209224



MAYER BROWN ROWE & MAW

Mayer, Brown, Rowe & Maw LLP
1909 K Street, N.W.
Washington, D.C. 20006-1101

Main Tel (202) 263-3000
Main Fax (202) 263-3300
www.mayerbrownrowe.com

Robert M. Jenkins III
Direct Tel (202) 263-3261
Direct Fax (202) 263-5261
rmjenkins@mayerbrown.com

October 27, 2003

BY HAND-DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

ENTERED
Office of Proceedings
OCT 27 2003
Part of
Public Record

Re: Finance Docket No. 34319
Consolidated Rail Corporation –
Declaratory Order Proceeding

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of "Consolidated Rail Corporation's Opening Evidence and Argument." Please date-stamp the extra copy that is enclosed and return it to our representative.

Enclosed are three diskettes containing the Opening Evidence and Argument in electronic format. Also enclosed are three CD-Roms containing the three Exhibits to Conrail's filing in PDF format. Since our exhibits are very large pre-existing documents, we received permission from the Board to submit them in PDF format on CD-Roms.

Sincerely yours,

Robert M. Jenkins III

RMJ/bs

Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD

209224



FINANCE DOCKET NO. 34319

CONSOLIDATED RAIL CORPORATION – DECLARATORY ORDER PROCEEDING

CONSOLIDATED RAIL CORPORATION'S OPENING EVIDENCE AND ARGUMENT

ENTERED
Office of Proceedings
OCT 27 2003
Part of
Public Record

Jonathan M. Broder
John K. Enright
CONSOLIDATED RAIL CORPORATION
16th Floor
2001 Market Street
Philadelphia, PA 19103
(215) 209-5020

Robert M. Jenkins III
Brad P. Rosenberg
MAYER, BROWN, ROWE
& MAW LLP
1909 K Street, NW
Washington, DC 20006
(202) 263-3261

Ralph G. Wellington
Nancy Winkelman
SCHNADER HARRISON SEGAL
& LEWIS LLP
1600 Market Street
Suite 3600
Philadelphia, PA 19103
(215) 751-2000

Attorneys for Consolidated Rail Corporation

Dated: October 27, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34319

CONSOLIDATED RAIL CORPORATION –
DECLARATORY ORDER PROCEEDING



CONSOLIDATED RAIL CORPORATION'S
OPENING EVIDENCE AND ARGUMENT

Pursuant to the Board's Decision served October 10, 2003 ("October 10 Decision"), Consolidated Rail Corporation ("Conrail") files herewith its opening evidence and argument in the above-captioned proceeding.

INTRODUCTION AND SUMMARY

The three issues before the Surface Transportation Board ("Board") in this proceeding are narrow ones on which it has particular expertise. The Board in *CSX Corp., et al. – Control and Operating Leases/Agreements – Conrail Inc., et al.*, 3 S.T.B. 196 (1998) ("Decision No. 89"), approved a complex transaction that divided most of Conrail's assets between two specially created entities, New York Central Lines LLC ("NYC") and Pennsylvania Lines LLC ("PRR"), for operation by, respectively, CSX Corporation and CSX Transportation, Inc. (jointly "CSX") and Norfolk Southern Corporation and Norfolk Southern Railway Company (jointly "NS"). This allocation removed from Conrail's control significant portions of its former right of way after the "Split Date" of June 1, 1999.

Under the approved Transaction Agreement (attached as Exhibit 1), most of Conrail's pre-Split Date contracts were allocated, along with the former Conrail lines to which they related, to either NYC or PRR. Exh. 1, § 2.2(c)(vi)(d), at 21. Accordingly,

Conrail no longer had any ability to perform or administer those contracts, and the Board has held that state law contract claims subsequently brought against Conrail were preempted as "necessary to carry out the transaction" within the meaning of 49 U.S.C. § 11321(a). *See Consolidation Coal Sales Co. v. Consolidated Rail Corp.,* STB Finance Docket No. 34169 (served May 24, 2002) ("*Consolidation Coal*").

Some of Conrail's pre-Split Date contracts could not readily be divided between NYC and PRR, and the Transaction Agreement provided for those contracts to be treated as "Retained Assets." Exh. 1, § 2.2(c)(vi)(e)(ii), at 21. In particular, Conrail retained a number of pre-Split Date fiber optic contracts, including contracts with AT&T Communications, Inc. ("AT&T") and Qwest Communications Corporation ("Qwest"), under which the telecommunications companies involved had installed fiber optic cable over substantial portions of the former Conrail system.

However, the Transaction Agreement provided for Conrail to retain ***only*** those pre-Split date contracts. The Transaction Agreement did not give Conrail any right to enter into new fiber optic contracts for the installation of cable on any portion of the former Conrail lines being operated by CSX or NS. Nor was Conrail given any control over, or even knowledge of, new fiber optic contracts that CSX/NYC or NS/PRR might independently enter into after the Split Date on the former Conrail lines that were allocated to them.

On January 10, 2003, AT&T filed a Complaint against Conrail (attached as Exhibit 2) in the District Court for the Eastern District of Pennsylvania. *See AT&T Communications, Inc. v. Consolidated Rail Corp.,* No. 03-CV-147. AT&T there sought to enforce a "Most Favored Nation" ("MFN") clause that has been in its fiber optic

contract with Conrail (the "FOC License Agreement," attached as Exhibit 3) since it was originally entered into in 1984. The MFN clause provided that if Conrail entered into a fiber optic contract with another provider between points where AT&T had a cable installation, Conrail at its option could (i) charge the other provider the same or greater average per-mile fee it charged AT&T between those points or (ii) lower the average per-mile fee between those points to AT&T to the average per-mile fee charged to the other provider. While there are issues before the District Court concerning the application of the MFN clause prior to the Split Date, the only issues before the Board concern the application of the MFN clause after the June 1, 1999 Split Date.

The first issue before the Board is AT&T's claim that Conrail should be held liable for "divesting itself of the ability to perform its obligations" under the MFN clause after the Split Date. Exh. 2, ¶ 39.d. AT&T essentially alleges that Conrail should be held liable for entering into a Transaction Agreement that removed Conrail's dominion over most of its former system. But this "disability" regarding CSX's and NS's independent operations results directly from the approved transaction in Decision No. 89. As such, it cannot form the basis for holding Conrail liable to AT&T. *See Consolidation Coal,* slip op. at 6 (Conrail "simply cannot be held liable, under State law, for entering into a contract (here the 1997 [Transaction] Agreement) that contemplates a transaction (here, the CSX/NS/CRC transaction) that [the Board], acting under [its] exclusive authority under 49 U.S.C. 11323-25, [has] authorized [Conrail] to consummate.").

The second issue before the Board is whether Decision No. 89 preempts the application of the MFN clause to post-Split Date fiber optic contracts that CSX/NYC or NS/PRR have entered into, or may in the future enter into, over which Conrail has no

control. Conrail is no longer operating the allocated lines and has no knowledge of or control over the terms of the proprietary agreements that these companies, operated independently of Conrail, may enter into. Conrail cannot make the business judgment required by the MFN clause about whether a new fiber optic contract on those lines should be priced at more, less, or the same as the per-mile rate in the AT&T contract. (CSX/NYC and NS/PRR are also unable to make that judgment, because they operate independently of each other and of Conrail.) Because these are direct and necessary consequences of the approved transaction, any claim that Conrail is liable for the application of the MFN clause to new contracts made by CSX/NYC or NS/PRR on the divested lines should be preempted under Section 11321(a).

The third issue before the Board arises from the unique nature of the contract that Conrail entered into with Qwest in 1996. Under that contract, Conrail was "paid" for the fiber optic rights it gave Qwest over a large portion of Conrail's former system by the telecommunications services that Qwest made available to Conrail. After the Split Date, however, Conrail could no longer make any use of Qwest's services over most of its former system, nor could it require CSX or NS to use those services. Insofar as AT&T may claim under the MFN clause that it should pay no more for its fiber optic installations after the Split Date than the value of the Qwest services Conrail has been able to use after the Split Date, such a claim should be preempted by Section 11321(a). Conrail's inability to use Qwest's telecommunications services after the Split Date resulted directly from the dismantlement of Conrail's system approved by the Board in Decision No. 89, and the fact that the approved transaction resulted in a vastly reconfigured Conrail rail system not in need of thousands of miles of Qwest

telecommunications services should not be permitted to be used by AT&T to obtain free use of any of the right of way allocated or retained by Conrail.

It bears emphasizing that ***none*** of the three narrow issues before the Board requires it, or even permits it, to decide what the state contract law consequences are of its decisions on these issues. In particular, the Board need not decide what the preemption of the three claims at issue here means for the enforceability of the FOC License Agreement as a whole.[1] The District Court will decide the applicable state contract law issues after receiving the Board's decisions on the three narrow questions before it.[2]

---

[1] For example, AT&T has argued that if Conrail cannot be held liable for its inability to apply the MFN clause to individual line segments where CSX/NYC or NS/PRR may enter into their own contracts, then the entire FOC License Agreement should be terminated. Conrail does not believe either that the MFN clause was "of the essence" to the FOC License Agreement or that restrictions on its application to individual CSX/NYC or NS/PRR line segments after the Split Date could justify terminating the entire FOC License Agreement. But those state contract law questions are for the District Court to decide in light of the Board's holding on the three preemption issues before it.

[2] The Board in its October 10 Decision suggested that Conrail appeared to be asking the Board to address whether Decision No. 89 preempts post-Split Date application of the MFN clause "even as respects lines that [Conrail] retained." Slip Op. at 7. Conrail is not asking the Board to make such a determination. Conrail's position is that the MFN clause continues to apply with respect to those lines that Conrail retained after the Split Date. The only issue that could implicate lines that Conrail retained is the issue of whether the Qwest "barter" arrangement can be used by AT&T after the Split Date to justify (under AT&T's theory) reducing virtually to zero AT&T's license payments on all lines, including lines Conrail retained, covered by the FOC License Agreement.

BACKGROUND

A. The FOC License Agreement, The Conrail Control Transaction, And AT&T's Litigation Against Conrail.

In 1984, AT&T and Conrail entered into the FOC License Agreement, which provided for AT&T to install fiber optic cable along Conrail's right of way. One clause in the 58-page FOC License Agreement was the MFN clause at issue here, which reads:

> CONRAIL covenants and agrees that, in the event it enters into any agreement with a party other than [AT&T] providing for the use by such party of right of way owned or controlled by CONRAIL for the installation of a [fiber optic cable] system between any two points on the Licensed Premises, whether such system is to be installed on the Licensed Premises or parallel to the Licensed Premises, CONRAIL will, at its option, either (i) charge such other party a per mile fee at least equal to the average per mile fee (including adjustments thereto referred to in Paragraphs 3 and 4 hereof), between such two points which [AT&T] is obligated to pay CONRAIL pursuant to this License, or, in the alternative, (ii) reduce its average per mile fee between such two points to [AT&T] to the average per mile fee charged to such other party.

Exh. 3, ¶ 11.2. The initial term of the FOC License Agreement was for fifteen years, but it contained two fifteen-year renewal options. AT&T expressed its intent to exercise its right to renew the FOC License Agreement in 1997, and the renewal became effective January 1, 1999.

Pursuant to the FOC License Agreement, AT&T installed fiber optic cable along some 2700 miles of Conrail right of way. Conrail also entered into numerous agreements with other fiber optic cable licensees, many of which installed fiber optic cable on some of the same line segments as AT&T. Among these was the 1996 "barter" contract that Conrail made with Qwest, which provided that Qwest would "pay" for its fiber optic installation on Conrail's system by making its fiber optic lines available for Conrail's

railroad-operation-related communications. Qwest completed building its network along Conrail's right of way in 1999.

In June 1997, Conrail entered into the Transaction Agreement with CSX and NS. The Board reviewed and approved the Transaction Agreement, with certain modifications and conditions, in Decision No. 89. This resulted in the division of the great majority (approximately 90 percent) of Conrail's assets on the June 1, 1999 Split Date between NYC and PRR. Pursuant to the Transaction Agreement, as approved by the Board, Conrail retained the AT&T FOC License Agreement, even though the majority of the rail lines along which AT&T's fiber optic cable was installed were allocated to NYC and PRR and are operated, respectively, by CSX and NS. Exh. 1, § 2.2(c)(vi)(d), at 21. Conrail did not retain any rights to enter into new fiber optic agreements for cable located along NYC or PRR rights of way after the Split Date. Notably, AT&T did not participate in the proceedings leading up to Decision No. 89 or otherwise assert any concerns to the Board about the effects of the transaction.[3]

On January 10, 2003 – five years after CSX, NS and Conrail submitted their transaction for Board approval, and over four years after the Board issued Decision No. 89 – AT&T filed its Complaint against Conrail seeking to impose its interpretation of the MFN clause in the FOC License Agreement. The time period covered by the Complaint begins with the original execution of the FOC License Agreement in 1984, after which Conrail entered into numerous fiber optic contracts with other companies. AT&T's

---

[3] Approximately 160 entities that had contracts with Conrail potentially affected by the CSX/NS/Conrail transaction, including, among others, various utility, trucking, and manufacturing companies, submitted their comments, objections, and concerns about the transaction to the Board. Decision No. 89, 3 S.T.B. at 250.

Complaint, however, is not limited to fiber optic contracts that Conrail has entered into. AT&T alleges, among other things, that Conrail

> also has breached the MFN Covenant, and repudiated the License Agreement, by transferring to [NYC and PRR] its interests in some or all of the right of way that is subject to AT&T's license and then disclaiming any further obligation to AT&T with respect to the transferred right of way and disabling itself of the ability to perform its obligations under the MFN Covenant.

Exh. 2, ¶ 4; *see also id.* ¶ 39.c (seeking to hold Conrail liable for fiber optic agreements entered into by CSX/NYC and NS/PRR along former Conrail right of way); *id.* ¶ 39.d (seeking to hold Conrail liable for "divesting itself of the ability to perform its obligations" as a result of Decision No. 89); *id.* ¶ 39.e (alleging breach of contract by failing to disclose terms of agreements made by CSX/NYC and NS/PRR along former Conrail right of way); *id.* ¶ 41 ("Conrail's breaches of the License Agreement identified in Paragraphs 39(c) and (d) above constitute a repudiation of the License Agreement.").

As a result of these alleged breaches, AT&T claims that it has suffered damages, for which Conrail should be held liable, "to the extent that [CSX/NYC or NS/PRR] may have entered into one or more agreements providing for the use of the MFN ROW in return for an average per mile license fee that is less than the average per mile fee paid by AT&T for the MFN ROW." *Id.* ¶ 42. AT&T also seeks a declaratory judgment from the District Court that the MFN clause is applicable to any agreements – including agreements entered into by CSX/NYC and NS/PRR – pertaining to former Conrail right of way (*id.* ¶ 45), and that "Conrail has repudiated the License Agreement as a result of Conrail's disabling itself of the ability to perform its obligations under the MFN Covenant." *Id.* ¶ 46. AT&T alternatively seeks a declaratory judgment from the District Court that Conrail must reduce AT&T's average per-mile fee to any amount charged to

third-party licensees along former Conrail right of way "where any license agreement provides for the use of the MFN ROW for a FOC system" and that Conrail must disclose future agreements in its possession, custody, or control, "even if Conrail is not a party to the agreements." *Id.* ¶ 47a, b; *see also id.* ¶ 47.c (requesting an annual accounting).

Conrail filed simultaneously with the Board a petition for institution of a declaratory order proceeding and with the District Court a motion for partial dismissal for lack of subject matter jurisdiction or, in the alternative, for partial referral to the Board. Both the petition to the Board and the motion to the District Court addressed the same three questions:

> 1. Whether Decision No. 89 preempts any claim that Conrail breached the MFN clause by "divesting itself of the ability to perform its obligations" under the MFN clause after the Split Date.
>
> 2. Whether Decision No. 89 preempts any claim against Conrail arising from the application of the MFN clause to fiber optic contracts separately entered into by CSX/NYC and NS/PRR, including any subsidiaries of those entities, regarding former Conrail lines after the Split Date.
>
> 3. Whether Decision No. 89 preempts any claim against Conrail arising from the application of the MFN clause insofar as the ownership and operation of former Conrail right of way by CSX/NYC and NS/PRR after the Split Date renders Conrail's compliance with that clause commercially impossible or impracticable.

On September 29, 2003, the District Court denied Conrail's motion for partial dismissal of the case, and granted on grounds of primary jurisdiction Conrail's motion for partial referral of the case to the Board.[4] The District Court referred to the Board the

---

[4] The judge originally assigned to the case, Judge Kauffman, recused himself after hearing oral argument on Conrail's motion. Judge Rufe was then assigned to the case. (cont'd)

same three questions that were posed in Conrail's earlier petition for declaratory order. Following the District Court's decision, the Board issued its October 10 Decision instituting this declaratory order proceeding.

B. The Law Of Preemption Under Section 11321(a).

Section 11321(a) and its statutory predecessors have long included an important and necessary preemption provision supporting the Board's exclusive authority to approve or exempt control transactions under Sections 11323-24:

> A rail carrier, corporation, or person participating in that approved or exempted transaction is ***exempt from the antitrust laws and from all other law, including State and municipal law***, as necessary to let that rail carrier, corporation, or person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction. [Emphasis added.]

In *Norfolk & Western Railway Co. v. American Train Dispatchers' Association,* 499 U.S. 117 (1991), the Supreme Court held that the preemption of "all other law" in Section 11321(a) includes the preemption of "laws that govern the obligations imposed by contract," as necessary for a person to carry out a Board-approved transaction. *Id.* at 129.

Preemption under Section 11321(a) is "self-executing." This means that there need not be any express discussion by the Board, in approving a control transaction, of the preemption of a particular law or contractual provision. *See, e.g., ICC v. Brotherhood of Locomotive Eng'rs,* 482 U.S. 270, 298 (1987) (Stevens, J., concurring) ("The breadth of the exemption is defined by the scope of the approved transaction, and no explicit announcement of exemption is required to make the statute applicable.") (citation

---

(... cont'd)
After reviewing the record and holding a conference with the parties, Judge Rufe issued the District Court's September 29, 2003 decision.

omitted). To be sure, the Board provides ample opportunity for parties who believe they may be disadvantaged by a control transaction to make their views known in the Board's approval proceedings. However, neither the failure of a party to seek a preemption ruling from the Board nor the failure of the Board *sua sponte* to issue a preemption ruling provides a basis for finding that Section 11321(a) does not apply when a conflict is later brought to the Board's attention.

Nor does the question of preemption under Section 11321(a) turn on whether enforcement of the law or contract provision at issue would "foreclose" the transaction. The "necessity" test of Section 11321(a) requires only that there be a nexus between the effectuation of the purposes of the transaction and the preemption of the law or contract provision at issue. *See RLEA v. United States,* 987 F.2d 806, 814-15 (D.C. Cir. 1993) (the ICC "reasonably interpreted this standard to mean 'necessary to effectuate the purpose of the transaction'"). *See also Swonger v. STB,* 265 F.3d 1135, 1141-42 (10th Cir. 2001) ("We agree that the necessity standard does not require a finding . . . that the merger could not be effectuated without the specific changes that are proposed"), *cert. denied,* 535 U.S. 1053 (2002).

The Board does not engage in "contract interpretation" in order to apply the preemption provision of Section 11321(a) to private contracts. *See Reiter v. Cooper*, 507 U.S. 258, 268-69 (1993). Instead, the Board assumes that the contract claim being made by the party seeking to apply the provision at issue could be upheld by a court and then determines whether that claim, if upheld, would be preempted. The issue is not how to interpret the contract, but whether to preempt its enforcement in the way that it is being interpreted. *See Consolidation Coal*, slip op. at 4-5 n.4.

Significantly, these principles have all been applied by the Board in connection with the Conrail control transaction itself. In Decision No. 89, the Board stressed that "the courts have made clear that, under what is now 49 U.S.C. 11321(a), agency approval of a rail merger confers ***self-executing immunity*** on all material terms of the transaction from all other laws to the extent necessary to permit implementation of the transaction." 3 S.T.B. at 329 n.198 (emphasis added). Where parties raised issues about how particular contract rights might be affected, the Board addressed them, but it did not attempt to make its own determinations about how those contracts should be interpreted. Thus, when addressing the claim of the Providence & Worcester Railroad ("P&W") that it had a contract with Conrail that gave P&W a right of first refusal to buy a freight station that was slated to be allocated in the transaction to CSX, the Board did not make its own analysis of the sufficiency under state law of the contract claim that P&W then had pending in court. Rather, on the assumption that the court could find that P&W had a valid contract claim, the Board held that enforcement of that claim was preempted under Section 11321(a). *Id.* at 307-08.

After Decision No. 89, the Board in *Consolidation Coal* received a referral from the District Court for the Eastern District of Pennsylvania, pursuant to which the Board applied Section 11321(a) to post-Split Date contract claims that a company operating a coal transload facility in Baltimore had made against Conrail. Because Conrail was incapable after the Split Date of performing the "take-or-pay" contract it had with the transload company, Conrail argued that the company's contract claims for damages and declaratory relief were preempted. The Board agreed. The Board rejected the transload company's claim that Conrail should be held responsible for the operations of CSX/NYC

or NS/PRR in Baltimore, over which Conrail had no control. *See Consolidation Coal,* slip op. at 5-6. The Board also rejected the transload company's argument that preemption of Conrail's contractual obligations was not "necessary to carry out the transaction," because Conrail could pay damages without unwinding the transaction. *Id.* at 6 & n. 5 ("[T]he necessity test [for preemption] does not require a finding that the merger could not go forward . . . . [I]nsolvency is not a requirement for the protection of § 11321(a)."). In light of the Board's decision, on remand to the District Court, the transload company's post-Split Date contract claims were dismissed.

ARGUMENT

I. Decision No. 89 Preempts Any Claim That Conrail Breached The MFN Clause By Disabling Itself Of Its Ability To Perform, After The Split Date, Its Obligations Under That Clause.

AT&T's Complaint alleges that Conrail "has breached the MFN Covenant, and repudiated the [FOC] License Agreement, by transferring to [NYC and PRR] its interests in some or all of the right of way that is subject to AT&T's license and then disclaiming any further obligation to AT&T with respect to the transferred right of way and disabling itself of the ability to perform its obligations under the MFN covenant." Exh. 2, ¶ 4. In the same vein, AT&T seeks to hold Conrail liable for "divesting itself of the ability to perform its obligations" as a result of Decision No. 89 and alleges that "Conrail has repudiated the [FOC] License Agreement as a result of [its] disabling itself of the ability to perform its obligations under the MFN Covenant." *Id.* ¶¶ 39.d, 46; *see also id.* ¶ 41

("Conrail's breaches of the License Agreement identified in Paragraphs 39(c) and (d) above constitute a repudiation of the License Agreement.").[5]

AT&T's attempt to hold Conrail liable for its "divestment" of assets and its alleged "repudiation" of the FOC License Agreement is preempted because, in approving the Conrail control transaction, the Board approved not only the "divestment" of the allocated Conrail lines, but also Conrail's retention of the FOC License Agreement, which was expressly provided for in the Transaction Agreement. Whether Conrail transferred the allocated lines and retained the FOC License Agreement "voluntarily," as AT&T emphasizes, is beside the point. That was the transaction that was found to be in the public interest by the Board. Whatever the appropriate interpretation of the MFN clause, Conrail cannot be held liable for "repudiating" the FOC License Agreement by virtue of both retaining the FOC License Agreement and transferring most of its right of way for independent operation by CSX and NS. As the Board concluded in *Consolidation Coal*, Conrail "simply cannot be held liable, under State law, for entering into a contract (here, the 1997 [Transaction] Agreement) . . . that we, acting under our

---

[5] Despite this comparatively straightforward language, AT&T has asserted that it "does not challenge the Conrail Transaction or the right of way transfer in any way," but instead challenges "Conrail's disclaimer of any future obligation to AT&T *because of* its having voluntarily transferred its right of way, despite the fact that it retained the License Agreement." AT&T Communications, Inc.'s Response In Opposition to Conrail's Petition for Institution of a Declaratory Order Proceeding, dated April 7, 2003, at 15 (citation omitted). To the extent AT&T is merely arguing that the MFN clause should apply to fiber optic contracts entered into by CSX/NYC or NS/PRR along former Conrail right of way – and that paragraphs 4, 39.d, 41, and 46 of its Complaint are mere surplusage – then it should withdraw the claims set forth in those paragraphs that Conrail has "repudiated" the FOC License Agreement by "divesting" or "disabling" itself of the ability to enforce the MFN clause.

exclusive authority under 49 U.S.C. 11323-25, have authorized [Conrail] to consummate." Slip op. at 6.

