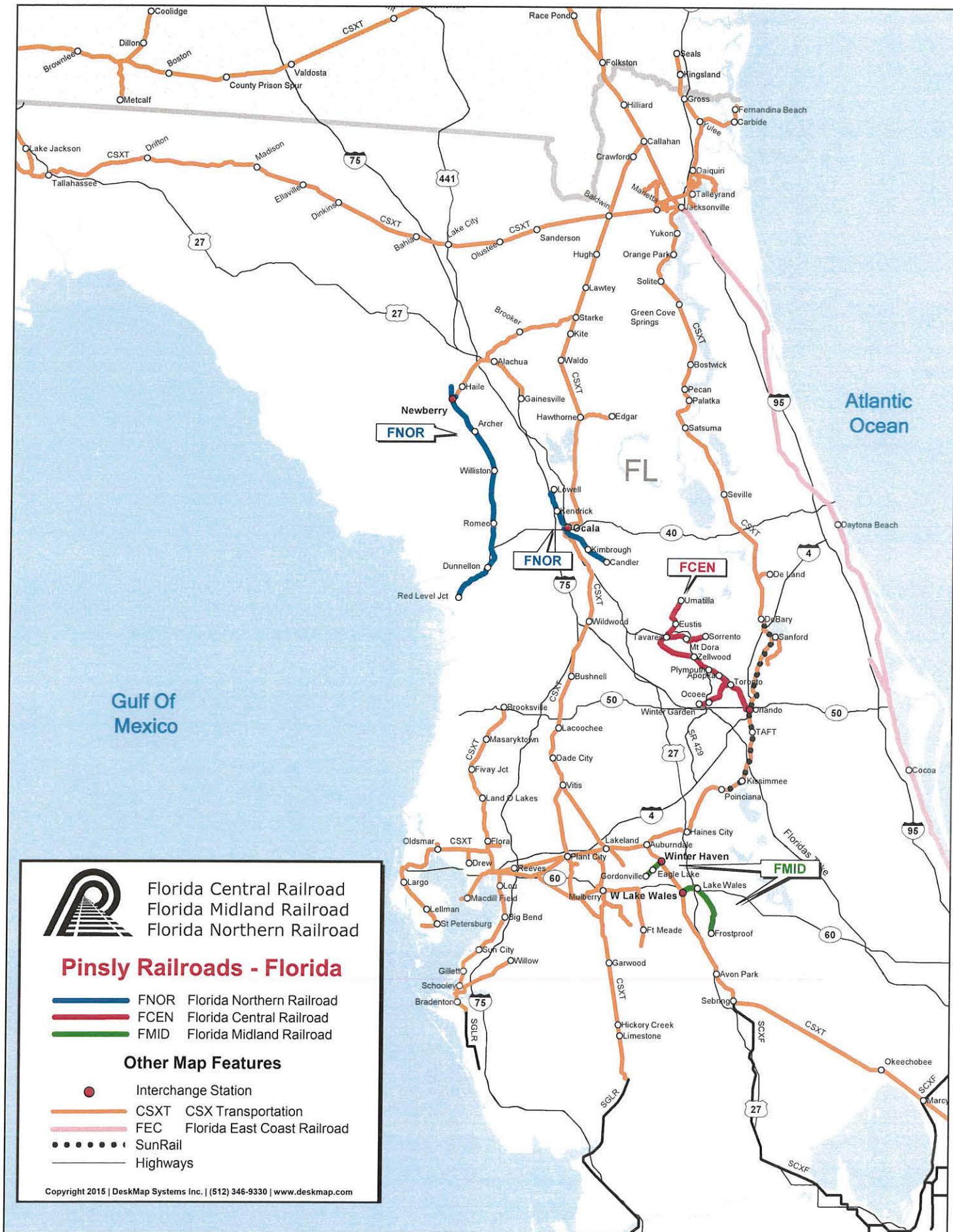
RAILROAD DISTRIBUTION SERVICES, INC.