II. Decision No. 89 Preempts Any Claim Against Conrail Arising From The Application, After The Split Date, Of The MFN Clause To FOC Contracts Separately Entered Into By CSX/NYC and NS/PRR, Including Any Subsidiaries Of Those Entities, Regarding Former Conrail Lines.

The narrow question to be resolved here is whether the Board's approval of the CSX/NS/Conrail transaction in Decision No. 89, and the subsequent allocation of Conrail rail lines pursuant to that Board-approved transaction, preempts any claim against Conrail arising from the application of the MFN clause to fiber optic contracts that CSX/NYC or NS/PRR negotiate along former Conrail right of way. The answer to that simple question is yes.[6]

The Transaction Agreement sets forth the parties' rights and obligations as they relate to fiber optic contracts:

> All Contracts granting any unrelated Person the right to bury fiber optic cable longitudinally along Assets shall be designated as Retained Assets (if any Assets in respect of which such rights are given are Allocated Assets, NYC or PRR, as the case may be, will license or otherwise grant rights to CRC or its Affiliates to maintain the subject matter of the Contracts granting such rights), except where such rights relate only to either NYC Allocated Assets or PRR Allocated Assets, in

---

[6] AT&T may attempt to reformulate the issue as "whether enforcement of the AT&T License Agreement would block the continued implementation of the Conrail Transaction." *See* October 10 Decision, slip op. at 7 n.16. But that is not the test for determining whether Section 11321 preemption applies. The "necessity" test requires only that a nexus exists between the preemption of the law or contract provision at issue and the effectuation of the purposes of the transaction. *See Consolidation Coal*, slip op. at 6 (citing *RLEA v. United States*, 987 F.2d 806, 814-15 (D.C. Cir. 1993); *Swonger v. STB*, 265 F.3d 1135 (10th Cir. 2001), *cert. denied*, 535 U.S. 1053 (2002)). Such a nexus exists here. The allocation of Conrail lines and the right of CSX/NYC and NS/PRR independently to negotiate fiber optic contracts along former Conrail right of way was a part of the Transaction Agreement approved by the Board and was necessary to carry out the transaction. Otherwise, CSX and NS could not enjoy the economic benefits of the transaction as well as the ability to manage the Allocated Assets.

> which case such Contracts shall be designated in the same manner as such Allocated Assets; provided that NYC and PRR shall, to the extent permitted under such Contracts that are designated as Retained Assets, be given equal access to CRC's or its Affiliate's rights to use capacity on such fiber optic cable and shall participate equally in any other benefits of such Contracts.

Exh. 1, § 2.2(c)(vi)(d), at 21. The Transaction Agreement makes clear that 1) fiber optic contracts (present and future) regarding cable buried exclusively along NYC right of way were allocated to NYC; 2) fiber optic contracts (present and future) regarding cable buried exclusively along PRR right of way were allocated to PRR; and 3) the remaining fiber optic contracts were retained by Conrail. Conrail did not retain the authority to negotiate new fiber optic contracts along NYC or PRR right of way after the Split Date. That right is vested exclusively with either CSX/NYC or NS/PRR.

AT&T nevertheless seeks to apply the MFN clause to contracts that Conrail is not administering or negotiating, along rail lines and right of way that Conrail no longer controls. The Board should find that any such attempt to whipsaw Conrail is preempted. Under the MFN clause, Conrail has two options: "(i) charge such other party a per mile fee at least equal to the average per mile fee . . . between such two points which [AT&T] is obligated to pay CONRAIL pursuant to this License, or, in the alternative, (ii) reduce its average per mile fee between such two points to [AT&T] to the average per-mile fee charged to such other party." Exh. 3, ¶ 11.2. As a result of the transaction approved in Decision No. 89, Conrail cannot exercise either option in relation to contracts that CSX/NYC or NS/PRR independently negotiate and administer.

First, because Conrail has no ability post-Split Date to negotiate fiber optic contracts for the lines allocated to NYC or PRR, it cannot charge other parties a per-mile fee equal to the average per-mile fee that AT&T pays pursuant to the FOC License

Agreement. Nor can Conrail require CSX/NYC or NS/PRR to charge other parties a per-mile fee equal to the average AT&T per-mile fee. In short, because Conrail has no control whatsoever over the actions of CSX/NYC or NS/PRR relating to fiber optic contracts that these companies negotiate independently along their lines, the first option in the MFN clause is nullified by the Transaction Agreement approved in Decision No. 89.

Second, Conrail does not have the ability to apply the MFN clause's price-matching provision. Because Conrail is no longer operating the Allocated Assets, it cannot make the business judgment required by the MFN clause about whether a new fiber optic contract on those lines should be priced at more, less, or the same as the per-mile rate in the AT&T contract. Conrail has no knowledge of or control over the contracts that CSX/NYC or NS/PRR may enter into. Neither can CSX/NYC or NS/PRR make a rational judgment about the pricing of new fiber optic contracts in relation to AT&T's contract, because they operate independently of one another and of Conrail.[7] In other words, Conrail has lost any ability to make rational economic decisions under the MFN clause, on a contract-by-contract basis, regarding the negotiation of fiber optic contracts along the Allocated Assets. The second option in the MFN clause has effectively been vitiated by the Transaction Agreement.

Conrail seeks here only a determination by the Board that enforcement of the MFN clause against Conrail is preempted as to fiber optic contracts that CSX/NYC or NS/PRR may negotiate on allocated lines. The Board need not – and should not – decide

---

[7] Significantly, CSX and NS are permitted and expected to operate the Allocated Assets as integral parts of the rest of their respective networks, and this includes the right to contract for fiber optic licenses that stretch far beyond the original Conrail system.

what the contractual consequences of that limited preemption are for the FOC License Agreement as a whole. Insofar as AT&T argues that the FOC License Agreement should be terminated or reformed if the MFN clause cannot be enforced with respect to CSX/NYC or NS/PRR contracts, those are arguments that the District Court can evaluate under principles of Pennsylvania law.[8] Conrail does not believe as a matter of state contract law that the limited preemption of application of the MFN clause with respect to segments of the allocated lines where CSX/NYC or NS/PRR have negotiated their own fiber optic terms requires or justifies altering the remainder of the FOC License Agreement. AT&T continues to operate its fiber optic system over 2700 miles of current and former Conrail lines, and the MFN clause has always been, and continues to be, enforceable with respect to all fiber optic contracts that Conrail has entered into. But the Board need not intervene in that contractual dispute, which is for the District Court to interpret and resolve.

III. Decision No. 89 Preempts Any Claim Against Conrail Arising From The Application Of The MFN Clause Insofar As The Post-Split Date Ownership And Operation Of Former Conrail Right Of Way By CSX/NYC And NS/PRR Renders Conrail's Compliance With That Clause Commercially Impossible Or Impracticable.

The third issue before the Board concerns the 1996 Qwest "barter" contract, which permitted the installation of Qwest fiber optic cable along Conrail's right of way and provided that Qwest would compensate Conrail by giving Conrail access to Qwest's fiber optic cable lines for Conrail's railroad-operation-related communications. The parties have substantial contractual disputes concerning the applicability of the MFN

---

[8] The FOC License Agreement contains a choice of law provision identifying Pennsylvania law as governing law for interpreting the contract. Exh. 3, ¶ 16.6.

Clause to this unique contract, but most of those disputes are not before the Board. Among AT&T's claims, however, is an apparent claim (which Conrail contests) that the value to Conrail of the Qwest agreement is the "cost" to Qwest of providing service to Conrail, which can then be converted to a per-mile charge and applied under the MFN clause to AT&T's own parallel cable installations. *See* AT&T's Opposition, filed April 4, 2003, in *AT&T Communications, Inc. v. Consolidated Rail Corp.*, C.A. No. 03 CV 147, at 21-22 & n.15. As a result of the transaction approved in Decision No. 89, Conrail after the Split Date has need of virtually none of Qwest's services, and Conrail cannot require CSX or NS to use those services either. AT&T apparently claims that the result under the MFN clause should be that AT&T pays virtually nothing for its own parallel installations after the Split Date.

The issue here is whether AT&T's apparent claim – assuming that it could pass contractual muster – should be preempted under Section 11321(a). Conrail believes that such a claim should be preempted. As the Board well knows, the driving force behind Decision No. 89 was the transfer of most of Conrail's rail assets to NYC and PRR, for integration into the systems and operations of CSX and NS, respectively. Accordingly, as a direct result of the approved transaction, Conrail's need for Qwest's fiber optic cable for continued Conrail operations largely vanished.

AT&T should not be entitled to a free ride merely because Conrail has been stripped by Decision No. 89 of the ability to use Qwest's services. Accordingly, insofar as it may be possible to interpret the MFN clause as AT&T would apparently interpret it, Conrail requests that the Board find that such a post-Split Date claim is preempted as a result of Decision No. 89.

IV. The Consolidation Transaction In STB Finance Docket No. 33388 (Sub-No. 94) Will Have No Impact On The Three Issues Being Considered By The Board.

In its October 10 Decision, the Board observed that the District Court noted in its Memorandum Opinion and Order that there is currently pending before the Board a petition in STB Finance Docket No. 33388 (Sub-No. 94) for a supplemental order authorizing the consolidation of NYC with CSX and the consolidation of PRR with NS. Oct. 10 Decision, slip op. at 8. The Board asked the parties to address in their submissions "whether (and if so, how) the transaction proposed in STB Finance Docket No. 33388 (Sub-No. 94) affects the proper resolution of the three specific questions raised in Conrail's declaratory order petition." *Id.* at 8.

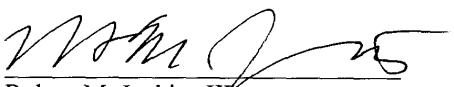
The answer is that the consolidation transactions proposed in STB Finance Docket No. 33388 (Sub-No. 94) are not relevant to the proper resolution of the three specific questions here. As the Board summarized the petitioners' position in its decision served July 9, 2003, in that proceeding, the proposed consolidations "will simply permit CSX and NS to acquire direct ownership and exclusive control of Conrail properties that they already own indirectly (through their joint ownership of Conrail) and that they are already authorized (pursuant to Decision No. 89) to operate and manage separately as part of their respective rail systems." July 9 Decision, slip op. at 7. The Board already held in *Consolidation Coal* that, for purposes of the Board's contract preemption analysis under Section 11321(a), the corporate parent-subsidiary relationship between Conrail and NYC and PRR cannot belie the STB-approved reality that CSX and NS, respectively, control NYC and PRR. *Consolidation Coal*, slip op. at 6 ("[E]ven though PRR is a Conrail subsidiary, it is controlled by NSC and it is operated as a part of the NS rail

system."). The proposed consolidations of NYC with CSX and of PRR with NS are fully consistent with that existing reality. Thus, the answers to the three questions posed in this case are the same regardless of the approval of the consolidation transactions proposed in STB Finance Docket No. 33388 (Sub-No. 94).

CONCLUSION

For the foregoing reasons, the Board should find that AT&T's claims against Conrail are preempted as set forth in Issues I, II, and III above.

Respectfully submitted



Robert M. Jenkins III
Brad P. Rosenberg
MAYER, BROWN, ROWE
& MAW LLP
1909 K Street, N.W.
Washington, DC 20006
(202) 263-3261

Jonathan M. Broder
John K. Enright
CONSOLIDATED RAIL CORPORATION
16th Floor
2001 Market Street
Philadelphia, PA 19103
(215) 209-5020

Ralph G. Wellington
Nancy Winkelman
SCHNADER HARRISON SEGAL
& LEWIS LLP
1600 Market Street
Suite 3600
Philadelphia, PA 19103
(215) 751-2000

Attorneys for Consolidated Rail Corporation

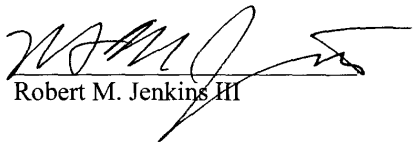
Dated: October 27, 2003

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of October, 2003, I caused copies of the foregoing Consolidated Rail Corporation's Opening Evidence and Argument to be served by hand upon:

Robert J. Higgins, Esq.
Howard N. Feldman, Esq.
Laura H. Hamilton, Esq.
Jorge Kotelanski, Esq.
B. Haven Walling, Jr.
Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, NW
Washington, DC 20037-1526

Paul H. Lamboley, Esq.
1701 Pennsylvania Avenue
Suite 300
Washington, DC 20006



Robert M. Jenkins III

TRANSACTION AGREEMENT

by and among

CSX CORPORATION,

CSX TRANSPORTATION, INC.,

NORFOLK SOUTHERN CORPORATION,

NORFOLK SOUTHERN RAILWAY COMPANY,

CONRAIL INC.,

CONSOLIDATED RAIL CORPORATION

and

CRR HOLDINGS LLC

Dated as of June 10, 1997

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS

Section 1.1. Defined Terms 1
Section 1.2. Other Definitive Provisions 15

ARTICLE II

DESIGNATION AND ALLOCATION OF ASSETS AND LIABILITIES

Section 2.1. Conveyance of Assets. 16
Section 2.2. Allocation of Certain Assets 16
Section 2.3. System Support Operations; Dispatching 24
Section 2.4. Transition Period Accommodation 27
Section 2.5. Trackage, Haulage, Shared Asset and Other Operating Agreements 30
Section 2.6. Equipment 30
(a) Locomotive Equipment. 30
(b) Rolling Stock Equipment 31
(c) Work Equipment 32
(d) Assignment 32
(e) Lease of Equipment 32
(f) Equitable Adjustment 33
Section 2.7. Inventory at Altoona and Hollidaysburg 33
Section 2.8. Allocated and Retained Liabilities 34
Section 2.9. Other Liabilities 35
Section 2.10. Interline Accounts and Allocation 36
Section 2.11. Insurance Proceeds 37

ARTICLE III

CLOSING AND CLOSING DATE

Section 3.1. Closing 37
Section 3.2. Pre-Closing Actions 37
Section 3.3. Closing Deliveries 37

ARTICLE IV

CRR PARENT, CRR AND CRC GOVERNANCE AND FUNDING

Section 4.1. Pre-Control Date Matters 39
Section 4.2. Post-Control Date CRC Governance 40
Section 4.3. Post-Closing Date CRC Funding 41
Section 4.4. Post-Control Date CRC and Other Distributions. 41
Section 4.5. Operating Fees, Interest Rentals and Base Rent 42

ARTICLE V

NYC and PRR GOVERNANCE AND CONDUCT

Section 5.1. NYC Governance 42
Section 5.2. PRR Governance 43
Section 5.3. NYC and PRR Actions 43
Section 5.4. NYC and PRR Distributions 43
Section 5.5. Actions 43

ARTICLE VI

EMPLOYEE MATTERS

Section 6.1. Employees of CRR and CRC 43
Section 6.2. Employee Related Liabilities 44
Section 6.3. Non-Agreement Employee Benefit Plans 46
Section 6.4. Residual Liability 47

ARTICLE VII

REPRESENTATIONS AND WARRANTIES

Section 7.1. CSX 48
(a) Organization and Good Standing 48
(b) Authority 48
(c) Enforceability 48
(d) No Violation 48
(e) No Approvals 48
Section 7.2. NSC 49
(a) Organization and Good Standing 49
(b) Authority 49
(c) Enforceability 49
(d) No Violation 49
(e) No Approvals 49

ARTICLE VIII

COVENANTS

Section 8.1.	Conduct of Business	50
Section 8.2.	Best Efforts	50
Section 8.3.	Further Assurances; Consents	50
Section 8.4.	STB Approval	51
Section 8.5.	Other Approvals	52
Section 8.6.	INTENTIONALLY OMITTED	52
Section 8.7.	Risk of Loss; Forced Disposal	53
Section 8.8.	Public Statements; Public Filings	53
Section 8.9.	Restructuring of CRC	53
Section 8.10.	Provision of Corporate Records	55
Section 8.11.	Access to Information	55
Section 8.12.	Production of Witnesses and Individuals	56
Section 8.13.	Confidentiality	56
Section 8.14.	Privileged Matters	57
Section 8.15.	Administration of Actions	58
Section 8.16.	Administration of FELA Claims	59
Section 8.17.	Tax Matters	60
Section 8.18.	Committees	60
Section 8.19.	Chicago Gateway Access	60
Section 8.20.	Car Hire and Car Service	61

ARTICLE IX

CONDITIONS PRECEDENT TO THE CLOSING

Section 9.1.	Conditions Precedent to Obligations	61

ARTICLE X

INDEMNIFICATION

Section 10.1.	Indemnification	62
Section 10.2.	Indemnification Procedures	62
Section 10.3.	Remedies	63

ARTICLE XI

MISCELLANEOUS

Section 11.1.	Amendment	64
Section 11.2.	Extension; Waiver	64
Section 11.3.	Notices	64
Section 11.4.	Interpretation	65
Section 11.5.	Entire Agreement	65
Section 11.6.	Parties in Interest	66

Section 11.7. Governing Law 66
Section 11.8. Counterparts 66
Section 11.9. Assignment 66
Section 11.10 Severability 67
Section 11.11. Lack of Control; Effect on CRR and its Controlled Subsidiaries 67
Section 11.12. Dispute Resolution 67
Section 11.13. CRC Status 68

Schedule 1
Assets
Attachment I
Attachment II

Schedule 2
Major Decisions

Schedule 3
Preservation of Fair Access to Chicago Gateway

Schedule 4
Schedule of Trackage Rights, Haulage, Shared Assets and Other Operating Agreements

Exhibit A
Form of Operating Agreements
Exhibit A-1 (CSXT Operating Agreement)
Exhibit A-2 (NSR Operating Agreement)

Exhibit B
Form of LLC Agreements

Exhibit C
Form of Trackage Rights Agreements
Exhibit C-1 (NSR on CSXT)
Exhibit C-2 (CSXT on NSR)

Exhibit D
Form of CSX/NSC Haulage Agreements

Exhibit E
Form of Capital Contribution, Assignment And Assumption Agreements

Exhibit F
Tax Allocation Agreement

Exhibit G
North Jersey Shared Assets Agreement

Exhibit H
South Jersey/Philadelphia Shared Assets Agreement

Exhibit I
Detroit Shared Assets Agreement

Exhibit J
Ashtabula Interlocking Agreement

Exhibit K
CP-Mounds Interlocking Agrement

Exhibit L
Warsaw Interlocking Agreement

Exhibit M
Crestline Interlocking Agreement

Exhibit N
Buckeye Interlocking Agreement

Exhibit O
Mike Interlocking Agreement

Exhibit P
Bucyrus Interlocking Agreement

Exhibit Q
CP 138 Interlocking Agreement

Exhibit R
Short Interlocking Agreement

Exhibit S
Berea Interlocking Agreement

Exhibit T
Ashtabula Access Agreement

Exhibit U
Seneca Yard Access Agreement

Exhibit V
Ford (Rockport) Switching Agreement

Exhibit W
GM Parma Switching Agreement

Exhibit X
Indianapolis Switching Agreement

Exhibit Y
GM Lordstown Switching Agreement

Exhibit Z
Lorain Switching Agreement

Exhibit AA
Fairlane Switching Agreement

Exhibit BB
Crawfordsville Switching Agreement

Exhibit CC
Sidney Switching Agreement

Exhibit DD
Sandusky Switching Agreement

Exhibit EE
Upper Sandusky Switching Agreement

Exhibit FF
Indiana Harbor Belt Agreement

Exhibit GG
Monongahela Access and Use Agreement

Exhibit HH
Park Manor Temporary Lease Agreement

Exhibit II
NSR and CSXT Construction Rights Agreement

Exhibit JJ
NSR Buckeye Construction Rights Agreement

Exhibit KK
NSR Field-Belmont Construction Rights Agreement

Exhibit LL
Erie Deed of Easement

Exhibit MM
Fort Wayne-Chicago/Streator Line Exchange Agreement

Exhibit NN
Piqua Yard Agreement

Exhibit OO
Elizabethport Yard Access Agreement

Exhibit PP
Agreement for Assignment of CRC Rights

Exhibit QQ
CSXT Eastwick Construction Agreement

Exhibit RR
Agreement for Assignment of CRC Rights
(Northeast Corridor)

Exhibit SS
Agreement for Assignment of Chicago Rights

TRANSACTION AGREEMENT

TRANSACTION AGREEMENT, dated as of June 10, 1997 ("Agreement"), by and among CSX CORPORATION, a Virginia corporation ("CSX"), CSX TRANSPORTATION, INC., a Virginia corporation, for itself and on behalf of its controlled Subsidiaries (collectively, "CSXT"), NORFOLK SOUTHERN CORPORATION, a Virginia corporation ("NSC"), NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation, for itself and on behalf of its controlled Subsidiaries (collectively, "NSR"), CONRAIL INC., a Pennsylvania corporation, for itself and on behalf of its controlled Subsidiaries (collectively, "CRR"), CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation ("CRC"), and CRR HOLDINGS LLC, a Delaware limited liability company ("CRR Parent").

WHEREAS, CSX and NSC have entered into a letter agreement dated as of April 8, 1997 (the "April 8 Agreement").

WHEREAS, pursuant to the April 8 Agreement, CSX and NSC have jointly acquired all of the outstanding capital stock of CRR through CRR Parent, in which CSX and NSC each owns a 50% voting interest.

WHEREAS, CSX and NSC are seeking the approval of the STB to undertake the transactions contemplated by this Agreement and the April 8 Agreement.

WHEREAS, pursuant to the April 8 Agreement the parties wish to provide herein for the governance and operation of CRR and its Affiliates and for the basis pursuant to which CRR's assets and liabilities will be allocated to or shared by CSX and its Affiliates, on the one hand, and NSC and its Affiliates, on the other hand, after the Closing Date (as hereinafter defined).

NOW, THEREFORE, in consideration of the premises and the respective agreements hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Defined Terms. As used in this Agreement, the following terms have the meanings set forth below:

"AAC" means Atlantic Acquisition Corporation, a Pennsylvania corporation and a wholly owned Subsidiary of NSC.

"AAR" means the Association of American Railroads.

"AAR Car Service Rules" means the Code of Car Service Rules/Code of Car Hire Rules contained in AAR Circular OT-10 as promulgated in the Official Railway Equipment Register.

"AAR Depreciated Value" means depreciated value as determined in accordance with Rule 107 of the Office and Field Manuals of the AAR Interchange Rules adopted by the AAR Technical Services Division, Mechanical Section, Operations and Maintenance Department.

"Action" shall mean any action, claim, suit, arbitration, inquiry, subpoena, discovery request, proceeding or investigation by or before any Governmental Entity or forum or authority having jurisdiction over the matter involving or related to CRR, CRC or their respective Affiliates, the Assets, the Retained Liabilities or the Allocated Liabilities, but shall exclude FELA Claims.

"Affiliate" means, with respect to a specified Person, any Person that directly or indirectly controls, is controlled by or is under common control with, the specified Person or any trust for the benefit of such Person or any entities controlled by such Person; provided that, for the purposes of this Agreement, (a) NYC shall not be an Affiliate of CSX and its Subsidiaries or NSC and its Subsidiaries, (b) PRR shall not be an Affiliate of NSC and its Subsidiaries or CSX and its Subsidiaries and (c) CSX and NSC and their respective Subsidiaries shall not be Affiliates of CRR or CRR Parent and their respective Subsidiaries and vice versa.

"Allocated Assets" means the Assets to be transferred at the Closing to either NYC ("NYC Allocated Assets") or PRR ("PRR Allocated Assets").

"Allocated Liabilities" means the Liabilities of CRR, CRC or their respective Affiliates to be assumed at the Closing by either NYC ("NYC Allocated Liabilities") or PRR ("PRR Allocated Liabilities").

"Amended and Restated Voting Trust Agreement" means the Voting Trust Agreement among CSX, NSC, CRR Parent, Green and Deposit Guarantee National Bank, dated as of April 8, 1997.

"Ancillary Agreements" means the Equipment Agreements, the CSXT Operating Agreement, the NSR Operating Agreement, the NYC LLC Agreement, the PRR LLC Agreement, the CRR Holdings LLC Agreement, the Trackage Rights Agreements, the CSXT/NSR Haulage Agreements, the Tax Allocation Agreement, the Shared Assets Agreements and the Other Operating Agreements.

"April 8 Agreement" has the meaning set forth in the preamble to this Agreement.

"Assets" means any and all of CRR's, CRC's or their respective Affiliates' right, title and interest in and to all of the rights, properties, assets, claims, Contracts and businesses of every kind, character and description, whether real, personal or mixed, whether tangible or intangible, whether accrued, contingent or otherwise and wherever located, owned or used primarily by such party. On the Closing Date, all Assets will be either (i) NYC Allocated Assets, (ii) PRR Allocated Assets or (iii) Retained Assets.

"Base Inventory" has the meaning ascribed thereto in Section 2.7.

"Base Rent" has the meaning set forth in the CSXT Equipment Agreement and the NSR Equipment Agreement.

"Books and Records" means the books, files and records (including computerized databases and records) of CRR, CRC or their respective Affiliates and includes the NYC Books and Records and the PRR Books and Records.

"Capital Contribution, Assignment and Assumption Agreements" means the instruments (including quitclaim deeds or other instruments transferring title to real estate) pursuant to which the Allocated Assets and the Allocated Liabilities will be transferred at the Closing to NYC or PRR, as the case may be, substantially in the form attached hereto as Exhibit E.

"Closing" has the meaning ascribed thereto in Section 3.1.

"Closing Date" has the meaning ascribed thereto in Section 3.1.

"Co-Chairmen" means the co-chairmen of the CRC Board after the Control Date, being the CSX Co-Chairman and the NSC Co-Chairman.

"Code" means the Internal Revenue Code of 1986, as amended from time to time or any successor United States federal tax statute. References to a specific section of the Code shall include a reference to the corresponding provisions of any such successor United States federal tax statute.

"Communications Team" has the meaning ascribed thereto in Section 2.2.

"Continuing CRC Management" means employees (regardless of craft, position or classification) of CRR, CRC or their respective Affiliates (other than NYC, PRR and their respective Subsidiaries) who are determined to be Continuing CRC Management pursuant to Section 6.1(c), which employees will consist of the

following categories: (a) employees performing general and administrative functions for CRR, CRC or their respective Affiliates (other than NYC, PRR and their respective Subsidiaries), (b) employees performing interim general, administrative or technical functions for CRR, CRC or their respective Affiliates (other than NYC, PRR and their respective Subsidiaries) (including employees performing such functions at CRR's headquarters office building and information technology center in Philadelphia, PA) which functions CSX and NSC shall identify prior to the Closing Date and shall agree are necessary for an interim period after the Closing Date in accordance with Section 2.4, (c) employees operating, managing or performing work at the SSO Facilities, and (d) employees (other than those described in clauses (a), (b) and (c) above) operating, managing or performing work on Retained Assets that are to be operated pursuant to the Shared Assets Agreements.

"Contracts" means any contract, lease, loan agreement, deed, easement, license, reversion, mortgage, security agreement, trust indenture or other agreement or instrument to which any of CRR, CRC or their respective Affiliates is a party or by which any of them is bound or to which any of the Assets is subject.

"Contracts Team" has the meaning ascribed thereto in Section 2.2.

"Control Date" means the effective date on which CSX and NSC are authorized by the STB to exercise control over CRR.

"Corporate Level Liabilities" means the following Liabilities of CRR, CRC or their respective Affiliates: (a) Environmental Liabilities that are designated as Corporate Level Liabilities pursuant to Section 2.8(b)(iii); (b) all Liabilities (except as specified in Section 2.8(b)(i) or (ii), Section 2.8(c) or Section 2.9) associated with the handling and disposition of Actions arising prior to the Closing Date; (c) all Liabilities (except as specified in Section 2.8(b)(i) or (ii), Section 2.8(c) or Section 2.9) associated with the handling and disposition of Actions arising on or after the Closing Date and that do not relate predominantly to Allocated Assets; (d) all Liabilities (except as specified in Section 2.8(b)(i) or (ii), Section 2.8(c) or Section 2.9) associated with the handling and disposition of Actions arising on or after the Closing Date designated as Corporate Level Liabilities pursuant to Section 2.8; (e) Employee Related Liabilities that are designated as Corporate Level Liabilities pursuant to Article VI; (f) all Taxes accruing for periods prior to the Closing Date, including in respect of tax leverage transactions; (g) Taxes, if any, associated with the designation, allocation and transfer of the Assets as contemplated in this Agreement; (h) Liabilities under leases (including without limitation lease termination costs) that arise prior to the Closing Date (other than the lease Liabilities in respect of

the CRC headquarters office building in Philadelphia, PA, or the information technology center in Philadelphia, PA, or the Altoona, PA or Hollidaysburg, PA shops); (i) Indebtedness (other than intercorporate Indebtedness of direct or indirect Subsidiaries of CRR the capital stock, or similar interests, of which is included in the Allocated Assets, which will be treated as agreed to by the parties prior to the Closing); (j) all Liabilities associated with the handling and disposition of FELA Claims made prior to the Control Date and all Liabilities associated with the handling and disposition of FELA Claims made on or after the Control Date and designated as Corporate Level Liabilities pursuant to Section 2.8(c); (k) all employee costs not otherwise allocated under this Agreement; (l) all Liabilities arising prior to the Closing Date not otherwise allocated under this Agreement; (m) transition costs not the sole responsibility of CSX, CSXT, NYC, NSC, NSR or PRR and not otherwise allocated under this Agreement; and (n) all Liabilities incurred with respect to Continuing CRC Management, the SSO Facilities and the Retained Assets, except where this Agreement (including the Schedules and Exhibits hereto) or the Ancillary Agreements may expressly designate the Liability in some other manner.

"Corporate Memorabilia" means all corporate memorabilia, antiques, artifacts, charters and art owned by CRR, CRC or their respective Affiliates, wherever located.

"CRC" has the meaning set forth in the preamble to this Agreement.

"CRC Board" means the Board of Directors of CRC.

"CRR" has the meaning set forth in the preamble to this Agreement.

"CRR Holdings LLC Agreement" means the Limited Liability Company Agreement of CRR Holdings LLC, dated May 21, 1997, as amended from time to time.

"CRR Industries" means CRR Industries, Inc., a Pennsylvania corporation and a wholly owned Subsidiary of CRR.

"CRR Parent" has the meaning set forth in the preamble to this Agreement.

"CRR Shares" means the shares of Common Stock and Series A ESOP Convertible Junior Preferred Stock of CRR.

"CRR Stay Bonus Program" means either the Conrail Inc. Stay Bonus Program, Classes 8 And Below, or the Conrail Inc. Stay Bonus Program Classes 9-11, both to be entered into pursuant to Attachment A to the Third Amendment.

"CSX" has the meaning set forth in the preamble to this Agreement.

"CSX Co-Chairman" has the meaning ascribed thereto in Section 4.2.

"CSX Directors" has the meaning ascribed thereto in Section 4.2.

"CSXT" has the meaning set forth in the preamble to this Agreement.

"CSXT Equipment" means the Equipment subject to the CSXT Equipment Agreement.

"CSXT Equipment Agreement" means the agreement to be entered into between NYC and CSXT in a form to be agreed by CSX and NSC, to provide CSXT with the right to use, operate and maintain certain of the Equipment which NYC has the right to use and operate pursuant to the NYC Equipment Agreement.

"CSXT/NSR Haulage Agreements" means the agreements pursuant to which CSXT and/or NSR will provide haulage services for the other, in substantially the form attached hereto as Exhibit D; each CSXT/NSR Haulage Agreement shall be in respect of a Route identified on Item 2 of Schedule 4 and shall incorporate the terms set forth therein.

"CSXT Operating Agreement" means the agreement to be entered into between CSXT and NYC, substantially in the form attached hereto as Exhibit A-1, to provide for the use, operation and maintenance by CSXT of certain of the NYC Allocated Assets after the Closing Date.

"Damages" means all assessments, losses, damages, liabilities, costs and expenses, including without limitation interest, penalties and attorneys' and consultants' fees.

"Distribution" means any dividend or other distribution with respect to any shares of capital stock or similar equity interests.

"Employee Related Liabilities" means Liabilities to be designated as NYC Allocated Liabilities, PRR Allocated Liabilities or Corporate Level Liabilities pursuant to Article VI.

"Environmental Laws" means any and all federal, state, local and foreign statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, codes, plans, injunctions, permits, concessions, grants, franchises, licenses, agreements and governmental restrictions, whether now or hereafter in effect, relating to human health, the environment

or to emissions, discharges, or releases of pollutants, contaminants, hazardous or toxic materials or substances or wastes into the environment, including, without limitation, ambient air, surface water, ground water or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, hazardous or toxic materials or substances or wastes or the cleanup or other remediation thereof.

"Environmental Liabilities" means any and all Liabilities arising in connection with or in any way relating to any Asset (or formerly held Asset) and which arise under or relate to matters covered by any Environmental Laws.

"Equipment" means all freight car rolling stock, cabooses, trailers, containers, end of train devices, locomotives and Work Equipment of CRR, CRC or their respective Affiliates, whether owned or leased.

"Equipment Agreements" means the NYC Equipment Agreement, the PRR Equipment Agreement, the CSXT Equipment Agreement and the NSR Equipment Agreement.

"Fair Market Rental Value" has the meaning set forth in the CSXT Operating Agreement, the NSR Operating Agreement, the CSXT Equipment Agreement and the NSR Equipment Agreement.

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

"FF&E" means all furniture, fixtures, computers, office supplies and equipment (other than Equipment and system stockpiles of supplies and inventory) of CRR, CRC or their respective Affiliates.

"Governmental Entity" means any federal, state, local or foreign court, administrative agency or commission or other

governmental or regulatory authority or commission or any arbitration tribunal.

"Green" means Green Acquisition Corp., a Pennsylvania corporation and a wholly owned Subsidiary of CRR Parent.

"Indebtedness" means, when used with reference to a specified Person, at any date, without duplication, (a) all obligations of such Person for borrowed money, including, without limitation, all principal, interest, premiums, fees, expenses, overdrafts and penalties with respect thereto, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable, (d) all obligations of such Person to reimburse any bank or other Person in respect of amounts paid under a letter of credit or similar instrument, (e) all payment obligations under capitalized leases and (f) all indebtedness of any other Person of the type referred to in clauses (a) to (e) above directly or indirectly guaranteed by such Person.

"Indemnified Party" means a Person who requires or requests indemnification under Article X.

"Indemnifying Party" means a Person who is required or requested to indemnify another Person under Article X.

"Interest Rental" has the meaning set forth in the Shared Assets Agreements.

"Inventory Team" has the meaning ascribed thereto in Section 2.2.

"IRS Submission" has the meaning ascribed thereto in Section 8.9.

"Liabilities" means any and all debts, liabilities and obligations of any kind whatsoever, whether or not accrued, contingent or reflected on a balance sheet, known or unknown, absolute, determined, determinable or otherwise, including, without limitation, those arising under any law, rule, regulation, action, order or consent decree of any Governmental Entity or any judgment in any Action of any kind or award of any arbitrator of any kind and those arising under any Contract. At the Closing Date, all Liabilities of CRR, CRC or their respective Affiliates will be either (i) NYC Allocated Liabilities, (ii) PRR Allocated Liabilities or (iii) Retained Liabilities.

"Locomotive Team" has the meaning ascribed thereto in Section 2.6.

"Major Decisions" means any of the items identified on Schedule 2 hereto.

"Merger" means the merger of a subsidiary of Green with and into CRR pursuant to the Merger Agreement.

"Merger Agreement" means the Agreement and Plan of Merger by and among CRR, CSX and Green dated as of October 14, 1996 and as amended as of November 5, 1996, December 18, 1996, March 7, 1997 and April 8, 1997 and as may be further amended from time to time in accordance with its terms and the terms of this Agreement.

"NSC" has the meaning set forth in the preamble to this Agreement.

"NSC Co-Chairman" has the meaning ascribed thereto in Section 4.2.

"NSC Directors" has the meaning ascribed thereto in Section 4.2.

"NSR" has the meaning set forth in the preamble to this Agreement.

"NSR Equipment" means the Equipment subject to the NSR Equipment Agreement.

"NSR Equipment Agreement" means the agreement to be entered into between PRR and NSR, in a form to be agreed among CSX and NSC, to provide NSR with the right to use, operate and maintain certain of the Equipment which PRR has the right to use and operate pursuant to the PRR Equipment Agreement.

"NSR Operating Agreement" means the agreement to be entered into between NSR and PRR, substantially in the form attached hereto as Exhibit A-2, to provide for the use, operation and maintenance by NSR of certain of the PRR Allocated Assets after the Closing Date.

"NYC" means New York Central Lines LLC (or such other name as may be specified by CSX), which will be organized on or prior to the Closing pursuant to Section 3.2 as a Delaware limited liability company and a wholly owned Subsidiary of CRC.

"NYC Action" has the meaning ascribed thereto in Section 8.14.

"NYC Allocated Assets" means the Assets identified on Item 1 of Schedule 1 hereto and the Transportation Contracts allocated to NYC pursuant to Section 2.2(c) (unless CSX and NSC in their discretion agree that any such Assets shall not be NYC

Allocated Assets) together with the Unallocated Assets designated as NYC Allocated Assets prior to the Closing Date pursuant to Article II, including any cash benefit in lieu of such Assets pursuant to Section 8.7.

"NYC Allocated Liabilities" means the Liabilities designated as NYC Allocated Liabilities pursuant to Section 2.8 or Article VI, together with all Liabilities allocated to and the responsibility of NYC under any Ancillary Agreement.

"NYC Books and Records" shall mean the books, files and records (including computerized databases and records) of CRR, CRC or their respective Affiliates that relate principally to the NYC Allocated Assets or NYC Allocated Liabilities and are necessary or useful for the operation of the business in respect thereof.

"NYC Equipment Agreement" means the agreement to be entered into between CRC and NYC, in a form to be agreed among CSX and NSC, to provide NYC with the right to use, operate and maintain certain of the Equipment allocated to NYC pursuant to Section 2.6(e)(i).

"NYC LLC Agreement" means the Limited Liability Company Agreement of NYC, substantially in the form attached hereto as Exhibit B.

"NYC Restructuring" has the meaning ascribed thereto in Section 8.9.

"Operating Fee" has the meaning set forth in the CSXT Operating Agreement and the NSR Operating Agreement.

"Other Operating Agreements" means the agreements to be entered into between and among CRC, NYC, PRR, CSXT and/or NSR, substantially in the forms attached hereto as Exhibits J through RR, providing for various operating, access, construction and other matters. The Other Operating Agreements are listed in Item 4 of Schedule 4 hereto.

"PBCL" means the Pennsylvania Business Corporation Law of 1988, as amended from time to time.

"Pennsylvania Control Transaction Law" means Subchapter E of Chapter 25 of the PBCL, as amended from time to time.

"Percentage" means, in the case of CSX, 42% and, in the case of NSC, 58%.

"Person" includes any individual, corporation, association, partnership (general or limited), joint venture, trust,

estate, limited liability company or other legal entity or organization.

"Pooled Assets" means all Unallocated Assets for which no allocation methodology is provided for in Section 2.2(a) through (i), including the Assets identified on Item 4 of Schedule 1.

"Privileged Information" has the meaning ascribed thereto in Section 8.14.

"Privileges" has the meaning ascribed thereto in Section 8.14.

"PRR" means Pennsylvania Lines LLC (or such other name as may be specified by NSC), which will be organized on or prior to Closing pursuant to Section 3.2 as a Delaware limited liability company and a wholly owned Subsidiary of CRC.

"PRR Action" has the meaning ascribed thereto in Section 8.15.

"PRR Allocated Assets" means the Assets identified on Item 2 of Schedule 1 hereto and the Transportation Contracts allocated to PRR pursuant to Section 2.2(c) (unless CSX and NSC in their discretion agree that any such Assets shall not be PRR Allocated Assets), together with the Unallocated Assets designated as PRR Allocated Assets prior to the Closing Date pursuant to Article II, including any cash benefit in lieu of such Assets pursuant to Section 8.7.

"PRR Allocated Liabilities" means the Liabilities designated as PRR Allocated Liabilities pursuant to Section 2.8 or Article VI, together with all Liabilities allocated to and the responsibility of PRR under any Ancillary Agreement.

"PRR Books and Records" shall mean the books, files and records (including computerized databases and records) of CRR, CRC or their respective Affiliates that relate principally to the PRR Allocated Assets or PRR Allocated Liabilities and are necessary or useful for the operation of the business in respect thereof.

"PRR Equipment Agreement" means the agreement to be entered into between CRC and PRR, in a form to be agreed among CSX and NSC, to provide PRR with the right to use, operate and maintain certain of the Equipment allocated to PRR pursuant to Section 2.6(e)(i).

"PRR LLC Agreement" means the Limited Liability Company Agreement of PRR, substantially in the form attached hereto as Exhibit B.

"PRR Restructuring" has the meaning ascribed thereto in Section 8.9.

"Radio Licenses" has the meaning ascribed thereto in Section 2.2.

"Required Approvals" has the meaning ascribed thereto in Section 7.1.

"Restructuring" means either the NYC Restructuring or the PRR Restructuring, as the context requires.

"Retained Assets" means the Assets identified on Item 3 of Schedule 1 hereto (unless CSX and NSC in their discretion agree that any such Assets shall not be Retained Assets) together with the Unallocated Assets designated as Retained Assets prior to the Closing Date pursuant to Article II, including (a) Equipment that is not included in the Allocated Assets, (b) the SSO Facilities and (c) the Pooled Assets not designated as Allocated Assets pursuant to Section 2.2(j).

"Retained Liabilities" means the Liabilities designated as Retained Liabilities pursuant to Section 2.8 (including, without limitation, all Corporate Level Liabilities), together with all Liabilities allocated to and the responsibility of CRR, CRC or their respective Affiliates under any Ancillary Agreement.

"Rolling Stock Team" has the meaning ascribed thereto in Section 2.6.

"Route" means the rights and Assets used to provide transportation service along a railroad line connecting two or more stations and consisting of one or more tracks (together with associated sidings, side tracks, signaling, land and other related facilities).

"Ruling" has the meaning ascribed thereto in Section 8.9.

"Separation Costs" means labor protection costs, including dismissal allowances, displacement allowances and the cost of administering, arbitrating and litigating such labor protection provisions, severance (including payments under severance agreements), personnel relocation expenses and all other dismissal expenses and stay bonuses, including any payment intended to reimburse for excess parachute excise tax imposed under Section 4999 of the Code with respect to such dismissal expenses or stay bonuses.

"Service" has the meaning ascribed thereto in Section 8.9.

"Shared Assets Agreements" means the agreements between and among CRC, NYC, PRR, CSXT and/or NSR, substantially in the forms attached hereto as Exhibits G through I, providing for the operation of certain Retained Assets for the benefit of CSXT and NSR. The Shared Assets Agreements are listed in Item 3 of Schedule 4 hereto.

"Shared Assets Areas" means (a) the North Jersey shared Asset facility to be covered by the Shared Assets Agreement substantially in the form attached hereto as Exhibit G, (b) the South Jersey/Philadelphia shared Asset facility to be covered by the Shared Assets Agreement substantially in the form attached hereto as Exhibit H and (c) the Detroit shared Asset facility to be covered by the Shared Assets Agreement substantially in the form attached hereto as Exhibit I.

"SSO Facilities" means the CRR or CRC system support operations facilities described in Item 3(B) of Schedule 1 (including equipment and other Assets associated with such facilities) used as of the date hereof by CRR and CRC or their respective Affiliates to provide support functions benefitting the CRC rail system as a whole, including: (a) the customer service center in Pittsburgh, PA; (b) the crew management facility in Dearborn, MI; (c) the system maintenance-of-way equipment center in Canton, OH; (d) the signal repair center in Columbus, OH; (e) the system freight claims facility in Buffalo, NY; (f) the system non-revenue billing facility at Bethlehem, PA; (g) the system rail welding plant at Lucknow (Harrisburg), PA; (h) the system road foreman/engineer training center at Philadelphia and Conway, PA; (i) the CRC police operations center at Mt. Laurel, NJ; and (j) such other facilities providing system-wide support functions as CSX and NSC shall identify and agree upon prior to the Closing Date.

"STB" means the Surface Transportation Board or, if there shall be no Surface Transportation Board, any federal agency which is charged with the function of approving combinations by rail carriers or persons controlling them, or of other arrangements between such rail carriers, and granting exemptions from other laws with respect thereto or regulating other specific functions with respect to the context in which such term is employed or any successor entity thereof.

"Subsidiary" means, when used with reference to a specified Person, any corporation or other organization, whether incorporated or unincorporated, of which at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the Board of Directors or others performing similar functions with respect to such corporation or other organization is directly or indirectly owned or controlled by such Person or by any one or more of its Subsidiaries, or by such Person and one or more of its Subsidiaries; pro-

vided that CRR Parent and any Person in which CRR Parent owns, directly or indirectly an interest (it being assumed for the purposes of this Agreement that CRR Parent does not own, directly or indirectly, an interest in either CSX or NSC) shall not be a Subsidiary of either CSX or NSC.

"Surviving Corporation" means the surviving corporation of the Merger.

"Tax" or "Taxes" means taxes of any kind, levies or other similar assessments, customs, duties, imposts, charges or fees, including, without limitation, income taxes, gross receipts, ad valorem, excise, real or personal property, sales, use, payroll, withholding, unemployment, transfer and gains taxes or other governmental taxes imposed by or payable to the United States, or any state, local or foreign government or subdivision thereof, and in each instance such term shall include any interest, penalties or additions to tax attributable to such Tax or Taxes. The term "Tax" or "Taxes" shall not include any payment intended to reimburse the recipient for an excess parachute excise tax imposed under Section 4999 of the Code.

"Tax Allocation Agreement" means the agreement to be entered into among Green, CRR, CRC, CRR Industries, PRR and NYC, substantially in the form attached hereto as Exhibit F, pursuant to which the rights and obligations relating to Tax matters involving the operations of CRR, CRC, PRR and NYC shall be allocated.

"Tax Returns" means all returns, information returns, statements, certifications, reports or other documentation relating to Taxes.

"Third Amendment" means the third amendment, dated March 7, 1997, to the Merger Agreement.

"Third Party Claim" has the meaning ascribed thereto in Section 10.2.

"Trackage Rights Agreements" means the agreements pursuant to which CSXT and NSR will grant trackage rights to the other, in substantially the form attached hereto as Exhibit C; each Trackage Rights Agreement shall be in respect of a Route identified on Item 1 of Schedule 4 and shall incorporate the terms set forth therein.

"Transaction Expenses" means, with respect to a specified Person, all of such Person's fees and expenses, including, without limitation, filing fees and fees and expenses of legal counsel, depositaries, dealer managers, proxy solicitors, information agents, printers, investment bankers or advisors, financing sources, accountants, public relations advisors and other

consultants and advisors incurred in connection with the acquisition of CRR Shares, the Merger, the April 8 Agreement, this Agreement, the Ancillary Agreements and the transactions contemplated herein and therein.

"Transportation Contracts" means Contracts between rail carrier(s) and a Person or Persons relating to the purchase of transportation services as specified in 49 U.S.C. § 10102(9)(A) and (B); provided that, if a Transportation Contract covers service between more than one pair of points, the provisions governing service between each pair of points shall be treated as a distinct Transportation Contract.

"Unallocated Assets" means Assets which are not as of the date of this Agreement identified on Schedule 1 hereto as Allocated Assets or Retained Assets.

"Valuation Date" has the meaning set forth in the CSXT Operating Agreement, the NSR Operating Agreement, the CSXT Equipment Agreement, the NSR Equipment Agreement and the Shared Assets Agreements.

"Voting Trust" means the voting trust for the shares of capital stock of CRR or CRC created under the Amended and Restated Voting Trust Agreement.