By: _____
Name: _____
Title: _____

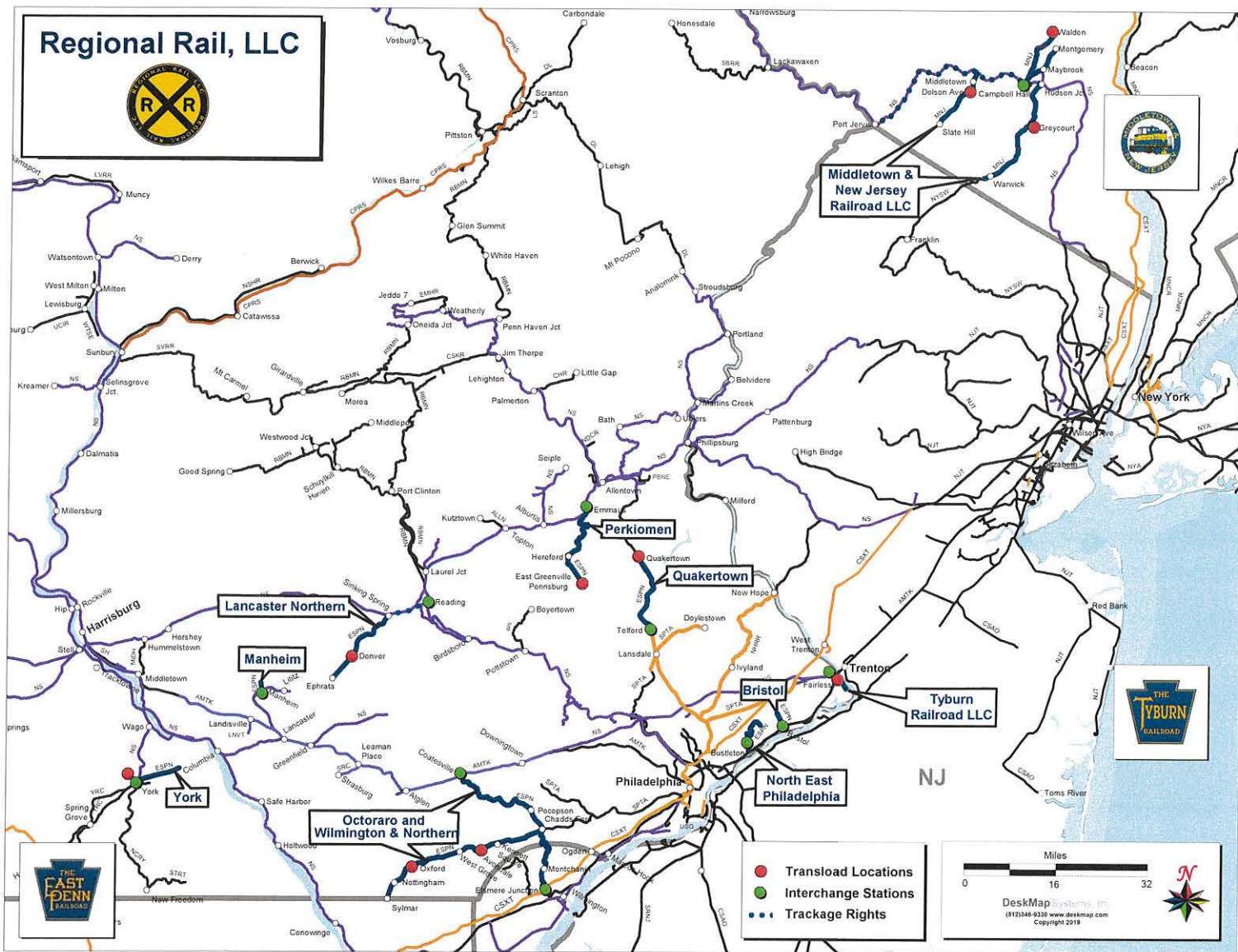
SCHEDULE 1

SERVICES AND SERVICE FEES

EXHIBIT B-MAPS



Regional Rail, LLC



Middletown & New Jersey Railroad LLC

Lancaster Northern

Manheim

York

Octoraro and Wilmington & Northern

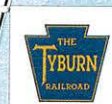
Perkiomen

Quakertown

Bristol

North East Philadelphia

Tyburn Railroad LLC



- Transload Locations
- Interchange Stations
- Trackage Rights