"Work Equipment" means track machinery, non-revenue rolling stock dedicated to track maintenance (such as ballast and tie cars), other mobile equipment (such as backhoes, bulldozers and the like), other engineering equipment and automobiles and trucks assigned to CRC system and staff functions (automobiles and trucks assigned to Allocated Asset locations shall be included in the Allocated Assets).

"Work Equipment Team" has the meaning ascribed thereto in Section 2.6.

Section 1.2. Other Definitive Provisions. When used in this Agreement in respect of a Liability or an Action, the terms "arise" or "arising" mean that the circumstances giving rise to the Liability or Action have transpired, whether or not such Action or Liability has been discovered, asserted or accrued. When used in this Agreement, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

ARTICLE II

DESIGNATION AND ALLOCATION OF ASSETS AND LIABILITIES

Section 2.1. Conveyance of Assets. On the Closing Date and upon the terms and subject to the conditions set forth in this Agreement, (i) CRC and its Affiliates shall contribute, assign, transfer, convey and deliver the NYC Allocated Assets to NYC and NYC shall accept from CRC and its Affiliates all of the right, title and interest of CRC and its Affiliates in all of the NYC Allocated Assets, and (ii) CRC and its Affiliates shall contribute, assign, transfer, convey and deliver the PRR Allocated Assets to PRR and PRR shall accept from CRC and its Affiliates all of the right, title and interest of CRC and its Affiliates in all of the PRR Allocated Assets. Except as expressly provided in this Agreement, CSX and its Affiliates, on the one hand, and NSC and its Affiliates, on the other hand, shall retain all their existing rights with respect to the Assets.

Section 2.2. Allocation of Certain Assets. As soon as practicable after the date hereof and in any event prior to the Closing Date, CSX and NSC shall use their best efforts to designate the Unallocated Assets as either NYC Allocated Assets, PRR Allocated Assets or Retained Assets. CSX and NSC shall continue to monitor such designation up to, and shall update such designation as of, the Closing Date. Such designation shall be as agreed between CSX and NSC in accordance with the following guidelines (which shall not, unless CSX and NSC otherwise agree, affect Assets already designated as Allocated Assets or Retained Assets pursuant to Schedule 1 hereto):

(a) Unallocated FF&E shall be designated as follows: (i) all FF&E located in or along Allocated Assets shall be designated in the same manner as such Allocated Assets, (ii) all FF&E located in or along Retained Assets shall be designated as Retained Assets and (iii) all FF&E not designated pursuant to clause (i) or (ii) above shall be designated as NYC Allocated Assets or PRR Allocated Assets by value in proportion to CSX's and NSC's respective Percentage.

(b) On or prior to the Closing Date, CSX, NSC and CRR shall take an inventory of all Corporate Memorabilia, and CSX and NSC shall value the principal items or categories, engaging an appraiser if they cannot agree on the value thereof. One half of the Corporate Memorabilia by value shall be designated as NYC Allocated Assets and the other half shall be designated as PRR Allocated Assets by the mutual agreement of CSX and NSC. If CSX and NSC have not agreed on the particular items or categories of Corporate Memorabilia to be designated as NYC Allocated Assets and PRR Allocated Assets, respectively, they will alternate selecting Corporate Memorabilia having a value of 5% (as near as

may be) of the total value of all of the Corporate Memorabilia, with the party having first choice selected by lot.

(c) The parties recognize the importance of assuring that the acquisition of CRC does not create shipping disruptions for CRC customers and hence are hereby making arrangements to carry out CRC's Transportation Contracts in the manner hereinafter set forth.

(i) All CRC Transportation Contracts in effect as of the Closing Date ("Existing Transportation Contracts") shall remain in effect through their stated term and the obligations thereunder shall be carried out thereafter by CSXT utilizing NYC Allocated Assets and NSR utilizing PRR Allocated Assets, or pursuant to the Shared Assets Agreements, as the case may be.

(ii) CSXT and NSR shall allocate the responsibilities to serve customers under the Existing Transportation Contracts in a manner to achieve reliability and proper service to the customers, and the revenues and expenses associated with the Existing Transportation Contracts and related services shall be allocated and accounted for between CSXT and NSR in accordance with the Percentage Division to the extent that the performance of contracts allocated by Percentage Division departs from the Percentage Division.

(iii) The following decision rules shall be applied on an annual basis with tentative settlements to the extent required by subsection (c)(ii) on a quarterly basis 60 days after the end of the quarter and an annual true-up 90 days after the end of the year:

(A) For purposes of this Subsection (c), "Local" means a station that is not Dual and is served solely by CSXT or NSR, and "Dual" means a station with line-haul service by both, including service accessed by one or the other through trackage rights or haulage, in each case as of the date of this Agreement giving effect to the effectuation of the Closing. For purposes of the definition of "Dual", the term includes (a) as to commodities that are handled by rail before or after shipment by water, all stations at which such commodities are handled in Ocean, Gulf and Great Lakes port cities to which each of CSXT and NSR has line haul service to any such station, and (b) as to intermodal service, all intermodal facilities in any city in which each of CSXT and NSR has line haul service to any intermodal facility. Further, references to "Off Line" stations in this Subsection (c) do not include a situation where such station is Local or Dual to NSR or CSXT

or a third railroad whose sole connection is with CSXT or NSR.

(B) In addition, for purposes of this Subsection (c) only, the phrase "Percentage Division" shall mean 50% CSXT - 50% NSR.

(C) Revenues shall be allocated as follows:

(aa) Where the Existing Transportation Contract calls for transportation from an origin station located on the PRR Allocated Assets, the allocation shall be solely to NSR, except as follows:

(x) If the origin station is Local to NSR and the destination station is on the NYC Allocated Assets and Local to CSXT, then the allocation shall be on a joint line basis between NSR and CSXT with the interchange to be negotiated between NSR and CSXT and the revenues to be split 30% to NSR, 30% to CSXT, and the remainder to be based upon a mileage prorate; and

(y) If, notwithstanding its location on the PRR Allocated Assets, the origin station is Dual and the destination station is on the NYC Allocated Assets and Local to CSXT, then the allocation shall be solely to CSXT.

(bb) Where the Existing Transportation Contract calls for transportation from an origin station located on the NYC Allocated Assets, the allocation shall be solely to CSXT, except as follows:

(x) If the origin station is Local to CSXT and the destination station is on the PRR Allocated Assets and Local to NSR, then the allocation shall be on a joint line basis between CSXT and NSR with the interchange to be negotiated between CSXT and NSR and the revenues to be split 30% to CSXT, 30% to NSR, and the remainder to be based an a mileage prorate; and

(y) If, notwithstanding its location on the NYC Allocated Assets, the origin station is Dual and the destination station is on the PRR Allocated Assets and Local to NSR, then the allocation shall be solely to NSR.

(cc) Where the Existing Transportation Contract calls for transportation where at least one of the origin and destination stations is Dual or which is located in a Shared Assets Area or located on or accessed from the tracks of the former Monongahela Railway or Waynesburg Southern Railway ("MGA") (collectively, a "Specified Station"), the following shall apply as to such Existing Transportation Contract:

(x) If the other station is located on a PRR Allocated Asset and is Local to NSR, then the allocation shall be solely to NSR;

(y) If the other station is located on an NYC Allocated Asset and is Local to CSXT, then the allocation shall be solely to CSXT; and

(z) If the other station is a Specified Station, then CSXT and NSR shall divide the allocation on the Percentage Division (by revenue) annually.

(dd) Where the origin station is Off Line and the destination station is within the former CRC territory, the following shall apply as to the Existing Transportation Contract:

(x) If the destination station is located on an NYC Allocated Asset and is Local to CSXT, the allocation shall be solely to CSXT.

(y) If the destination station is located on a PRR Allocated Asset and is Local to NSR, the allocation shall be solely to NSR.

(z) If the destination Station is Dual or is located in a Shared Assets Area or in MGA, CSXT and NSR shall divide the allocation on the Percentage Division (by revenue) annually.

(ee) Where the origin station is within the former CRR territory and the destination station is Off Line, the following shall apply as to the Existing Transportation Contracts:

(x) If the origin station is located on an NYC Allocated Asset and is Local to CSXT, the allocation shall be solely to CSXT.

(y) If the origin station is located on a PRR Allocated Asset and is Local to NSR, the allocation shall be solely to NSR.

(z) If the origin station is Dual or is located in a Shared Asset Area or in MGA, CSXT and NSR shall divide the allocation on the Percentage Division (by revenue) annually.

(ff) Where the origin station and the destination station are both Off Line, CSXT and NSR shall divide the allocation on the Percentage Division.

(gg) As to any joint line Existing Transportation Contract which involves either CSXT and CRC and NSR and CRC, that Transportation Contract shall be treated, for the purposes of the above rules, as if it involved an NSR or CSXT Local origin or off-line destination (as the case may be) and only that portion of the transportation over former CRC Routes shall be governed by the foregoing.

(hh) Where, as of the Closing Date, CRC has a proportional rate Existing Transportation Contract which provides a through rate in combination with a separate proportional rate CSXT or NSR transportation contract, the separate CSXT or NSR transportation contract shall be unaffected and only the CRC portion of the transportation shall be governed by the foregoing.

(iv) There shall be a presumption that responsibility for the performance of contracts shall follow the allocations referred to above and that presumption, except in extraordinary cases, shall control in all cases except those provided for in Sections 2.2(c)(iii)(C)(cc)(z), 2.2(c)(iii)(C)(dd)(z), and 2.2(c)(iii)(C)(ee)(z). Exceptions in those cases just mentioned shall be made to promote the use of efficient routes, high-quality service and consistency of service to customers, and in that connection there shall be a presumption against dividing a contract between a single destination and a single origin between the two carriers.

(v) In the case of a single Existing Transportation Contract which covers multiple origin and destination pairs, allocation of revenue shall be on the basis of each pair but CSXT and NSR shall cooperate as necessary to assure that the shippers under such Existing Transportation Contracts receive the benefits (e.g., volume pricing, refunds, etc.) to which they are entitled thereunder, notwithstanding any division of responsibility in providing the transportation.

(vi) Nothing in this Section 2.2(c) shall limit any right of the parties to provide service to or enter into transportation contracts with shippers with Existing Transportation Contracts.

(d) All Contracts granting any unrelated Person the right to bury fiber optic cable longitudinally along Assets shall be designated as Retained Assets (if any Assets in respect of which such rights are given are Allocated Assets, NYC or PRR, as the case may be, will license or otherwise grant rights to CRC or its Affiliates to maintain the subject matter of the Contracts granting such rights), except where such rights relate only to either NYC Allocated Assets or PRR Allocated Assets, in which case such Contracts shall be designated in the same manner as such Allocated Assets; provided that NYC and PRR shall, to the extent permitted under such Contracts that are designated as Retained Assets, be given equal access to CRC's or its Affiliate's rights to use capacity on such fiber optic cable and shall participate equally in any other benefits of such Contracts.

(e) Promptly after the date hereof, CSXT and NSR each shall appoint up to five members of a committee (the "Contracts Team"). The Contracts Team shall meet and not later than January 1, 1998 shall negotiate an equitable designation of all Contracts (other than Transportation Contracts and Contracts otherwise allocated or designated under the terms hereof) based on the following guidelines:

(i) Contracts that relate predominantly to either NYC Allocated Assets, PRR Allocated Assets or Retained Assets will be designated in the same manner as such Assets.

(ii) Contracts (A) that benefit CRC as a whole (such as unfilled system purchase and supply Contracts), (B) that relate predominantly to Retained Assets (such as certain intermodal terminal Contracts) or (C) that the Contract Team cannot designate for whatever reason, shall be Retained Assets and CRC shall, to the extent permitted under the relevant Contract, subcontract its duties, obligations and rights under such Contract to NYC or PRR by value in proportion to CSX's and NSC's respective Percentage in accordance with the procedure set forth in Section 8.5(b).

(f) Promptly after the date hereof, NSR and CSXT each shall appoint up to five members of a committee (the "Communications Team"). The Communications Team shall meet and not later than January 1, 1998 shall negotiate an equitable designation of all radio licenses held or owned by CRR, CRC or their respective Affiliates ("Radio Licenses") based on the following guidelines:

(i) In general, Radio Licenses will be designated as PRR Allocated Assets or NYC Allocated Assets depending on the designation of the Allocated Assets to which the Radio Licenses most relate. The designation of Radio Licenses will be made in such manner as to facilitate and permit continued operations on the PRR Allocated Assets and the NYC Allocated Assets substantially as conducted before the Closing Date.

(ii) Base Radio Licenses shall be designated and reissued on their present frequencies to PRR or NYC, depending on whether the Allocated Assets on or near which the base radio operates are NYC Allocated Assets or PRR Allocated Assets. If the base radio is used for train operations on a line that includes both PRR Allocated Assets and NYC Allocated Assets, the Radio License shall be allocated in the same manner as the Allocated Assets on which the base radio is located and the party allocated such Radio License shall grant to the other party the right to operate a base station and other needed radio equipment on that frequency.

(iii) Mobile Radio Licenses (such as those relating to engine radios and end-of-train-devices) will be designated as NYC Allocated Assets or PRR Allocated Assets giving effect to the relative operating needs and existing systems of each of NYC and/or CSXT, on the one hand, and PRR and/or NSR on the other hand.

(iv) Radio Licenses for which the Communications Team can not agree upon the designation as PRR Allocated Assets or NYC Allocated Assets prior to the Closing Date or that are required for CRC operations under the Shared Assets Agreements will be Retained Assets and held by CRR for the benefit of both NYC and PRR.

(g) In connection with its negotiations under Section 2.2(f), the Communications Team also shall not later than January 1, 1998 negotiate an equitable designation in accordance with CSX's and NSC's respective Percentage of all Unallocated Assets that are signal and communications equipment or facilities and leased communications services. This will include all signal and communications equipment and facilities and leased services that are (i) used by CRC system-wide, (ii) used in conjunction with the operation of both a Route included in NYC Allocated Assets and a Route included in PRR Allocated Assets (such as a microwave

tower), or (iii) of a character that precludes such Assets from being logically segregated and designated by Route. In making its designation, the Communications Team shall consider, among other things, Asset value and each party's relative ability to maintain current operations and compatibility with existing equipment. Items for which the Communications Team cannot agree upon the designation as PRR Allocated Assets or NYC Allocated Assets prior to the Closing Date or that are required for CRC operations under the Shared Assets Agreements will be Retained Assets and held for the benefit of both NYC and PRR, although it is the intention of the parties that such signal and communications equipment or facilities and leased communications equipment (other than items required for CRC operations under the Shared Assets Agreements) be designated to the extent possible as Allocated Assets.

(h) System stockpiles of inventory, material and supplies of CRR, CRC or their respective Affiliates, regardless of location (other than such Assets designated as PRR Allocated Assets pursuant to Section 2.7) are Pooled Assets that shall be Retained Assets at the Closing Date unless otherwise designated hereunder. Promptly after the date hereof, CSXT and NSR each shall appoint up to four members of a committee (the "Inventory Team"). In addition to its functions pursuant to Section 2.7, the Inventory Team shall not later than January 1, 1998 determine whether and to what extent system stockpiles of inventory, material and supplies of CRR, CRC or their respective Affiliates (i) shall be designated as NYC Allocated Assets or PRR Allocated Assets (such designation to be in proportion to CSX's and NSC's respective Percentage) or (ii) shall be Retained Assets as to which NYC and CSXT, on the one hand, and PRR and NSR, on the other hand, shall have access to in accordance with the procedure to be determined by the Inventory Team pursuant to this Section 2.2(h). In making its identification and designation, the Inventory Team shall specify that (i) inventory, materials and supplies acquired for the purpose of fulfilling third-party Contracts shall be designated in the same manner as and be applied to fulfill such Contracts and (ii) inventory, materials and supplies held for maintenance of facilities that are included in Allocated Assets shall be designated in the same manner as such Allocated Assets. System stockpiles or portions thereof that are not specifically designated by the Inventory Team shall be Retained Assets. The Inventory Team shall determine an appropriate procedure for NYC and CSXT, on the one hand, and PRR and NSR, on the other hand, to have access to all system stockpiles of inventory, material and supplies that are Retained Assets by value in proportion to CSX's and NSC's respective Percentage.

(i) Unless otherwise agreed upon by CSX and NSC prior to the Closing, all computer software and associated data and engineering CADD systems owned or used by CRR, CRC or their respective Affiliates which may be copied and used by both NYC and

PRR without the permission of, or payment to, any Person shall be designated in the same manner as the hardware on which it is stored; provided that PRR shall have the right to copy and to receive a non-exclusive license of such computer software, rights, data, licenses and systems that are designated as NYC Allocated Assets and NYC shall have the right to copy and to receive a non-exclusive license of such computer software, rights, data, licenses and systems that are designated as PRR Allocated Assets. Unless otherwise agreed upon by CSX and NSC prior to the Closing, all computer software and associated data and engineering CADD systems owned or used by CRR, CRC or their respective Affiliates which may not be copied or used (or which may not be copied or used without the permission of or payment to any Person) by both NYC and PRR shall be Retained Assets, provided that CRR, CRC and their respective Affiliates shall use their reasonable commercial efforts to assign, license or otherwise make available on an equal basis to each of CSX, NSC or their designees, upon request, the nonexclusive use of all or any portion of such software, data, licenses and systems. Notwithstanding the foregoing, no party shall be required to maintain any item of software on computer equipment included in Allocated Assets, or be required to make license or other payments for such software, for a period longer than 12 months.

(j) To the extent not otherwise agreed upon by CSX and NSC prior to the Closing Date, all Pooled Assets shall be Retained Assets available for the benefit of both CSXT and NYC, on the one hand, and NSR and PRR, on the other hand in accordance with CSX's and NSC's respective Percentage. If CSX and NSC agree prior to the Closing Date that specified Pooled Assets (or groups of Pooled Assets) should be allocated to NYC or PRR, such specified Pooled Assets shall, at the Closing, be designated as NYC Allocated Assets or PRR Allocated Assets, as the case may be.

Section 2.3. System Support Operations; Dispatching. (a) The parties recognize that each SSO Facility has been used by CRR and CRC to provide a support function benefitting the CRC rail system as a whole (e.g., system-wide crew management or signal repair support functions). It is expected that each of CSXT and NYC, on the one hand, and NSR and PRR, on the other hand, may require the use or benefit of or access to the functions and support provided by the SSO Facilities for a period of time after the Closing Date. Accordingly, the SSO Facilities shall be included in Retained Assets and will continue to be owned by CRR, CRC or its Affiliates. Until a party terminates its use of an SSO Facility as provided below, (i) the costs of operating such SSO Facility shall be included in Corporate Level Liabilities and (ii) such SSO Facility shall be operated for the benefit of both CSXT and NYC, on the one hand, and NSR and PRR, on the other hand, based on their operating and administrative needs.

(b) Each of CSXT and NYC, on the one hand, and NSR and PRR, on the other hand, shall have the right, upon six months' prior written notice, to notify the other that it no longer needs the use of or access to all or any specified portion of the functions performed at a particular SSO Facility. If the party receiving such notice notifies the other party within thirty days of receipt of such notice that it no longer needs the use of or access to all or the same specified portion of the functions performed at a particular SSO Facility, then the effective date of the notice sent by the receiving party shall be deemed to be the same as that of the notice which it received from the notifying party. If the notice relates to less than the entire SSO Facility, it shall state with specificity the particular function(s) and/or Continuing CRC Management position(s) covered by the notice. Notices may be given at any time before or after the Closing Date and in each case shall specify an effective date which shall be a date on or after the Closing Date that is not less than six months after the date such notice is given. From and after the effective date of a notice, all costs associated and incurred after the effective date of such notice with the SSO Facility (or portion thereof) and Continuing CRC Management positions identified in the notice shall cease to be Corporate Level Liabilities and will be allocated entirely to and be the responsibility of the party continuing to use the functions performed at the SSO Facility or portion thereof. Costs associated with an SSO Facility (or portion thereof) or the Continuing CRC Management employees performing work at that SSO Facility which are not terminated by such notice but continue to be incurred for the benefit of both parties will continue to be Corporate Level Liabilities. Notwithstanding the foregoing, Separation Costs associated with Continuing CRC Management employees after the Control Date shall be allocated and paid as provided in Article VI.

(c) In the case of an SSO Facility as to which both CSXT and NYC, on the one hand, and NSR and PRR, on the other hand, have discontinued use of the entire SSO Facility by each giving six-month termination notices that have become effective, CSX and NSC will cause CRC and its Affiliates to take such action as may be appropriate to discontinue the use of or provide for the disposition of such SSO Facility (which may include a disposition to NYC or PRR), and costs associated with such SSO Facility between the effective date of the second notice and such discontinuance or disposition shall be Corporate Level Liabilities and the cash proceeds, if any, of such discontinuance or disposition shall, subject to Section 4.4, be for the benefit of CRC.

(d) The full costs of maintaining and operating SSO Facilities shall include all direct and indirect costs (excluding return on investment and system overheads), compensation and benefits, purchased services, insurance, facility costs and

computer processing costs. CSX and NSC shall establish appropriate accounting systems and controls designed to capture and track such costs.

(e) To facilitate the division of dispatching functions currently performed for the five CRC operating divisions, NSC and CSX agree that the territorial boundaries of the operating divisions will be changed and dispatching functions will be assigned and transferred as follows:

(i) Dearborn division: The Dearborn division office building will be included in PRR Allocated Assets. All dispatching functions at such facility will be assigned to PRR and NSR except (A) those for dispatching the Cleveland East, Cleveland terminal and other Dearborn division segments included in the NYC Allocated Assets, which functions will be assigned and transferred to NYC and CSXT, and (B) those for dispatching of the Detroit Shared Assets Area which functions will be assigned and transferred to CRC and will be relocated to a neutral site.

(ii) Indianapolis division: The Indianapolis division office building will be included in NYC Allocated Assets. All dispatching functions at such facility will be assigned to NYC and CSXT except those for dispatching the Marion branch, the Cincinnati line, the West Virginia secondary and other Indianapolis division segments included in the PRR Allocated Assets, which functions will be assigned and transferred to PRR and NSR.

(iii) Pittsburgh division: The Pittsburgh division office building will be included in PRR Allocated Assets. All dispatching functions at such facility will be assigned to PRR and NSR except those for dispatching Pittsburgh division segments included in the NYC Allocated Assets, which functions will be assigned and transferred to NYC and CSXT.

(iv) Philadelphia division (Mt. Laurel, NJ): The Philadelphia division office building will be included in the Retained Assets. All dispatching functions at such facility will be assigned to PRR and NSR except (A) those for dispatching the Trenton line, the River line, the Popes Creek secondary, the Herbert secondary, the Landover line and other Philadelphia division segments included in the NYC Allocated Assets, which functions will be assigned and transferred to NYC and CSXT, and (B) those for dispatching the North Jersey Shared Assets Area and the South Jersey/Philadelphia

Shared Assets Area and segments included in the Retained Assets, which functions will be assigned to CRC.

(v) Albany division: The Albany division office building will be included in the NYC Allocated Assets. All dispatching functions will be assigned to NYC and CSXT except those for dispatching the Southern tier, including the Corning secondary, the New Jersey transit line, the Buffalo line and other Albany division segments included in the PRR Allocated Assets, which functions will be assigned and transferred to PRR and NSR.

The parties intend that the dispatching desks, equipment and similar property associated with a dispatching function will, to the extent practicable, follow the assignment of that function to the party designated pursuant to clauses (i) through (v) above, to enable such party to perform dispatching necessary in connection with the Assets allocated to or used by such party. In addition, the parties recognize that interim dispatching services may be required to be provided to each other for the above Routes during a brief interim period (which shall be no longer than reasonably necessary) and that the parties may charge reasonable fees for such services.

Section 2.4. Transition Period Accommodation. (a) To the extent that (i) the CRR headquarters office building in Philadelphia, PA or (ii) the CRR information technology center in Philadelphia, PA (both of which are NYC Allocated Assets) were used by CRR or CRC prior to the Closing Date for the benefit of the CRR and CRC system as a whole, CSX will (or will cause CSXT or NYC to) furnish and make available for the benefit of NSC or its Affiliates access to and use of such NYC Allocated Assets (including, without limitation, office and other space, equipment, computer systems, and data and other information) as are necessary or convenient in order to reasonably accommodate the needs of NSC, NSR and PRR for the services and functions performed at such facilities for a transition period not to exceed (A) twenty-four months following the Closing Date in respect of the CRR headquarters office building in Philadelphia, PA and (B) six months following the Closing Date (extendable for an additional six months at NSC's option) in respect of the CRR information technology center in Philadelphia, PA. CSX may accommodate such needs of NSC, NSR and PRR for such services and functions using premises in Philadelphia, PA other than the premises referred to in clauses (i) and (ii) of this Section 2.4(a); provided that NSC consents to such arrangement, such consent not to be unreasonably delayed or withheld. CSX, CSXT or NYC, as the case may be, shall furnish and make available to NSC, NSR or PRR such NYC Allocated Assets at those facilities as may be reasonably requested by NSC, NSR or PRR; provided that the nature and scope of the use of such NYC Allocated Assets shall not be great-

er than the nature and scope of the use of such NYC Allocated Assets for the benefit of the CRR and CRC system prior to the Closing Date. CSX may charge NSC, NSR or PRR, as the case may be, charges calculated at fair market value by CSX and NSC for such use of such NYC Allocated Assets.

(b) To the extent that (i) the CRC car shop at Hollidaysburg, PA or (ii) the CRC locomotive shop at Altoona, PA (both of which are PRR Allocated Assets) were used by CRR or CRC prior to the Closing Date for the benefit of the CRR and CRC system as a whole, NSC will (or will cause NSR or PRR to) reasonably accommodate the needs of CSX, CSXT or NYC for the services and functions performed at such facilities for a transition period not to exceed twenty-four months following the Closing Date. NSC may accommodate such needs of CSX, CSXT and NYC for such services and functions using premises other than the premises referred to in clauses (i) and (ii) of this Section 2.4(b); provided that CSX consents to such arrangement, such consent not to be unreasonably delayed or withheld. NSC, NSR or PRR, as the case may be, shall furnish and make available to CSX, CSXT or NYC such services and functions at those facilities as may be reasonably requested by CSX, CSXT or NYC; provided that the nature and scope of such services and functions shall not be greater than those which were provided in respect of the NYC Allocated Assets by those facilities prior to the Closing Date. NSC may charge CSX, CSXT or NYC, as the case may be, charges calculated at fair market value by CSX and NSC for such services and functions.

(c) In complying with Section 2.4(a) and Section 2.4(b), (i) the accommodating party will provide or make available the Assets or the services, functions and systems of, and data and information from, the specified facilities to the extent it can reasonably do so and (ii) if the accommodating party so requests, the party accommodated will use its reasonable commercial efforts to discontinue its need for such Assets or services, functions, information, systems and data at the earliest time practicable following, but not later than twenty-four months after, the Closing Date (or earlier time as provided in Section 2.4(a) in respect of the information technology center in Philadelphia, PA). Nothing herein shall preclude a party from agreeing to make available the Assets or services, functions and systems of and information and data from, its facilities to the using party after such maximum periods provided for in Sections 2.4(a) and 2.4(b), but it shall not be required to do so.

(d) CSX will (or will cause CSXT or NYC to) make available to CRR, CRC and their respective Affiliates the CRR headquarters office building and the CRR information technology center in Philadelphia, PA (both of which are NYC Allocated Assets) for use by those employees identified in clause (b) of the definition of "Continuing CRC Management" in Section 1.1. Unless otherwise agreed to by CSX and NSC, CRR, CRC and their

respective Affiliates shall have the right to use those facilities for such Continuing CRC Management employees to perform such general, administrative and technical services and functions for an interim period not to exceed (i) twenty-four months following the Closing Date in respect of the CRR headquarters office building in Philadelphia, PA and (B) six months following the Closing Date (extendable for an additional six months at NSC's option) in respect of the CRR information technology center in Philadelphia, PA. CSX may move such facilities to new premises or may move the Continuing CRC Management using the facilities to new premises; provided that NSC consents to such arrangement, such consent not to be unreasonably withheld and; provided further that CSX and NSC agree on the new fair market value of such facilities which will be Corporate Level Liabilities pursuant to this Section 2.4(d). Until a party terminates its use of the support functions and services of any such Continuing CRC Management employee as provided below, the costs of employing such employee and the fair market value of related facilities shall be Corporate Level Liabilities and such employee's services will be available for the benefit of both CSXT and NYC, on the one hand, and NSR and PRR, on the other hand, based on the operating and administrative needs of each.

(e) Each of CSX and NSC and their respective Affiliates shall have the right, upon six months' prior written notice, to notify the other party that the notifying party no longer needs the support functions and services provided by any one or more of the Continuing CRC Management employees referred to in Section 2.4(d). The notice shall state with specificity the particular Continuing CRC Management position(s) covered by the notice. If the party receiving such notice notifies the other party within thirty days of receipt of such notice that it no longer needs the support functions and services provided by the same (or more) continuing CRC Management employees as are included in the first notice, then the effective date of such second notice shall be deemed to be the same as that of the first notice. Notices may be given at any time before or after the Closing Date and in each case shall specify an effective date on or after the Closing Date, but not less than six months after the date such notice is given. From and after the effective date of such a notice, all costs associated with the Continuing CRC Management positions identified in the notice shall cease to be Corporate Level Liabilities but shall be allocated entirely to and be the responsibility of the party continuing to use the functions and services provided by such Continuing CRC Management positions; provided that in the case of Continuing CRC Management positions as to which both parties have given termination notices that have become effective, all costs associated with such Continuing CRC Management positions after the date the second termination notice becomes effective shall be Corporate Level Liabilities. Notwithstanding the foregoing, Separation Costs associated with all Continuing CRC Management employees after the

Closing Date shall be allocated and paid as otherwise provided in Article VI.

Section 2.5. Trackage, Haulage, Shared Asset and Other Operating Agreements. On the Closing Date and upon the terms and subject to the conditions set forth in this Agreement, each of CRC, CSXT and NSR shall execute and deliver, and the parties shall cause their respective Affiliates and NYC and PRR to execute and deliver, the following agreements to which it is a party:

(a) The Trackage Rights Agreements: A Trackage Rights Agreement covering each of the Routes listed in Item 1 of Schedule 4 and containing the terms and provisions applicable to such Route as set forth in Item 1 of Schedule 4 will be executed by the parties designated in such Item 1.

(b) The CSXT/NSR Haulage Agreements: A CSXT/NSR Haulage Agreement covering each of the Routes listed in Item 2 of Schedule 4 and containing the terms and provisions applicable to such Route as set forth in Item 2 of Schedule 4 will be executed by the parties designated in such Item 2.

(c) The Shared Assets Agreements.

(d) The Other Operating Agreements (in respect of Other Operating Agreements for which the relevant Exhibit hereto sets forth all or some of the terms of an agreement rather than the form of agreement, the parties shall use their best efforts to agree to the form of such Other Operating Agreements prior to the Closing Date).

Section 2.6. Equipment. The parties intend that all Equipment will be allocated between NYC and PRR (either as Allocated Assets or as Retained Assets which are subject to the NYC Equipment Agreement or the PRR Equipment Agreement) by series and condition such that NYC and PRR each receives Equipment by value in proportion to CSX's and NSC's respective Percentage. Disputes concerning such allocation shall be subject to binding arbitration under Section 11.12. After the Equipment has been allocated, the parties may agree in their sole discretion to changes in the allocation giving consideration to other factors. In furtherance of the foregoing sentence, the parties will appoint representatives to various teams to consider appropriate adjustments to allocations of Equipment as described below:

(a) Locomotive Equipment. Promptly after the date hereof, CSXT and NSR shall each appoint up to three members of a committee (the "Locomotive Team"). The Locomotive Team shall meet not later than January 1, 1998, to consider an adjustment to the allocation of locomotive Equipment (including appurtenances

and assigned or related equipment such as locomotive radios) to NYC and PRR, taking into consideration the following guidelines:

(i) The Locomotive Team shall agree upon parameters to be considered in any adjustment to the allocation of locomotive Equipment to NYC and PRR, including CRC's book value, actual numbers of locomotives, horsepower, tractive effort, powered axles, ownership and encumbrances, age and condition.

(ii) The CSXT appointees and the NSR appointees on the Locomotive Team shall separately develop and present to each other proposals for any adjustments to the allocation of locomotive Equipment to NYC and PRR.

(iii) In its negotiations, the Locomotive Team may consider CRC yard service, minimizing maintenance costs, enhancing reliability, and meeting service needs. The Locomotive Team may consider trades of CSXT and NSR locomotives to avoid the division of small groups of locomotive Equipment and to minimize the number of different models each would have as a result of the allocation.

(iv) If agreement is not reached prior to March 31, 1998, the Locomotive Team will submit a list of disputed issues for resolution to the chief operating officers of CSXT and NSR.

(b) Rolling Stock Equipment. Promptly after the date hereof, CSXT and NSR each shall appoint up to four members of a committee (the "Rolling Stock Team"). The Rolling Stock Team shall meet not later than January 1, 1998 to consider an adjustment to the allocation of rolling stock Equipment (including cabooses and non-revenue rolling stock but excluding Work Equipment) to NYC and PRR, taking into consideration the following guidelines:

(i) Consideration may be given to class and builder's lot, series within a given AAR car type and AAR Depreciated Value. Consideration may be given to splitting between NYC and PRR so as to minimize ongoing maintenance and repair cost, facilitate the assignment of car reporting marks, permit customary and efficient handling, movement and interchange of rolling stock in compliance with the AAR Car Service Rules and other applicable industry requirements.

(ii) All rolling stock Equipment that CSXT and NSR agree is either (A) obsolete or (B) damaged beyond economical repair necessary to return the same to service, may be grouped in a separate category and allocated between NYC and PRR in accordance with CSX's and NSC's respective Percentage (based on AAR Depreciated Value).

(iii) Consideration will be given to traffic and service requirements on the Routes comprising the Allocated Assets based on the most current traffic information (including current and anticipated traffic density, customer needs and transportation requirements).

(iv) Head-of-train-devices and end-of-train-devices may be allocated between NYC and PRR based on current transportation needs and train starts in respect of the NYC Allocated Assets and PRR Allocated Assets, as the case may be.

(v) If agreement is not reached prior to March 31, 1998, the Rolling Stock Team will submit a list of disputed issues to the chief operating officers of CSXT and NSR.

(c) Work Equipment. Promptly after the date hereof, NSR and CSXT each shall appoint up to three members of a committee (the "Work Equipment Team"). The Work Equipment Team shall, not later than January 1, 1998, meet to consider an adjustment to the allocation of all Work Equipment that is part of the Unallocated Assets. The Work Equipment Team may allocate such Work Equipment to NYC and PRR by value in proportion to CSX's and NSC's respective Percentage based on category of equipment, then model, then age and then condition. If agreement is not reached prior to March 31, 1998, the Work Equipment Team will submit a list of disputed issues to the chief operating officers of CSXT and NSR.

(d) Assignment. CSXT and NSR recognize that it may be desirable to cause CRC to assign and transfer ownership of certain of the allocated Equipment to NYC and PRR as part of the NYC Allocated Assets or the PRR Allocated Assets, respectively, to the extent such transfer is consistent with existing leases and financing agreements relating to such Equipment. If CSXT and NSR agree, Indebtedness related to Equipment may also be assigned to and assumed by NYC and PRR as part of the NYC Allocated Liabilities and the PRR Allocated Liabilities, respectively.

(e) Lease of Equipment. Equipment that is allocated to NYC and PRR as provided in this Section 2.6 will be made available to NYC and PRR as follows: (i) Equipment that is included in the Retained Assets shall be leased by CRC or its Affiliates to NYC or PRR, as the case may be, pursuant to the NYC Equipment Agreement or the PRR Equipment Agreement and will thereupon be leased or otherwise made available by NYC to CSXT and by PRR to NSR pursuant to the CSXT Equipment Agreement or the NSR Equipment Agreement, respectively; and (ii) Equipment that CSXT and NSR agree shall be assigned and transferred by CRC or its Affiliates to NYC or PRR, as the case may be, will be included in the NYC Allocated Assets or the PRR Allocated Assets, respectively, and will be leased or otherwise made available by

NYC to CSXT and PRR to NSR pursuant to the CSXT Equipment Agreement or the NSR Equipment Agreement, respectively. Liabilities arising from the ownership, operation and maintenance of Equipment shall be borne by the parties as provided for in the relevant Equipment Agreements. If the foregoing arrangements are impracticable in respect of any Equipment due to the requirements of any Contracts relating to such Equipment, the parties will negotiate other arrangements to achieve substantially the same effect.

(f) Equitable Adjustment. The parties recognize that the allocation of Equipment in general and the allocation of Equipment that is collateral with respect to Indebtedness may not reflect precisely CSX's and NSC's respective Percentage and that an equitable adjustment may be required with respect to Corporate Level Liabilities or otherwise to assure that each of NYC and PRR receives the benefits and bears the costs of Equipment as nearly as practicable in proportion to CSX's and NSC's respective Percentage. The Locomotive Team, the Rolling Stock Team and the Work Equipment Team, assisted as necessary by CSX and NSC accounting personnel, shall specify an appropriate adjustment mechanism which may include, but need not include or be limited to, trades between CSXT and NSR of locomotive Equipment, rolling stock Equipment and/or Work Equipment.

Section 2.7. Inventory at Altoona and Hollidaysburg. (a) As soon as practicable before the Closing Date, the Inventory Team shall determine the Base Inventory. "Base Inventory" (i) will consist of and mean all rolling-stock-related and locomotive-related inventory and supplies (including rolling-stock-related and locomotive-related system stockpiles) of CRR, CRC or their respective Affiliates located at the Altoona and Hollidaysburg shops as of a date at least thirty days prior to the anticipated Closing Date to be agreed by the Inventory Team, and (ii) will exclude (A) all obsolete or damaged material and supplies and (B) all inventory acquired for the purpose of fulfilling third-party Contracts which inventory will follow and be applied to fulfillment of such Contracts. The Inventory Team will code and group the items of inventory, materials and supplies included in the Base Inventory as "new," "reconditioned," "re-usable," and the like, and will value the groups based on CRC's material costs or other mutually agreeable methodology (excluding additives and overheads). The sum of the values of the groups will be the value of the Base Inventory.

(b) Rolling-stock-related and locomotive-related inventory and supplies (including rolling-stock-related and locomotive-related system stockpiles) of CRR, CRC and their respective Affiliates located at the Altoona and Hollidaysburg shops as of the Closing Date will be included in the PRR Allocated Assets. To the extent that, after the Closing Date, any work is performed at the request and for the account of CSXT or

NYC at the Altoona shop or the Hollidaysburg shop pursuant to Section 2.4(b), CSXT and NYC will not be charged for inventory and supplies used in such work up to an amount of inventory and supplies equal to 42% of the total value of the Base Inventory, but only to the extent that such work requires material and supplies of the types included in the Base Inventory. Notwithstanding the foregoing, NSR or PRR will separately charge CSXT or NYC for the fair market value of work performed for the account of CSXT or NYC.

Section 2.8. Allocated and Retained Liabilities. The parties agree that on and as of the Closing Date (x) NYC shall assume and agree to pay, perform and discharge as and when due all of the NYC Allocated Liabilities, (y) PRR shall assume and agree to pay, perform and discharge as and when due all of the PRR Allocated Liabilities, and (z) CRC and its Affiliates shall retain and pay, perform and discharge as and when due all of the Retained Liabilities. In furtherance of the foregoing, the parties agree that, in addition to Employee Related Liabilities that are designated as Allocated Liabilities or Retained Liabilities under Article VI, the Allocated Liabilities and the Retained Liabilities shall consist of the following:

(a) All Liabilities of CRR, CRC or their Affiliates, other than Environmental Liabilities (which are expressly allocated pursuant to Section 2.8(b)), Corporate Level Liabilities (which are expressly allocated pursuant to Section 2.8(f)), Employee Related Liabilities (which are expressly allocated pursuant to Article VI), Liabilities referred to in Section 2.9 or Liabilities expressly allocated to any Person pursuant to any of the Ancillary Agreements, including Liabilities associated with the handling and disposition of Actions, that (i) arise on or after the Closing Date and relate predominantly to NYC Allocated Assets shall be NYC Allocated Liabilities, and (ii) arise on or after the Closing Date and that relate predominantly to PRR Allocated Assets shall be PRR Allocated Liabilities.

(b) Environmental Liabilities (other than Environmental Liabilities expressly allocated to any Person pursuant to any of the Ancillary Agreements) shall be designated as follows: (i) Environmental Liabilities that relate predominantly to NYC Allocated Assets shall be NYC Allocated Liabilities; (ii) Environmental Liabilities that relate predominantly to PRR Allocated Assets shall be PRR Allocated Liabilities; and (iii) Environmental Liabilities that do not relate predominantly to Allocated Assets shall be Corporate Level Liabilities; provided that, in the case of Environmental Liabilities allocated to either NYC or PRR pursuant to clause (i) or (ii) above, NYC or PRR, as the case may be, will be reimbursed by CRC as amounts are expended by NYC or PRR, as the case may be, in respect of an Environmental Liability to the extent of the amount of the reserve existing in respect of such Environmental Liability as of April 8, 1997, re-

duced by any payments made and charged against such reserve prior to the Closing Date, except that NYC or PRR, as the case may be, will repay the amounts under this Section 2.8(b) to CRC to the extent that they receive the proceeds of any insurance recoveries in respect of an Allocated Liability which exceed such Allocated Liability net of such payments made.

(c) All Liabilities (other than Liabilities expressly allocated to any Person pursuant to any of the Ancillary Agreements) associated with the handling and disposition of FELA Claims made on or after the Control Date shall be NYC Allocated Liabilities, PRR Allocated Liabilities or Corporate Level Liabilities based upon the final allocation under this Article II of the Asset where the incident or incidents giving rise to the FELA Claim occurred, or, if the FELA Claim arises from an incident or incidents occurring at more than one location, based upon the final allocation under this Article II of the Asset most significantly involved.

(d) Except as provided in Section 2.8(a), Section 2.8(b) or Section 2.8(c), all Liabilities associated with the handling and disposition of Actions arising from incidents which occur in part prior to the Closing Date and in part on or after the Closing Date shall be allocated as follows:

(i) that portion of the Liability which is fairly attributable to incidents occurring prior to the Closing Date shall be Corporate Level Liabilities; and

(ii) that portion of the Liability which is fairly attributable to incidents occurring on or after to the Closing Date shall be NYC Allocated Liabilities, PRR Allocated Liabilities or Corporate Level Liabilities based upon the final allocation under this Article II of the Asset where the incident or incidents giving rise to the Action occurred, or, if the Action arises from an incident or incidents occurring at multiple locations, based upon the final allocation under this Article II of the Asset most significantly involved.

(e) Except as provided in Section 2.9(b) or Section 2.9(c), all Liabilities incurred after April 8, 1997 relating to the Merger Agreement, including without limitation Liabilities for CRR Shares, if any, that are put pursuant to the Pennsylvania Control Transaction Law, shall be Retained Liabilities.

(f) Except as provided in Sections 2.8(b) through (e), all Liabilities that arise prior to the Closing Date and all Corporate Level Liabilities shall be Retained Liabilities.

Section 2.9. Other Liabilities. (a) Each of CSX and NSC shall bear its own Transaction Expenses.

(b) CSX shall bear and pay all of CSX's, CRR's, the Surviving Corporation's and their respective Affiliates' Liabilities to current or former CRR shareholders with respect to the handling (which CSX shall control) and disposition (which CSX shall control) of claims pending on April 8, 1997 in shareholder Actions pending on April 8, 1997 (other than Actions brought by NSC or its Affiliates) together with all related litigation costs (which shall not include CRR legal fees incurred prior to April 8, 1997).

(c) CSX's, Green's, CRR's and the Surviving Corporation's, on the one hand, and NSC's and AAC's on the other hand, Liability with respect to the handling (which shall be controlled by the liability bearing party) and disposition (which shall be controlled by the liability bearing party) of disclosure-based claims based on disclosures made prior to April 8, 1997 brought by current or former CRR shareholders in connection with the Merger Agreement, the Amended Second Offer (as defined in the April 8 Agreement) or the transactions contemplated thereby based on the accuracy or completeness of information supplied by such party, together with all related litigation costs (which shall not include CRR legal fees incurred prior to April 8, 1997), shall be borne solely by CSX or NSC, respectively.

Section 2.10. Interline Accounts and Allocation.
(a) The parties acknowledge that interline railroads often allocate certain assets and liabilities arising from interline activities between and among themselves on the basis of AAR or industry agreements and rules, including, without limitation, AAR rules for the allocation of freight revenues and freight loss and damage claims. If any Asset or Liability which is allocated under this Agreement to NYC or PRR would, in the usual course of business under applicable AAR or industry agreement, rule or practice, be allocated between or among participating interline railroads, then the subsequent allocation of that Asset or Liability between or among NYC, PRR and/or any railroad subsidiary of either CSX or NSC under that agreement, rule or practice shall not in any manner be affected by this Agreement and the parties shall accept and be governed by that subsequent reallocation under the applicable AAR or industry agreement, rule or practice, notwithstanding any provision of this Agreement which may be construed or interpreted to the contrary, including, without limitation, the provisions of Section 2.2 and Section 2.8. The parties shall also accept and be governed by any provision of any AAR or industry agreement, rule or practice applicable to processes and procedures for dealing with the circumstances underlying any such subsequent reallocation (including without limitation the investigation and processing of third party claims), notwithstanding any provision of this Agreement which may be construed or interpreted to the contrary,

including, without limitation, the provisions of Section 8.14 and Section 10.2.

(b) If any dispute, controversy or claim arises with regard to the subsequent reallocation of any portion of any asset or liability allocated under Section 2.10(a), and the pertinent AAR or industry agreement, rule or practice provides for arbitration, then the arbitration provisions of that agreement, rule or practice shall, as to that subsequent reallocation, supersede any provisions of this Agreement which may be construed or interpreted to the contrary, including, without limitation, the arbitration provisions of Section 11.12.

Section 2.11. Insurance Proceeds. Except as otherwise provided in this Agreement, the proceeds of any insurance recoveries from insurance carried by CRR, CRC or their respective Affiliates on or prior to the Closing Date covering Assets, Retained Liabilities or Allocated Liabilities, which are received on or after the Closing Date, shall accrue to the benefit of and be held by or paid over to CRC, NYC or PRR in proportion to the obligation each bears under this Agreement for the particular Liabilities to which the insurance recoveries are applicable.

ARTICLE III

CLOSING AND CLOSING DATE

Section 3.1. Closing. Subject to the terms and conditions of this Agreement, the closing of the transactions contemplated in Article II and Article VI (the "Closing") shall take place at a place to be mutually agreed by CSX and NSC on the third business day following the date on which all of the conditions set forth in Article IX shall have been satisfied or waived, or at such other time, date and place as the parties shall agree upon (the "Closing Date").

Section 3.2. Pre-Closing Actions. Prior to the Closing, CRR shall cause CRC to establish NYC and PRR as wholly owned Subsidiaries of CRC and shall cause CRC and NYC to enter into the NYC LLC Agreement and shall cause CRC and PRR to enter into the PRR LLC Agreement.

Section 3.3. Closing Deliveries. At the Closing:

(a) CSX and CSXT shall deliver or cause to be delivered to NSC the following documents:

(i) an executed counterpart of the CSXT Equipment Agreement;

(ii) an executed counterpart of the CSXT Operating Agreement;

(iii) an executed counterpart of each of the Trackage Rights Agreements to which CSXT or its Affiliates is to be a party;

(iv) an executed counterpart of each of the CSXT/NSR Haulage Agreements to which CSXT or its Affiliates is to be a party;

(v) an executed counterpart of each of the Shared Assets Agreements and Other Operating Agreements to which CSXT or its Affiliates is to be a party; and

(vi) such other and further certificates, assurances and documents otherwise necessary for the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements.

(b) NSC and NSR shall deliver or cause to be delivered to CSX the following documents:

(i) an executed counterpart of the NSR Equipment Agreement;

(ii) an executed counterpart of the NSR Operating Agreement;

(iii) an executed counterpart of each of the Trackage Rights Agreements to which NSR or its Affiliates is to be a party;

(iv) an executed counterpart of each of the CSXT/NSR Haulage Agreements to which NSR or its Affiliates is to be a party;

(v) an executed counterpart of each of the Shared Assets Agreements and Other Operating Agreements to which NSR or its Affiliates is to be a party; and

(vi) such other and further certificates, assurances and documents otherwise necessary for the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements.

(c) CRR Parent, CRR and CRC (for itself and, if applicable, as CRR's successor entity) shall deliver or cause to be delivered to each of CSX and NSC:

(i) the NYC Equipment Agreement executed by CRC and NYC;



(ii) a counterpart of the CSXT Equipment Agreement executed by NYC;

(iii) the PRR Equipment Agreement executed by CRC and PRR;

(iv) a counterpart of the NSR Equipment Agreement executed by PRR;

(v) a counterpart of the CSXT Operating Agreement executed by NYC;

(vi) a counterpart of the NSR Operating Agreement executed by PRR;

(vii) an executed counterpart of each of the Trackage Rights Agreements, the CSXT/NSC Haulage Agreements, the Shared Assets Agreements and the Other Operating Agreements to which CRC or its Affiliates is a party;

(viii) the Tax Allocation Agreement executed by Green, CRR, CRC, CRR Industries, PRR and NYC;

(ix) the NYC LLC Agreement executed by CRC;

(x) the PRR LLC Agreement executed by CRC;

(xi) a Capital Contribution, Assignment and Assumption Agreement executed by CRC and NYC to effectuate the transfer of the NYC Allocated Assets and the NYC Allocated Liabilities to NYC;

(xii) a Capital Contribution, Assignment and Assumption Agreement executed by CRC and PRR to effectuate the transfer of the PRR Allocated Assets and the PRR Allocated Liabilities to PRR; and

(xiii) such other and further certificates, assurances and documents otherwise necessary for the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements.

ARTICLE IV
CRR PARENT, CRR AND CRC GOVERNANCE AND FUNDING

Section 4.1. Pre-Control Date Matters. (a) Unless expressly permitted in another agreement between CSX and NSC, neither CSX nor NSC will, without the prior agreement of the other, agree to any modifications of the terms and conditions of, or give any consent or waiver under, the Merger Agreement, including without limitation under Section 4.1 of the Merger Agree-

ment. Without limiting the foregoing, neither CSX nor NSC will, without the other's prior consent, agree to any determinations with respect to, direct CRR to take any action with respect to, or object to or prohibit any action with respect to CRR's employee stock ownership plan, pension plan, stock employee compensation trust or any other CRR benefit plan, program, arrangement or other contract, or any trust or other funding arrangement that is intended to be used in whole or in part to provide or fund benefits under any CRR or CRC benefit plans, programs, arrangements or contracts. In addition, CSX will consult and agree with NSC prior to providing any notices to CRR under the Merger Agreement and shall promptly provide NSC with copies of all written notices provided by CSX to CRR or received by CSX from CRR under the Merger Agreement.

(b) Prior to the Control Date CRR shall be governed in accordance with the terms of the Amended and Restated Voting Trust Agreement.

Section 4.2. Post-Control Date CRC Governance. CRR Parent shall vote all of the shares in the capital stock of CRC and all of the parties shall take all other necessary or desirable action within their respective control to effectuate the following:

(a) Following the Control Date, the business and affairs of CRC shall be managed under the direction of the CRC Board consisting of six persons divided into two classes of three directors. Three directors shall be designated by CSX (the "CSX Directors") and three directors shall be designated by NSC (the "NSC Directors").

(b) Approval of the CRC Board shall be required for all Major Decisions of CRC. The power of the CRC Board to approve such actions and decisions shall be exclusive to the CRC Board, and no officer may take any such action or make any such decision without the approval of the CRC Board. Any action or decision of the CRC Board, whether at a meeting of the CRC Board or by written consent, may only be taken if approved by a majority of CSX Directors and a majority of NSC Directors.

(c) The CSX Directors may appoint by majority vote one Co-Chairman (the "CSX Co-Chairman") and the NSC Directors may appoint by majority vote one Co-Chairman (the "NSC Co-Chairman"). The Co-Chairmen shall preside at all meetings of the CRC Board and shall have and perform such other duties as may be assigned to them by the CRC Board.

(d) If the office of any CSX Director becomes vacant, the remaining CSX Directors by a majority vote may appoint any qualified individual to fill such vacancy, and such individual shall hold office for the unexpired term and until his or her

successor shall be duly chosen. If the office of any CSX Director becomes vacant and there are no remaining CSX Directors, CSX may appoint any qualified individuals to fill the CSX Directors vacancies by a writing to such effect. If the office of any NSC Director becomes vacant, the remaining NSC Directors by a majority vote may appoint any qualified individual to fill such vacancy, and such individual shall hold office for the unexpired term and until his or her successor shall be duly chosen. If the office of any NSC Director becomes vacant and there are no remaining NSC Directors, NSC may appoint any qualified individuals to fill the NSC Directors vacancies by a writing to such effect.

(e) Any CSX Director may be removed either for or without cause at any time, but only by CSX in a writing to such effect. Any NSC Director may be removed either for or without cause at any time, but only by NSC in a writing to such effect.

(f) In addition to the two Co-Chairmen of the CRC Board, the officers of CRC may include a chief executive officer, one or more vice presidents, a treasurer and a secretary, all of whom shall be elected by and shall serve at the direction of the CRC Board.

(g) The parties agree to take all necessary action such that each of CSX and NSC shall have rights identical to those set forth in paragraphs (a) through (f) above with respect to the Boards of Directors and management of CRR and each of its Affiliates in addition to CRC other than NYC and PRR.

Section 4.3. Post-Closing Date CRC Funding. (a) From and after the Closing Date, CSX and NSC shall ensure that CRR, CRC and their Affiliates have sufficient cash to satisfy the Retained Liabilities as they become due and any operating and other expenses incurred by CRR, CRC and their Affiliates in the conduct of their business consistent with this Agreement and the Ancillary Agreements after giving effect to any Distributions received or to be received from NYC and PRR. In furtherance of the foregoing sentence, following receipt by CRR Parent of written notice from CRC of a CRC Board decision that CRC requires such cash, CRR Parent shall provide such cash to CRC by capital contribution, loan or advance to be made on the next business day following the expiration of 30 days after receipt of such notice, unless a later date is determined by the CRC Board or another date is agreed in writing by CRC and CRR Parent.

(b) It is the intent of the parties that the economic burden of the Corporate Level Liabilities will be borne, directly or indirectly, by CSX or NSC in accordance with their respective Percentage.

Section 4.4. Post-Control Date CRC and Other Distributions. Following the Control Date, subject to any legal and

contractual restrictions, the CRC Board shall cause CRC to make a Distribution to CRR Parent as soon as is practical and in any event within 45 days after each fiscal quarter of all cash received by CRC from operations and any dividends, interest or other cash Distributions from any Person in which CRC has an interest which is in excess of 120% of the amount of cash reasonably contemplated by the CRC Board as being necessary for the cash payment of CRC's operating expenses (net of receipts), debt service, contingencies, budgeted capital expenditures and working capital requirements (all of which shall take into account cash on hand and future expected cash surpluses and cash requirements). Notwithstanding the foregoing, no Distribution shall be made which would render CRC insolvent or which is prohibited by the terms of any Indebtedness of CRC or its Affiliates.

Section 4.5. Operating Fees, Interest Rentals and Base Rent. The parties anticipate that as of the Closing Date, the sum of the following amounts will total seven hundred and fifty million dollars: (i) Interest Rentals payable under the Shared Assets Agreements, (ii) Operating Fees payable under the CSXT Operating Agreement and the NSR Operating Agreement and (iii) Base Rent payable under the CSXT Equipment Agreement and the NSR Equipment Agreement. The parties acknowledge that as of a Valuation Date, (i) the Interest Rentals, Operating Fees and Base Rent shall be determined as set forth in the CSXT Operating Agreement, the NSR Operating Agreement, the CSXT Equipment Agreement, the NSR Equipment Agreement and the Shared Assets Agreements and (ii) the allocation between CSXT and NSR of the Operating Fees and Base Rent payable under the CSXT Operating Agreement, the NSR Operating Agreement, the CSXT Equipment Agreement and the NSR Equipment Agreement shall reflect the then relative Fair Market Rental Values of the NYC Allocated Assets, the PRR Allocated Assets, the CSXT Equipment and the NSR Equipment as of the most recent Valuation Date (which allocation, in the case of a Valuation Date that is also the Closing Date, shall be a 58% allocation to NSR and a 42% allocation to CSXT).

ARTICLE V

NYC and PRR GOVERNANCE AND CONDUCT

Section 5.1. NYC Governance. From and after the Control Date, CSX shall have exclusive authority to direct the appointment of the officers and directors of NYC who shall in their discretion, but subject to the provisions of this Agreement, direct the operation of NYC. Without limiting the foregoing but subject to Section 5.3, CRC, in its capacity as the sole member of NYC, shall follow CSX's directions with respect to the management and operation of NYC to the extent that such directions are not inconsistent with the terms of this Agreement, the NYC LLC Agreement or any applicable laws and do not involve the transfer,

sale, conveyance, distribution, pledge, hypothecation, encumbrance or assignment of such membership interest (other than in connection with a Restructuring).

Section 5.2. PRR Governance. From and after the Control Date, NSC shall have exclusive authority to direct the appointment of the officers and directors of PRR, who shall in their discretion, but subject to the provisions of this Agreement, direct the operation of PRR. Without limiting the foregoing but subject to Section 5.3, CRC, in its capacity as the sole member of PRR, shall follow NSC's directions with respect to the management and operation of PRR to the extent that such directions are not inconsistent with the terms of this Agreement, the PRR LLC Agreement or any applicable laws and do not involve the transfer, sale, conveyance, distribution, pledge, hypothecation, encumbrance or assignment of such membership interest (other than in connection with a Restructuring).

Section 5.3. NYC and PRR Actions. Notwithstanding anything to the contrary contained in Section 5.1 or Section 5.2, unless it receives the prior written consent of CSX and NSC to the contrary, CRC, as the sole member of each of NYC and PRR, shall cause NYC and PRR respectively to enforce, to the fullest extent permitted by law or Contract, their rights under the Ancillary Agreements, including any right to receive payments or any indemnities thereunder.

Section 5.4. NYC and PRR Distributions. The parties agree that, from and after the Control Date, other than Distributions made by NYC and PRR contemporaneously and in proportion to the respective Percentage of CSX and NSC, NYC and PRR shall not be required, without the consent of CSX or NSC, respectively, to make any Distributions to CRC or its Affiliates.

Section 5.5. Actions. CRC shall exercise its ownership interest in NYC and PRR, respectively, and all of the parties shall take all other necessary or desirable action within their respective control, in order to effectuate the provisions of this Article V.

ARTICLE VI

EMPLOYEE MATTERS

Section 6.1. Employees of CRR and CRC. (a) On the Closing Date, or as soon thereafter as any applicable labor agreements, statutes, regulations and STB conditions, and implementing agreements thereunder, may permit or require, each of CSX, NSC, NYC or PRR or their respective Affiliates shall make employment available to CRR and CRC agreement employees pursuant to the requirements and procedures under the said applicable

labor agreements, statutes, regulations, conditions and implementing agreements.

(b) Prior to the Closing Date, each of CSX and NSC and their respective Affiliates shall comply with the Staffing Process Guidelines dated June 1, 1997 as adopted by CSX and NSC.

(c) Not later than thirty days prior to the Closing Date, CSX and NSC jointly shall determine the location, functions to be performed by, resources and positions required by, and methodology for cost determination for Continuing CRC Management. Each function shall be defined in terms of a description of the function, the number of positions required to perform the function and general descriptions of the nature of each function, including whether it is intended to be performed on an interim or on-going basis. CSX and NSC jointly may enter into one or more agency agreements by which CSX or NSC or their respective Affiliates may perform any Continuing CRC Management functions.

(d) To the extent implementing agreements are required by STB-imposed conditions in order to effect the transactions contemplated by Article II and Article VI, each party agrees to use its commercially reasonable efforts to obtain implementing agreements reasonably determined by the parties to be necessary to effect such transactions. Where necessary to effect the transactions contemplated by Article II and Article VI, the parties will jointly negotiate (and if no agreement is reached will jointly arbitrate to reach an agreement) an implementing agreement to which they will be parties with the employee representative(s) of the appropriate craft or class of employees of each carrier. Notwithstanding the foregoing, no party shall be required by this Section 6.1(d) to agree to implementing agreements which it, in its reasonable judgment, determines to be contrary to its business interests.

Section 6.2. Employee Related Liabilities. Employee Related Liabilities shall be designated as follows:

(a) Separation Costs subsequent to the Control Date associated with agreement employees at CRC's or its Affiliates' shops in Altoona and Hollidaysburg shall be the responsibility of NSR. Separation Costs subsequent to the Control Date associated with agreement employees at CRC's or its Affiliates' headquarters in Philadelphia, technology center in Philadelphia, and customer service center in Pittsburgh (notwithstanding its joint use as a SSO Facility) will be the responsibility of CSXT.

(b) The on-going employee expenses related to Continuing CRC Management after the Control Date shall be Corporate Level Liabilities; provided that (i) each of CSX and NSC shall have the right pursuant to Section 2.3 to discontinue use of a Continuing CRC Management function or a position related to a SSO

Facility and (ii) each of CSX and NSC shall have the right pursuant to Section 2.4 to discontinue use of a function performed by, or a position occupied by, an employee identified pursuant to clause (b) of the definition of Continuing CRC Management. Notwithstanding the foregoing, Separation Costs associated with Continuing CRC Management employees after the Closing Date shall be allocated as otherwise provided in this Agreement.

(c) In each instance subsequent to the Control Date and subject to the provisions of Section 6.2(a) above, (i) Separation Costs associated with CRC agreement employees working jobs at or in respect of NYC Allocated Assets will be the sole responsibility of CSXT, (ii) Separation Costs associated with CRC agreement employees working jobs at or in respect of PRR Allocated Assets will be the sole responsibility of NSR, (iii) for each CRC agreement employee working a job at or in respect of Retained Assets, Separation Costs will be a Corporate Level Liability, and (iv) Separation Costs associated with CRC or CRR agreement employees working jobs at or in respect of two or more such properties (i.e., NYC Allocated Assets, PRR Allocated Assets and Retained Assets) will be treated as the responsibility of CSXT, NSR, or as a Corporate Level Liability, depending upon the Asset at or in respect of which the employee predominantly works.

(d) Subject to Sections 6.2(a) and (e), if an employee of CRR, CRC or their respective Affiliates on the Control Date who is subject to any protective conditions imposed by the STB pursuant to the transactions contemplated by this Agreement or the Ancillary Agreements cannot obtain employment with CRC, PRR, NYC, CSX, NSC or their respective Affiliates after the Control Date, then the Separation Costs in respect of such employee shall be included among Corporate Level Liabilities, NYC Allocated Liabilities or PRR Allocated Liabilities on the basis of whether the employee performed the preponderance of his or her service in the six months preceding the first day of the month in which the Control Date occurred at or in respect of a Retained Asset, an NYC Allocated Asset or a PRR Allocated Asset. The Separation Costs of employees as to whom no reasonable determination can be made shall be Corporate Level Liabilities, but shall be assigned on an alternating basis to NYC and PRR for the purpose of administering the claims.

(e) If an employee of CRC, CSX, NSC, PRR, NYC or their respective Affiliates who is subject to any protective conditions imposed by the STB pursuant to the transactions contemplated by this Agreement or the Ancillary Agreements moves his or her employment from one of such parties to another of such parties on or after the Control Date (including any employee in respect of whom the Separation Costs have already been allocated to one of CRC, PRR, NYC, CSX, NSC or their respective Affiliates), responsibility for such employee's Separation Costs arising thereafter

shall be assumed by the new employer; provided that any relocation costs shall be the responsibility of the first employer.

(f) Separation Costs associated with employees who were employed by CSX or NSC or their Affiliates on the day preceding the Control Date will be the sole responsibility of such employer.

(g) Separation Costs associated with employees who are, as of the Control Date, non-agreement employees of CRR or CRC (including payments to be made by CSX, CRR or the Surviving Corporation under the Merger Agreement) shall be Corporate Level Liabilities. Compensation and other expenses after the Control Date associated with those non-agreement CRC employees who are not designated as Continuing CRC Management and who are not employed by either CSX or NSC, or their respective Affiliates, shall be Corporate Level Liabilities until such time as such employees are no longer employed by CRC.

(h) Compensation and other expenses (excluding Separation Costs) for agreement employees (other than Continuing CRC Management) working jobs at or in respect of NYC Allocated Assets shall be the sole responsibility of CSXT. Compensation and other expenses (excluding Separation Costs) for agreement employees (other than Continuing CRC Management) working jobs at or in respect of PRR Allocated Assets shall be the sole responsibility of NSR.

(i) Notwithstanding anything in this Section 6.2 to the contrary, Separation Costs (other than payments made pursuant to the CRR Stay Bonus Program) under CRR or CRC plans and agreements (including the Third Amendment) for a CRC non-agreement employee who becomes employed after the Control Date by CSX or its Affiliates or NSC or its Affiliates, which Separation Costs arise subsequent to the date of such employment, will be borne by the employing party.

Section 6.3. Non-Agreement Employee Benefit Plans. (a) The employee benefit plans, programs and policies which currently are provided to the non-agreement employees of CRR, CRC or their respective Affiliates will continue to be provided to the non-agreement employees of CRC and its Affiliates and to non-agreement Continuing CRC Management on and after the Control Date, unless it is determined jointly by CSX and NSC that such benefits shall be changed; provided that CSX and NSC shall not make any changes in such plans, programs or policies that contravene Attachment A to the CRR Disclosure Schedule delivered in connection with the Third Amendment. The costs associated with such plans, programs and policies shall be Corporate Level Liabilities, except that Separation Costs shall be allocated and paid as otherwise provided herein. CSX and NSC jointly may enter into one or more agency agreements with CRR, CRC or their respec-

tive Affiliates for CSX or NSC to provide any of such benefits, programs or policies.

(b) Any employee benefit plans, programs and policies for the employees of NYC and its Subsidiaries shall be the sole responsibility of NYC and included in the NYC Allocated Liabilities. Any employee benefit plans, programs and policies for the employees of PRR and its Subsidiaries shall be the sole responsibility of PRR and included in the PRR Allocated Liabilities. However, notwithstanding the foregoing, NYC, PRR and CRC shall provide to each other any information that is necessary to determine whether any benefit plan is or continues to be tax qualified, and in the event that NYC, PRR or CRC reasonably determines that the benefit plans of NYC, PRR and CRC, when considered together, may cause one or more benefit plans to lose or fail to obtain their tax qualification, NYC, PRR and CRC shall agree to appropriate changes to prevent such loss of tax qualification.

(c) CSX, NSC and CRC agree to take any actions permitted by law that are necessary or appropriate to determine the amount of excess assets in CRC benefit plans and to allow allocation to CSX and NSC or their respective Affiliates in proportion to their respective Percentage; provided that no such transfer shall reduce the assets remaining in any CRC defined benefit plans to a level that is less than 100% of the Liabilities for benefits on a termination basis as reasonably calculated by Price Waterhouse employing usual and customary methodology and assumptions and; provided further that no such transfer shall reduce the assets remaining in any other CRC benefit plan to a level that is less than 100% of the Liabilities for those other CRC benefit plans as reasonably calculated by Price Waterhouse. CSX, NSC and CRC shall reach an agreement as to the transfer of accrued benefits and related assets with respect to employees that are transferred.

(d) Any Liabilities incurred prior to the Closing Date by CRR, CRC or any of their respective Affiliates with respect to any employee benefit plan, program, policy or arrangement, other than to the extent a Liability is funded under a CRC benefit plan, shall be Corporate Level Liabilities.

Section 6.4 Residual Liability. The allocation of liabilities associated with the employees of CRR, CRC or any of their respective Affiliates hereunder is intended merely to assign primary responsibility for such liabilities among the parties. Nothing in the Agreement shall be interpreted or construed as a restriction or limitation of the duties and responsibilities of CRR, CRC, their respective Affiliates and CSX with respect to employee-related liabilities as set forth in the Merger Agreement and Attachment A to the CRR Disclosure Schedule delivered in connection with the Third Amendment.

ARTICLE VII

REPRESENTATIONS AND WARRANTIES

Section 7.1. CSX. CSX represents and warrants to NSC, CRR and CRR Parent as of the date hereof and as of the Closing Date as follows:

(a) Organization and Good Standing. CSX is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Virginia.

(b) Authority. CSX has full corporate power and authority to execute and deliver this Agreement and the Ancillary Agreements and to consummate the transactions contemplated hereby and thereby. All corporate acts and other corporate proceedings required to be taken by or on the part of CSX to authorize CSX to execute, deliver and authorize the performance of this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby have been duly and properly taken.

(c) Enforceability. This Agreement has been and each of the Ancillary Agreements will be duly executed and delivered by CSX and, when duly executed and delivered by NSC and (to the extent such agreement is not being entered into as of the date hereof) CSX, will constitute the legal, valid and binding obligation of CSX enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization and other laws of general application relating to or affecting enforcement of creditors' rights and except that the availability of equitable remedies, including specific performance, is subject to the discretion of the court before which any proceeding therefor may be brought.

(d) No Violation. The execution and delivery by CSX of this Agreement and the Ancillary Agreements will not violate in any material respect any law, or in any material respect conflict with, result in any breach of, constitute a default (or any event which with notice or lapse of time or both would become a default) under the Articles of Incorporation or Bylaws of CSX or any material Contract to which CSX is a party or by which it or its property or assets is bound.

(e) No Approvals. Except for required approvals by the STB and filings required under the Securities Exchange Act of 1934, as amended (the "Required Approvals"), no declaration, filing or registration with, or notice to, or authorization, consent or approval of, any Governmental Entity is necessary for the consummation by CSX of the transactions contemplated hereby or by the Ancillary Agreements, other than such filings, registrations, authorizations, consents or approvals which, if not obtained or

made, will not, in the aggregate, materially adversely affect the ability of CSX to consummate the transactions contemplated hereby or by the Ancillary Agreements.

Section 7.2. NSC. NSC represents and warrants to CSX, CRR and CRR Parent as of the date hereof and as of the Closing Date as follows:

(a) Organization and Good Standing. NSC is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Virginia.

(b) Authority. NSC has full corporate power and authority to execute and deliver this Agreement and the Ancillary Agreements and to consummate the transactions contemplated hereby and thereby. All corporate acts and other corporate proceedings required to be taken by or on the part of NSC to authorize NSC to execute, deliver and authorize the performance of this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby have been duly and properly taken.

(c) Enforceability. This Agreement has been and each of the Ancillary Agreements will be duly executed and delivered by NSC and, when duly executed and delivered by CSX and (to the extent such agreement is not being entered into as of the date hereof) NSC, will constitute the legal, valid and binding obligation of NSC enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization and other laws of general application relating to or affecting the enforcement of creditors' rights and except that the availability of equitable remedies, including specific performance, is subject to the discretion of the court before which any proceeding therefor may be brought.

(d) No Violation. The execution and delivery by NSC of this Agreement and the Ancillary Agreements will not violate in any material respect any law, or in any material respect conflict with, result in any breach of, constitute a default (or any event which with notice or lapse of time or both would become a default) under the Articles of Incorporation or Bylaws of NSC or any material Contract to which NSC is a party or by which it or its property or assets is bound.

(e) No Approvals. Except for the Required Approvals, no declaration, filing or registration with, or notice to, or authorization, consent or approval of, any Governmental Entity is necessary for the consummation by NSC of the transactions contemplated hereby or by the Ancillary Agreements, other than such filings, registrations, authorizations, consents or approvals which, if not obtained or made, will not, in the aggregate, materially adversely affect the ability of NSC to consummate the transactions contemplated hereby or by the Ancillary Agreements.

ARTICLE VIII

COVENANTS

Section 8.1. Conduct of Business. Except as provided for in this Agreement or as otherwise consented to by CSX and NSC in writing, between the Control Date and the Closing Date, the parties will use reasonable commercial efforts to cause the Assets to be operated by CRR, CRC and their respective Affiliates in the ordinary course consistent with past practice and in compliance in all material respects with all applicable laws and regulations and will use their reasonable commercial efforts to preserve intact the Assets, use reasonable efforts to keep available the services of CRR's, CRC's and their respective Affiliates' current officers and other key employees as a group and preserve CRR's, CRC's and their respective Affiliates' relationships with those Persons having business dealings with CRR, CRC and their respective Affiliates to the end that their goodwill and ongoing businesses shall be unimpaired at the Closing Date. Without limiting the foregoing, between the Control Date and the Closing Date, the parties will use reasonable commercial efforts to ensure that CRR, CRC and their respective Affiliates continue their maintenance and improvement of Assets in the ordinary course in accordance with past practice without discriminating between Assets on the basis of whether they are or will be NYC Allocated Assets, PRR Allocated Assets or Retained Assets.

Section 8.2. Best Efforts. Subject to the terms and conditions of this Agreement, each party agrees to use best efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things reasonably necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement and the Ancillary Agreements. No party shall knowingly take any action in contravention of, or which is inconsistent with, the transactions contemplated by this Agreement.

Section 8.3. Further Assurances; Consents. (a) From time to time after the Closing Date, each of the parties will execute and deliver such further instruments and will take such other actions as CSX, on the one hand, or NSC, on the other hand, may reasonably request in order to effectuate the purposes of this Agreement and the Ancillary Agreements and to carry out the terms hereof and thereof. To the extent that any consent or concurrence is required under this Agreement by any party or its Affiliates, such consent or concurrence shall not be unreasonably withheld.

(b) If any of the Allocated Assets cannot be transferred as contemplated by this Agreement (other than Contracts which are dealt with in Section 8.5), the parties will cooperate

to make the Allocated Asset available through whatever alternative arrangements will best carry out the purpose and accomplish the intent of this Agreement, except that this requirement shall not apply to Allocated Assets which cannot be transferred because of regulatory constraints.

Section 8.4. STB Approval. (a) The parties will as expeditiously as possible seek STB approval necessary for the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements. The parties will use their reasonable best efforts to obtain such approvals, and no party will take any position (at the STB or with any other Governmental Entity or elsewhere) inconsistent with this Agreement and the Ancillary Agreements.

(b) Each of CSX and NSC shall (i) coordinate and cooperate with one another to prepare and present to the STB, as soon as practicable, all applications, petitions, notices, filings and other presentations in connection with seeking all STB approvals, exemptions or other authorizations necessary to consummate the transactions contemplated by this Agreement and by the Ancillary Agreements, using, to the extent practicable, joint legal counsel and expert witnesses, (ii) prosecute such applications, petitions, notices, filings and other presentations with diligence, (iii) diligently oppose any objections to, appeals from or petitions to reconsider or reopen any such STB approval, (iv) take all such further action as in their judgment may facilitate obtaining a final order or orders of the STB approving the transactions contemplated by this Agreement and the Ancillary Agreements and (v) bear the burden, without adjustment in the percentage or other consideration, of any STB imposed condition it accepts.

(c) Each of CSX and NSC shall coordinate and consult with one another with respect to all settlements involving the STB approval process. The parties further agree that, (i) any settlement or agreement pertaining to the Shared Assets Areas and the Shared Assets Agreements will require the joint approval of CSX and NSC; (ii) none of CRR, CRC nor CSX shall make any settlement or agreement with respect to any PRR Allocated Asset without NSC's prior written consent; (iii) none of CRR, CRC nor NSC shall make any settlement or agreement with respect to any NYC Allocated Asset without CSX's prior written consent and (iv) nothing contained herein shall require joint action for either CSX or NSC to enter into any settlement or Transportation Contract with any shipper or receiver of freight. CSX and NSC may act in their sole discretion in respect of the matters set forth in this Section 8.4(c).

(d) If the STB, as a condition to its approval of the transactions contemplated by this Agreement and the Ancillary Agreements, imposes a non-standard condition which would mate-

rially reduce the benefits to either CSX or NSC from the transactions contemplated by this Agreement and the Ancillary Agreements, then the materially affected party may in its sole discretion (i) accept such condition and proceed with the transactions contemplated by this Agreement and the Ancillary Agreements, or (ii) appeal such condition to the courts and postpone the Closing Date for up to thirty months (and its election under this Section 8.4(d)) until final action on its appeal, and (iii) if such appeal is unsuccessful, reject the condition and proceed in accordance with the terms of the Amended and Restated Voting Trust Agreement.

Section 8.5. Other Approvals. (a) The parties shall as expeditiously as possible use their reasonable best efforts to obtain any consent, authorization, order or approval of, or any exemption by, any Governmental Entity (other than the STB which is covered by Section 8.4) or private Person required to be obtained or made by the parties or their respective Affiliates to effectuate the purposes of this Agreement or the Ancillary Agreements and the transactions contemplated herein and therein, which actions shall include, without limitation, furnishing all information required under or in connection with approvals of or filings with any such Governmental Entity or private Person. Each party shall reasonably cooperate with each other in connection with the foregoing. CRC will use reasonable commercial efforts to transfer and assign to NYC and PRR all Contracts which are to be transferred pursuant to Article II, it being understood that CRC shall not seek any consents of any third party unless requested to do so by NYC, in the case of a Contract that is a NYC Allocated Asset, or PRR, in the case of a Contract that is a PRR Allocated Asset, and in no event shall CRC be obligated to make payments to third parties in order to obtain such consents.

(b) All Contracts and rights which are Allocated Assets and are not transferred pursuant to Section 8.5(a) shall be handled in accordance with the following procedure: (i) CRC or its Affiliates shall continue to be bound thereby and to hold the rights thereunder and (ii) NYC, in the case of a Contract that is a NYC Allocated Asset, and PRR, in the case of a Contract that is a PRR Allocated Asset, shall pay, perform and discharge fully all of the obligations of CRC or its Affiliates thereunder from and after the Closing Date. CRC or its Affiliates shall, without further consideration therefor, pay, assign and remit promptly to NYC or PRR, as appropriate, all monies, rights and other consideration received in respect of such performance. CRC or its Affiliates shall exercise or exploit the rights and options under all such Contracts only as reasonably directed by NYC, in the case of a Contract that is a NYC Allocated Asset, and PRR, in the case of a Contract that is a PRR Allocated Asset, and at NYC's or PRR's expense.

Section 8.6. [Intentionally Omitted.]

Section 8.7. Risk of Loss; Forced Disposal. (a) In the event of any loss or damage to or destruction of, prior to the Closing, any or all of the Allocated Assets by fire or other casualty, the title to and other rights associated with such Allocated Assets shall nevertheless pass to NYC or PRR as provided for herein without any liability or obligation on the part of any of the parties or their respective Affiliates as a result of such loss, damage or destruction and without any adjustment of the Percentage; provided, however, that at the Closing, CRC shall transfer to NYC or PRR, as the case may be, CRC's or its Affiliates' rights to any proceeds of any casualty insurance policies covering such damage or destruction plus the net proceeds, if any, actually collected by CRC or its Affiliates under the provisions of the casualty insurance policies, if any, covering such loss, damage or destruction.

(b) If any of the Allocated Assets are disposed of by CRR, CRC or their respective Affiliates because of conditions imposed by the STB prior to the Closing, in lieu of the transfer of such Allocated Assets, CRR, CRC or their respective Affiliates shall deliver to NYC or PRR, as the case may be, the benefit of any net after-tax consideration attributable to any such Allocated Assets received by CRR, CRC or their respective Affiliates pursuant to such disposition.

Section 8.8. Public Statements; Public Filings. Any written news releases prior to the Closing and any other disclosure required to be filed prior to the Closing with any Governmental Entity (other than routine information and filings with the Securities and Exchange Commission) pertaining to this Agreement, the Ancillary Agreements or the transactions contemplated hereby or thereby will be subject to prior review by both CSX and NSC prior to release.

Section 8.9. Restructuring of CRC. (a) It is the parties' intent that, at some time after the Closing Date, CRC will transfer PRR or the assets and liabilities of PRR to NSC, transfer NYC or the assets and liabilities of NYC to CSX or otherwise separate PRR (for the benefit of NSC) and NYC (for the benefit of CSX) from CRC in the most efficient manner for U.S. federal income tax purposes (the transaction separating PRR from CRC for the benefit of NSC hereinafter referred to as the "PRR Restructuring", and the transaction separating NYC from CRC for the benefit of CSX hereinafter referred to as the "NYC Restructuring"). A Restructuring shall not be consummated unless (i) CRC obtains a private letter ruling from the Internal Revenue Service (the "Service") substantially to the effect that such Restructuring qualifies as a tax-free transaction (except with respect to gain or income required to be recognized with respect to intercompany items or excess loss accounts pursuant to regulations under Section 1502 of the Code or with respect to gain or

income recognized in the Restructuring under Section 356 or Section 361 of the Code as the result of the receipt of "other property or money" within the meaning of such sections, provided that the amount of such gain or income recognized by CRR or its Affiliates is not substantial) under the Code (the "Ruling"), or the parties otherwise agree to proceed with such Restructuring on the basis of an opinion of tax counsel generally to the same effect, (ii) any required approval of the STB is obtained, (iii) Tax indemnities mutually satisfactory to CSX and NSC have been agreed to and (iv) the conveyance of the CRR Parent interests is structured in a way to ensure to the mutual satisfaction of CSX and NSC that after a Restructuring, NSC (in the case of the PRR Restructuring) and CSX (in the case of the NYC Restructuring) continue to hold their respective Percentage of the equity and 50 percent of the vote with respect to the Retained Assets and the Retained Liabilities and NSC (in the case of the PRR Restructuring) has no continuing interest whatsoever in NYC and CSX (in the case of the NYC Restructuring) has no continuing interest whatsoever in PRR. In addition, a PRR Restructuring shall not be consummated if, based upon the written opinion of outside tax counsel to CSX, such Restructuring would more likely than not impair the ability to consummate a subsequent NYC Restructuring, and a NYC Restructuring shall not be consummated if, based upon the written opinion of outside tax counsel to NSC, such Restructuring would more likely than not impair the ability to consummate a subsequent PRR Restructuring. The parties agree that the application referred to in Section 8.4(b) shall not seek the authority to effect any transaction referred to in this Section 8.5.

(b) CRC shall seek a Ruling at the request of either CSX or NSC or both of them. If CRC seeks a Ruling at the request of either CSX or NSC or both of them, after consultation with the party or parties requesting the Ruling, CRC shall prepare the Ruling request and any supplements or materials relating thereto that are required to be submitted to the Service in connection with the Ruling request (each, an "IRS Submission"). Each IRS Submission shall be true and correct in all material respects, and all material facts relating to the requested Ruling shall be disclosed to the Service. CRC shall provide CSX and NSC with a reasonable opportunity to review and comment on each IRS Submission prior to the filing of such IRS Submission with the Service, and no IRS Submission shall be filed with the Service unless the party or parties requesting the Ruling have agreed in writing as to the contents of such IRS Submission prior to such filing. CRC shall provide CSX and NSC with copies of each IRS Submission as filed with the Service. Neither CRC nor its Affiliates or representatives shall conduct any communications with the Service concerning the Ruling request, including meetings or conferences with personnel from the Service, whether in person, telephonically or otherwise, without notifying CSX and NSC and giving CSX and NSC the opportunity to participate. CRC shall provide CSX

and NSC with copies of any correspondence between CRC and the Service with respect to the Ruling request.

(c) If the requirements of clauses (i), (ii), (iii) and (iv) of the second sentence of Section 8.9(a) are satisfied and no opinion meeting the requirements of the third sentence of Section 8.9(a) is delivered with respect to a Restructuring, NSC (in the case of the PRR Restructuring) and CSX (in the case of the NYC Restructuring) shall have the right, consistent with the Ruling (or opinion of counsel, if applicable), to exchange some or all of its interests in CRR Parent for PRR (in the case of the PRR Restructuring) and NYC (in the case of the NYC Restructuring). At the request of PRR (in the case of a PRR Restructuring) or NYC (in the case of a NYC Restructuring) CRR Parent, CRR, CRC and their respective Affiliates shall take all action necessary or convenient in the reasonable opinion of PRR (in the case of a PRR Restructuring) or NYC (in the case of a NYC Restructuring) to effect a Restructuring that is permitted under Section 8.9(a).

Section 8.10. Provision of Corporate Records. As soon as practicable after the Closing Date CRC shall (a) deliver to or to the order of NYC all NYC Books and Records in the possession of CRC or its Affiliates and (b) deliver to or to the order of PRR all PRR Books and Records in the possession of CRC or its Affiliates; provided that Books and Records that relate to and are necessary for the operation of both the NYC Allocated Assets and the PRR Allocated Assets will be duplicated and included in both the NYC Books and Records and the PRR Books and Records; and provided further that copies of Books and Records necessary or useful to the operation of Shared Assets Areas, Continuing CRC Management, SSO Facilities and other Retained Assets shall be maintained at CRC. Such NYC Books and Records and PRR Books and Records shall be the property of NYC and PRR, respectively, but shall be retained and made available readily to CRC for review and duplication, subject to the limitations set forth in Section 8.11, until the earlier of notice from CRC that such records are no longer needed by CRC and the seventh anniversary of the Closing Date, but in all events until the tax year to which the Books and Records pertain is closed or settled with the Service and/or state tax authorities, unless a longer retention period is otherwise required by law.

Section 8.11. Access to Information. From and after the Closing Date, the parties shall afford (and CSX and NSC shall cause NYC and PRR to afford) each other and each other's authorized accountants, counsel and other designated representatives reasonable access and duplicating rights (with copying costs to be borne by the requesting party) during normal business hours and at such other times as may be agreed upon to all books and records and documents, communications, items and matters, including computer programs and data within each other's knowledge, possession or control relating to the Assets, the Allocated Li-

abilities, the Retained Liabilities or the conduct of CRC's and its Affiliates' businesses, insofar as such access is reasonably required by a party or NYC or PRR and is consistent with applicable law (and shall use reasonable efforts to cause persons or firms possessing relevant items or information to give similar access). Items or information may be requested under this Section 8.11 only for the following purposes: audit, accounting, legal proceedings, litigation, tax preparation, transition planning and implementation planning purposes, as well as for purposes of fulfilling disclosure and reporting obligations. Information shall be provided pursuant to this Section 8.11 in accordance with reasonable procedures established by the parties in order to ensure compliance with the provisions of Section 8.13 and 8.14.

Section 8.12. Production of Witnesses and Individuals. From and after the Closing Date, CRR Parent, CRC, NYC, PRR, CSX and NSC shall use reasonable efforts to make available to each other, upon written request, their respective officers, directors, employees and agents for fact finding, consultation and interviews and as witnesses to the extent that any such person may reasonably be required in connection with any Action in which the requesting party may from time to time be involved relating to the transactions contemplated by this Agreement and the Ancillary Agreements, the Assets, the Allocated Liabilities, the Retained Liabilities or the conduct of CRC's and its Affiliates' business. Except as otherwise agreed between the parties, the parties agree to reimburse each other for reasonable documented out-of-pocket expenses (but not labor charges, salary payments or overheads) incurred by the other in connection with providing individuals and witnesses pursuant to this Section 8.12.

Section 8.13. Confidentiality. The parties shall hold (and CSX and NSC shall cause NYC and PRR to hold), and shall cause their respective officers, employees, agents, consultants and advisors to hold, in strict confidence, unless compelled to disclose by judicial or administrative process or, in the opinion of its independent legal counsel, by other requirements of law, all information furnished it by another party, NYC or PRR or their respective representatives pursuant to this Agreement or the Ancillary Agreements (except to the extent that such information can be shown to have been (i) available to such Person on a non-confidential basis prior to its disclosure by the other Person, (ii) in the public domain through no fault of such Person or (iii) later lawfully acquired from other sources by the Person to which it was furnished), and no Person shall release or disclose such information to any other person, except its auditors, attorneys, financial advisors, bankers and other consultants and advisors who shall be bound by the provisions of this Section 8.13. In the event that a subpoena, discovery or other request that arguably calls for production or disclosure of such confidential information is received, the Person receiving such

request must promptly notify in writing the Person whose information has been requested. The Person receiving such request shall provide the Person whose confidential information has been requested, a reasonable opportunity to review such information and to assert any rights it may have with respect to the potential disclosure of such confidential information. Each party shall be deemed to have satisfied its obligation to hold confidential information concerning or supplied by the other parties, NYC or PRR if it exercises the same care as it takes to preserve confidentiality for its own similar information.

Section 8.14. Privileged Matters. (a) The parties agree that from and after the Control Date CRC and its Affiliates will maintain, preserve and assert all privileges, including, without limitation, privileges arising under or relating to the attorney-client relationship (which shall include, without limitation, the attorney-client and work product privileges) that relate directly or indirectly to the Assets, the Allocated Liabilities or the Retained Liabilities or CRC's and its Affiliates' business for any period prior to the Closing Date ("Privileges"). CRC shall not waive any Privilege that could be asserted under applicable law without the prior written consent of CSX and NSC. The rights and obligations created by this Section 8.14 shall apply to all information as to which, but for the transactions contemplated by this Agreement and the Ancillary Agreements, CRC would have been entitled to assert or did assert the protection of a Privilege ("Privileged Information"), including but not limited to (i) any and all information generated prior to the Closing Date but which, after the Closing, is in the possession of CSX, NSC, NYC or PRR (ii) all communications subject to a Privilege occurring prior to the Closing Date between counsel for CRC and any person who, at the time of the communication, was an employee of CRC, regardless of whether such employee is or becomes an employee of CSX, NSC, NYC or PRR and (iii) all information generated, received or arising after the Closing that refers or relates to Privileged Information generated, received or arising prior to the Closing.

(b) From and after the Control Date, upon receipt by CRC or any of its Affiliates of any subpoena, discovery or other request that arguably calls for the production or disclosure of Privileged Information or if CRC or any of its Affiliates obtains knowledge that any current or former employee of CRC or any of its Affiliates has received any subpoena, discovery or other request which arguably calls for the production or disclosure of Privileged Information, CRC shall promptly notify in writing CSX, NSC, NYC and PRR of the existence of the request and shall provide CSX and NSC a reasonable opportunity to review the information and to assert any rights it may have under this Section 8.14 or otherwise to prevent the production or disclosure of Privileged Information. CRC will not produce or disclose any information arguably covered by a Privilege under this Section

8.13 unless (i) CSX and NSC have both provided their written consent to such production or disclosure or (ii) a court of competent jurisdiction has entered a final, nonappealable order finding that the information is not entitled to protection under any applicable privilege.

(c) If there is a reasonable likelihood that the waiver by CRC of any Privilege could expose CSX, NSC, NYC or PRR to Liability or could prejudice the other party's position in pending or threatened litigation, otherwise adversely affect CSX, NSC, NYC or PRR, CRC will promptly notify in writing CSX and NSC prior to such waiver, and, at CSX's and NSC's request, CRC will assert or preserve the Privilege, as applicable, if CRC's interests will not be adversely affected by its assertion or preservation of the Privilege.

Section 8.15. Administration of Actions. After the Closing Date, (a) NYC shall have exclusive authority and control over the investigation, prosecution, defense and appeal of all Actions relating primarily to NYC, the NYC Allocated Assets, the NYC Allocated Liabilities or a Retained Liability (except for Retained Liabilities for which the monetary claim is more than $500,000 or injunctive relief is sought) which arose at the location of a NYC Allocated Asset, or with which a NYC Allocated Asset is most significantly involved (each, an "NYC Action"), and may settle or compromise, or consent to the entry of any judgment with respect to, any such NYC Action without the consent of CRC, NSC or PRR and (b) PRR shall have exclusive authority and control over the investigation, prosecution, defense and appeal of all Actions relating primarily to PRR, the PRR Allocated Assets, the PRR Allocated Liabilities, or a Retained Liability (except for Retained Liabilities for which the monetary claim is more than $500,000 or injunctive relief is sought), which arose at the location of a PRR Allocated Asset or with which a PRR Allocated Asset is most significantly involved (each a "PRR Action"), and may settle or compromise, or consent to the entry of any judgment with respect to, any such PRR Action without the consent of CRC, CSX or NYC; provided that neither NYC or PRR may settle or compromise, or consent to the entry of any judgment with respect to, any such Action without the prior written consent of the other if such settlement, compromise or consent to such judgment (i) includes any form of injunctive relief binding upon such other party or CRC or (ii) does not include as an unconditional term thereof the giving by the claimant or plaintiff to such other party or CRC and any Affiliates of CRC subject to such Action of a full and final release from all liability in respect to such claim or litigation. After the Closing Date with respect to an Action not covered under clauses (a) or (b) of the foregoing sentence (including Actions relating to Corporate Level Liabilities), the handling, administration and disposition of such Actions shall be the joint responsibility of CSX and NSC and the costs thereof shall be Corporate Level Liabilities. In

assigning joint responsibility for the administration, handling and disposition of Actions to CSX and NSC, hereunder it is not the parties' intent that CSX and NSC will actually administer, handle and dispose of such Actions jointly, but rather that CSX and NSR will agree on the most practical and efficient arrangements with the objective of eliminating unnecessary duplication of effort and minimizing overall costs. The costs and expenses of the administration and handling of such Actions shall be Corporate Level Liabilities; provided that the salaries of, expenses incurred by and overheads associated with full-time employees of CSX or NSC while engaged in investigating or handling such Actions shall be the responsibility of the employing party and shall not be Corporate Level Liabilities.

Section 8.16. Administration of FELA Claims. (a) The administration, handling and disposition of FELA Claims (whenever made) that are Corporate Level Liabilities shall be (i) the responsibility of the party controlling the Allocated Asset where the incident or incidents giving rise to the FELA Claim occurred, or (ii) the responsibility of the party controlling the Allocated Asset most significantly involved if the FELA Claim arises from an incident or incidents occurring at multiple locations on Allocated Assets, or (iii) the joint responsibility of CSX and NSC if the FELA Claim arises from an incident or incidents occurring at unknown locations or a location not otherwise covered by clauses (i) or (ii) of this sentence. In assigning joint responsibility for the administration, handling and disposition of FELA Claims to CSX and NSC under the foregoing clause (iii), it is not the parties' intent that CSX and NSC will actually administer, handle and dispose of such actions jointly, but rather that CSX and NSR will agree on the most practical and efficient arrangements with the objective of eliminating unnecessary duplication of effort and minimizing overall costs. The costs and expenses of the administration, handling and disposition of (A) FELA Claims made prior to the Closing Date and (B) all other FELA Claims that are Corporate Level Liabilities, shall be Corporate Level Liabilities and shall be borne by CSX and NSC in proportion to their respective Percentages; provided that the salaries of, expenses incurred by and overheads associated with full-time employees of CSX or NSC while engaged in investigating or handling such FELA Claims shall be the responsibility of the employing party and shall not be Corporate Level Liabilities; provided, further that the party responsible for the administration of FELA Claims which are Retained Liabilities shall, before agreeing to any single settlement of a FELA Claim or group of related FELA Claims, involving a payment of more than $1 million, obtain the written consent of the other party. Failure of either party to respond to such a request for consent within fourteen days of receipt of such request shall be deemed to constitute consent.

(b) The administration, handling and disposition of FELA Claims (and the costs and expenses thereof) that are made on or after the Control Date and that are NYC Allocated Liabilities pursuant to Section 2.8(c) hereof shall be the responsibility of CSX. The administration, handling and disposition of FELA Claims (and the costs and expenses thereof) that are made on or after the Control Date and that are PRR Allocated Liabilities pursuant to Section 2.8(c) hereof shall be the responsibility of NSC.

Section 8.17. Tax Matters. (a) From the date hereof until the Closing Date, CRR and Green (i) shall timely and duly file, or cause to be timely and duly filed, all Tax Returns of CRR, CRC and their respective Affiliates required to be filed on or prior to the Closing Date and (ii) other than Taxes being contested in good faith, shall timely pay, or cause to be timely paid, all Taxes required to be paid by CRR, CRC or their respective Affiliates. From the Control Date until the Closing Date, CRR and Green, with respect to each of CRR, CRC and their respective Affiliates, shall not settle or compromise any Tax Liability, agree to any adjustment to any Tax attribute, change any method of accounting or make any election with respect to Taxes without first obtaining the prior written consent of CSX and NSC. CRR and its Subsidiaries agree to be included in a consolidated federal income tax return of Green.

(b) From and after the Closing Date, the Tax Allocation Agreement shall govern the rights and obligations of Green, CRR, CRC, CRR Industries, PRR and NYC with respect to Tax matters involving the operations of CRC, PRR and NYC.

Section 8.18. Committees. Within 90 days following the execution of this Agreement, two committees shall be established by CSX and NSC: the "Buffalo Committee" and the "Vickers Committee". Both committees shall consist of representatives appointed by CSX and representatives appointed by NSC. The Buffalo Committee will examine the CP-Draw drawbridge and interlocking in Buffalo, New York and will investigate ways of minimizing or eliminating conflict between CSX and NSC traffic flows through the area after the Closing Date. The Vickers Committee will examine the Vickers crossing in Toledo, Ohio and will investigate ways of minimizing or eliminating conflict between CSX and NSC traffic flows through the area after the Closing Date. Within 90 days of appointment, each such committee will prepare a report detailing options for solving the traffic conflict problems, along with cost estimates for each such option.

Section 8.19. Chicago Gateway Access. CSXT and NSR will preserve and enhance the independent competitive capability of each to move traffic to and through the Chicago Gateway (as defined in Schedule 3) by adhering to the requirements of Schedule 3.

Section 8.20. Car Hire and Car Service. The parties recognize that industry rules, including the AAR Car Service Rules, may pose problems with respect to the payment and collection of car hire in connection with Equipment that is included in Retained Assets and that is used or operated with the Allocated Assets and with the Shared Assets Areas. The parties shall use their reasonable best efforts and take all actions, including seeking changes in industry rules, as may be necessary or appropriate to allow each party, in the most favorable manner possible, to collect car hire on the Equipment allocated to it pursuant to Section 2.6 hereof and to pay the car hire due for cars used or operated with Allocated Assets and with the Shared Assets Areas.

ARTICLE IX

CONDITIONS PRECEDENT TO THE CLOSING

Section 9.1. Conditions Precedent to Obligations. The respective obligations of CSX, NSC, CRR Parent, CRR and CRC to effect the transactions contemplated by Article II shall be subject to the fulfillment or mutual waiver at or prior to the Closing Date of the following conditions:

(a) No preliminary or permanent injunction or other order or decree issued by a court of competent jurisdiction or any other legal restraint or prohibition which prevents the consummation of the transactions contemplated by this Agreement or the Ancillary Agreements shall be in effect and no statute, rule or regulation shall have been enacted by any Governmental Entity prohibiting the consummation of the transactions contemplated by this Agreement or the Ancillary Agreements.

(b) The STB shall have issued a decision (which decision shall not have been stayed or enjoined) that constitutes a final order approving, exempting or otherwise authorizing, as of such date, consummation of the transactions contemplated by this Agreement and the Ancillary Agreements as may require such authorization and neither party shall have exercised a right to postpone pursuant to Section 8.4(c).

(c) Each of CSX and NSC shall have reasonably determined that it has obtained sufficient labor implementing agreements so as to be authorized by law to effect the transactions contemplated by Article II and Article VI.

ARTICLE X

INDEMNIFICATION

Section 10.1. Indemnification. (a) Subject to the provisions of this Article X, CRR Parent and CRR jointly and severally shall indemnify, defend and hold harmless the other parties and any director, officer, employee or agent of any of them from and against any and all Damages asserted against, relating to, imposed upon or incurred by any such Person, directly or indirectly, by reason of or resulting from:

(i) the breach or nonperformance of any agreement of CRR Parent, CRR, CRC or any of their respective Affiliates (other than NYC and PRR) contained in or made pursuant to this Agreement or any of the Ancillary Agreements; and

(ii) any Retained Liability.

(b) Subject to the provisions of this Article X, CSX and CSXT jointly and severally shall indemnify, defend and hold harmless the other parties and any director, officer, employee or agent of any of them from and against any and all Damages asserted against, relating to, imposed upon or incurred by any such Person, directly or indirectly, by reason of or resulting from:

(i) the untruth or inaccuracy of any representation or warranty of CSX, CSXT or their respective Affiliates contained in or made pursuant to this Agreement or any of the Ancillary Agreements; and

(ii) the breach or non-performance of any agreement of CSX, CSXT or their respective Affiliates contained in or made pursuant to this Agreement or any of the Ancillary Agreements.

(c) Subject to the provisions of this Article X, NSC and NSR jointly and severally shall indemnify, defend and hold harmless the other parties and any director, officer, employee or agent of any of them from and against any and all Damages asserted against, relating to, imposed upon or incurred by any such Person, directly or indirectly, by reason of or resulting from:

(i) the untruth or inaccuracy of any representation or warranty of NSC, NSR or their respective Affiliates contained in or made pursuant to this Agreement or any of the Ancillary Agreements; and

(ii) the breach or non-performance of any agreement of NSC, NSR or their respective Affiliates contained in or made pursuant to this Agreement or any of the Ancillary Agreements.

Section 10.2. Indemnification Procedures. (a) If any Action shall be threatened or instituted or any claim or demand shall be asserted against any Indemnified Party in respect of

which indemnification may be sought under the provisions of this Agreement, the Indemnified Party shall promptly cause written notice of the assertion of any such claim, demand or Action of which it has knowledge to be forwarded to the Indemnifying Party. Such notice shall contain a reference to the provisions hereof or of such other agreement, instrument or certificate delivered pursuant hereto, in respect of which such claim is being made. The Indemnified Party's failure to give the Indemnifying Party prompt notice shall not preclude the Indemnified Party from obtaining indemnification from the Indemnifying Party under this Article X unless the Indemnified Party's failure has materially prejudiced the Indemnifying Party's ability to defend the claim, demand or Action.

(b) If the Indemnified Party seeks indemnification from the Indemnifying Party as a result of a claim or demand being made by a third party (a "Third Party Claim"), the Indemnifying Party shall have the right to promptly assume the control of the defense of any Action with respect to such Third Party Claim, including, at its own expense, employment by it of counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party may, in its sole discretion and at its own expense, employ counsel to represent it in the defense of the Third Party Claim, and in such event counsel for the Indemnifying Party shall cooperate with counsel for the Indemnified Party in such defense, provided that the Indemnifying Party shall direct and control the defense of such Third Party Claim or proceeding. The Indemnifying Party shall not consent to the entry of any judgment, except with the written consent of the Indemnified Party, and shall not enter into any settlement of such Third Party Claim without the written consent of the Indemnified Party which does not include as an unconditional term thereof the release of the Indemnified Party from all Liability in respect of such Third Party Claim.

Section 10.3. Remedies. (a) Each party acknowledges and agrees that the other parties would be irreparably damaged in the event any of the provisions of this Agreement were not performed by it in accordance with their specific terms or were otherwise breached. It is accordingly agreed that each party shall be entitled to an injunction or injunctions to prevent breaches of such provisions and to specifically enforce such provisions, in addition to any other remedy to which such party may be entitled, at law or in equity.

(b) In no event shall any party be liable to the other parties for any consequential, indirect, incidental, punitive or other similar damages including but not limited to lost profits for any breach or default, or any act or omission arising out of or in any way relating to, this Agreement, the Assets, the Retained Liabilities, the Allocated Liabilities, the Ancillary Agreements, the transactions contemplated herein or therein or any matter or theory concerning or relating to any of the forego-

ing, under any form or theory of action whatsoever whether in contract, tort or otherwise.

ARTICLE XI

MISCELLANEOUS

Section 11.1. Amendment. This Agreement may be amended by the parties at any time by an instrument in writing signed on behalf of each party.

Section 11.2. Extension; Waiver. At any time prior to the Closing Date the parties may (a) extend the time for the performance of any of the obligations or other acts of the other parties, (b) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto and (c) waive compliance with any of the agreements or conditions contained herein. Any agreement on the part of a party hereto to any such extension or waiver shall be valid if set forth in an instrument in writing signed on behalf of such party.

Section 11.3. Notices. All notices and other communications hereunder shall be in writing and shall be deemed given on the date delivered if delivered personally (including by reputable overnight courier), on the date transmitted if sent by telecopy (which is confirmed) or on the date received if mailed by registered or certified mail (return receipt requested) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(a) If to CSX, CSXT or CRR Parent, to:

CSX Corporation
One James Center
901 East Cary Street
Richmond, Virginia 23219
Telecopy number: 804-783-1380
Attention: Mark G. Aron, Esq.
and Peter J. Shudtz, Esq.

CSX Transportation
500 Water Street
Jacksonville, Florida 32202
Telecopy number: 904-366-5436
Attention: P. Michael Giftos, Esq.

with a copy to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Telecopy number: 212-403-2000
Attention: Pamela S. Seymon, Esq.

(b) If to NSC, NSR or CRR Parent, to:

Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510
Telecopy number: 757-629-2750
Attention: James C. Bishop, Jr., Esq.

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
919 Third Avenue
New York, New York 10022
Telecopy number: 212-735-2000
Attention: Randall H. Doud, Esq.

(c) If to CRR or CRC, to:

Conrail Inc.
2001 Market Street
Philadelphia, PA 19103
Telecopy number: 215-209-4068
Attention: General Counsel

All notices regarding matters requiring handling within thirty days will be given by overnight mail or confirmed telecopy.

Section 11.4. Interpretation. When a reference is made in this Agreement to Sections, such reference shall be to a Section of this Agreement unless otherwise indicated. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 11.5. Entire Agreement. This Agreement (including the Exhibits and Schedules hereto and the Ancillary Agreements and other documents and instruments referred to herein) and the Merger Agreement, collectively, constitute the entire agreement and supersede all other prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof, except the April 8 Agreement to the extent the April 8 Agreement covers matters not addressed or amended hereby and the CRR Holdings LLC Agreement;

provided that it is the intent of the parties hereto that this Agreement shall be an effectuation of the April 8 Agreement consistent with the terms of the April 8 Agreement and that the provisions of this Agreement should be interpreted to give effect to the April 8 Agreement; and provided further that in the event of any inconsistency between the terms of this Agreement and the April 8 Agreement this Agreement shall prevail; and provided further that CSX and NSC agree that the fourth paragraph of Item III of Exhibit A to the April 8 Agreement (at page two thereof) in respect of Lake Erie coal dock capacity is rescinded and no longer in effect.

Section 11.6. Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each party and their respective successors and assigns and is not intended to confer upon any other Person any rights or remedies, except for the rights of an Indemnified Party as contemplated by Article X.

Section 11.7. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of New York, regardless of the laws that might otherwise govern under applicable principles of conflicts of law thereof; provided, however, that the laws of the respective jurisdictions of incorporation of each of the parties shall govern the relative rights, obligations, powers, duties and other internal affairs of such party and its board of directors.

Section 11.8. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement.

Section 11.9. Assignment. (a) Except as provided in Section 11.9(b), neither this Agreement (including the documents and instruments referred to herein) nor any of the rights, interests or obligations hereunder, shall be assigned by any party, including by operation of law, without the prior written consent of the other parties which may be withheld at the sole discretion of the relevant party.

(b) Any party without the consent of the other parties may assign all or any part of its rights and obligations under this Agreement to (i) any of its controlled Subsidiaries or (ii) any successor in the event of a merger, consolidation, sale of all or substantially all its assets, liquidation or dissolution, if such assignee executes and delivers to the other parties hereto an agreement reasonably satisfactory in form and substance to such other party under which such assignee, which is reasonably satisfactory to the other party, assumes and agrees to perform and discharge all the obligations and liabilities of the assigning party; provided that any such assignment shall not re-

lieve the assigning party from the performance and discharge of such obligations and liabilities.

(c) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted assignees.

Section 11.10. Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void, unenforceable or against its regulatory policy, such provision is to be intended to be ineffective only to the most limited extent possible in such context and the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 11.11. Lack of Control; Effect on CRR and its Controlled Subsidiaries. (a) None of CSX, CSXT, NSC or NSR shall be liable for failing to take any action which they are required to take under this Agreement if the time when CSX, CSXT, NSC or NSR is required to take such action occurs prior to the Control Date and such action requires the assistance or cooperation of CRR or its Board of Directors, which assistance is requested but not provided; provided, however, that CSX and NSC shall use their best efforts to obtain such assistance or cooperation and, after the Control Date, will be required to take such action if, as and when required by this Agreement.

(b) Notwithstanding anything to the contrary contained in this Agreement (which term for purposes of this Section 11.11(b) shall include the Exhibits and Schedules hereto and the Ancillary Agreements and other documents and instruments referred to herein), except as expressly set forth in Section 3.2, neither CRR nor any of its controlled Subsidiaries shall be bound by the terms of this Agreement (other than Section 8.17) or subject to any Liabilities or obligations hereunder (other than under Section 8.17) at any time prior to the Control Date. CRR and CSX shall continue to be bound by those terms of the Merger Agreement that by their terms survive beyond June 2, 1997, including, without limitation, Attachment A to the CRR Disclosure Schedule delivered in connection with the Third Amendment; provided that in the event of any inconsistency between the terms of this Agreement and the terms of such Attachment A, the terms of such Attachment A shall prevail.

Section 11.12. Dispute Resolution. Any dispute, controversy or claim (or any failure by the parties to agree on a matter as to which this Agreement expressly or implicitly contemplates subsequent agreement by the parties, except for matters left to the sole discretion of a party) arising out of or relating to this Agreement, or the breach, termination or validity

hereof, shall be finally settled through binding arbitration by a sole, disinterested arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitrator shall be jointly selected by the parties but, if the parties do not agree on an arbitrator within thirty days after demand for arbitration is made by a party, they shall request that the arbitrator be designated by the American Arbitration Association. The award of the arbitrator shall be final and conclusive upon the parties. Each party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation and any costs and expenses of the arbitrator shall be borne equally by the parties. The arbitrator shall have the power to require the performance of acts found to be required by this Agreement and to require the cessation or nonperformance of acts found to be prohibited by this Agreement. The arbitrator shall not have the power to award consequential or punitive damages. The arbitrator's award shall be binding and conclusive upon the parties to the fullest extent permitted by law. Judgement upon the award rendered may be entered in any court having jurisdiction thereof, which court may order appropriate relief at law or equity. All proceedings relating to any such arbitration, and all testimony, written submissions and award of the arbitrator therein, shall be private and confidential as among the parties, and shall not be disclosed to any other Person, except as required by law and except as reasonably necessary to prosecute or defend any judicial action to enforce, vacate or modify such arbitration award.

Section 11.13. CRC Status. The parties intend that after the Closing Date CRC and its Affiliates shall be a rail carrier that performs transportation services for the account of CSXT or NSR, as the case may be, or as agent or subcontractor of CSXT or NSR, as the case may be.

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

CSX CORPORATION

By: _____
Name:
Title:

CSX TRANSPORTATION, INC. (for itself and on behalf of its controlled Subsidiaries)

By: _____
Name:
Title:

NORFOLK SOUTHERN CORPORATION

By: _____
Name:
Title:

NORFOLK SOUTHERN RAILWAY COMPANY (for itself and behalf of its controlled Subsidiaries)

By: _____
Name:
Title:

CONRAIL INC. (for itself and on behalf of its controlled Subsidiaries)

By: _____
Name:
Title:

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

CSX CORPORATION

By: _____
Name:
Title:

CSX TRANSPORTATION, INC. (for itself and on behalf of its controlled Subsidiaries)

By: A. R. Carpenter
Name: A. R. Carpenter
Title: President and CEO

NORFOLK SOUTHERN CORPORATION

By: _____
Name:
Title:

NORFOLK SOUTHERN RAILWAY COMPANY (for itself and behalf of its controlled Subsidiaries)

By: _____
Name:
Title:

CONRAIL INC. (for itself and on behalf of its controlled Subsidiaries)

By: _____
Name:
Title:

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

CSX CORPORATION

By: _____
Name:
Title:

CSX TRANSPORTATION, INC. (for itself and on behalf of its controlled Subsidiaries)

By: _____
Name:
Title:

NORFOLK SOUTHERN CORPORATION

By: _____
Name:
Title:

NORFOLK SOUTHERN RAILWAY COMPANY (for itself and behalf of its controlled Subsidiaries)

By: _____
Name:
Title:

CONRAIL INC. (for itself and on behalf of its controlled Subsidiaries)

By: _____
Name:
Title:

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

CSX CORPORATION

By:_____
Name:
Title:

CSX TRANSPORTATION, INC. (for itself and on behalf of its controlled Subsidiaries)

By:_____
Name:
Title:

NORFOLK SOUTHERN CORPORATION

By:_____
Name:
Title:

NORFOLK SOUTHERN RAILWAY COMPANY (for itself and behalf of its controlled Subsidiaries)

By:_____
Name:
Title:

CONRAIL INC. (for itself and on behalf of its controlled Subsidiaries)

By:_____
Name:
Title:

CONSOLIDATED RAIL CORPORATION

By:_____
Name:
Title:

CRR HOLDINGS LLC

By:_____
Name:
Title:

CONSOLIDATED RAIL CORPORATION

By: _____
Name:
Title:

CRR HOLDINGS LLC

By: _____
Name:
Title:

SCHEDULE 1

ASSETS

Attached to and incorporated in this Schedule 1 are the following attachments:

(i) Attachment I, which is the line segment allocation list identifying each Route owned, operated or used by CRC and its Affiliates and indicating as to each Route whether it is included in the NYC Allocated Assets, the PRR Allocated Assets or the Retained Assets; and

(ii) Attachment II, which is a system map showing all Routes comprising the CRC rail system and indicating by color coding the Routes which are to be NYC Allocated Assets, PRR Allocated Assets and Retained Assets, respectively; Attachment II is intended to show graphically the Routes described in Attachment I.

ITEM 1 - NYC ALLOCATED ASSETS

The "NYC Allocated Assets" shall include all of CRR's, CRC's and their respective Affiliates' right, title and interest in and to the following Assets:

(A) **Routes and Assets Related to Routes.** All Routes identified as NYC Allocated Assets in Attachment I and Attachment II (i.e., those lines colored in red and/or orange on Attachment II, except for those lines already owned by CSXT or its Affiliates), together with the following Assets that are related to such Routes (except as otherwise expressly provided in this Schedule 1 or the Ancillary Agreements):

(1) the track structure (rails, ties, other track material, grading, bridges, tunnels, culverts, etc.);

(2) the underlying right-of-way, operating and non-operating, regardless of its width, and associated structures and fixtures;

(3) except in the areas where the parties' respective Routes are approximately equidistant from the Asset in question (where in each case other arrangements are made pursuant to one or more Ancillary Agreements), appurtenant yards, sidings, switch tracks and repair or other maintenance facilities;

(4) real estate (whether or not used for operating purposes) adjacent or in proximity to the Routes included in the NYC Allocated Assets, or underlying, adjacent or in proximity to those structures or facilities described in the preceding clauses (2) and (3) and the following clause (5);

(5) signal, communications and computer facilities and equipment on the right-of-way and (to the extent used to operate the Routes included in the NYC Allocated Assets) off the right-of-way;

(6) tools and supplies located on and along, and automobiles, hi-rail cars and trucks assigned to, the Routes included in the NYC Allocated Assets, including repair materials and local repair equipment, except system stockpiles of inventory, material and supplies and Work Equipment;

(7) Contracts (other than Transportation Contracts) relating to a Route included in NYC Allocated Assets, including without limitation trackage and other operating rights, public and private grade crossing agreements, side track and industrial track agreements, pipeline and wireline agreements, building and yard maintenance agreements, leases, licenses, reversions, longitudinal easements and other occupancy agreements, and the rents, security deposits and profits arising therefrom or in connection therewith;

(8) muniments of title, all original valuation maps, land schedules, track charts, surveys, bridge and other drawings, bridge inspection reports, environmental reports, permits, signal and communications plans, other engineering documentation, deeds (including such originals of acquisition or out-conveyances as may be in CRC's possession), current billing records (including billing addresses and, if in a computer format, the data and the programs), real estate work files, property tax records (and any computer database for such records), and all other Books and Records relating to a Route included in NYC Allocated Assets;

(9) mineral rights or easements of any sort held by CRR, CRC or their respective Affiliates located on, over, across and/or in the real estate or property heretofore described in this paragraph (A); and

(10) royalties or other payments in respect of real estate or other Assets heretofore described in this paragraph (A).

(B) **Philadelphia Offices.** The CRC headquarters office building located at Philadelphia, PA, and the CRC information technology center building located at Philadelphia, PA and all FF&E located at such facilities.

(C) **Yards and Yard Access.** The following CRC yards, land and yard access tracks:

(1) Seneca Yard (Buffalo, NY) (subject to access and use by NSR pursuant to Ancillary Agreement);

(2) 59th Street ("Panhandle") Yard site (Chicago, IL);

(3) Collinwood Yard (Cleveland, OH);

(4) Former "local yard" and intermodal terminal at Buckeye (Columbus, OH);

(5) Buckeye Yard Lead track from the north limit of "CP Buckeye" to "CP Darby" (Columbus, OH);

(6) West track between "CP 138" and "CP 136" (Columbus, OH);

(7) Portion of Piqua Yard (Fort Wayne, IN) to be agreed upon between NSR and CSXT;

(8) Hawthorne Yard (Indianapolis, IN) (subject to access and use by NSR pursuant to Ancillary Agreement);

(9) North Bergen intermodal terminal (New Jersey);

(10) South Kearny intermodal terminal including APL leased areas; however, NSR to have access to the APL leased terminal and NSR to have the right to serve APL and any successor lessee to APL using such leased premises;

(11) Greenwich Yard (Philadelphia), but excluding yard tracks and areas used to support the movement of local freight (including port traffic, but excluding intermodal) and to support the movement of rail traffic to and from the ore pier, which tracks and areas will be included in Retained Assets;

(12) Track from CP Field to Pier 122 (Greenwich Yard area, Philadelphia);

(13) Stanley Yard (Toledo, OH);

(14) Elizabeth Yard (Trumbull Street Yard), but subject to use of and access to two tracks by NSR to support E-Rail Intermodal Facility as provided in Ancillary Agreements; and

(15) Manville Yard (subject to use by CRC, CSX and NSR pursuant to Ancillary Agreements).

(D) **Miscellaneous Property.** The following Assets:

(1) Developable property west of CRC's Chemical Coast Secondary in northern New Jersey in the vicinity of the current CRC Elizabethport Yard (Trumbull St. Yard);

(2) Indianapolis Division headquarters building, offices and land; and

(3) Albany Division headquarters building, offices and land.

(E) **Stock Ownership and Other Interests.** The following interests:

(1) 50% of the issued and outstanding capital stock in Lakefront Dock & Railroad Terminal Company;

(2) 100% of the issued and outstanding capital stock in St. Lawrence & Adirondack Railway;

(3) 50% of the issued and outstanding capital stock in Albany Port Railroad Corp.; and

(4) 10.125% of the issued and outstanding capital stock in TTX Company.[1]

---

[1] CRC's 21.807% stock interest (3,500 shares) in TTX Company is allocated as follows:

	CSXT/NYC		NSR/PRR	
Current	9.345%	(1,500 shares-CSXT)	7.788%	(1,250 shares-NSR)
CRC Splits	10.125%	(1,625 shares-NYC)	11.682%	(1,875 shares-PRR)
Combined	19.470%	(3,125 shares)	19.470%	(3,125 shares)

ITEM 2 - PRR ALLOCATED ASSETS

The "PRR Allocated Assets" shall include all of CRR's, CRC's and their respective Affiliates' right, title and interest in and to the following Assets:

(A) **Routes and Assets Related to Routes.** All Routes identified as PRR Allocated Assets in Attachment I and Attachment II (i.e., those lines colored in green and/or yellow on Attachment II, except for those lines already owned by NSR or its Affiliates), together with the following Assets that are related to such Routes (except as otherwise expressly provided in this Schedule 1 or the Ancillary Agreements):

(1) the track structure (rails, ties, other track material, grading, bridges, tunnels, culverts, etc.);

(2) the underlying right-of-way, operating and non-operating, regardless of its width, and associated structures and fixtures;

(3) except in the areas where the parties' respective Routes are approximately equidistant from the Asset in question (where in each case other arrangements are made pursuant to one or more Ancillary Agreements), appurtenant yards, sidings, switch tracks and repair or other maintenance facilities;

(4) real estate (whether or not used for operating purposes) adjacent or in proximity to the Routes included in the PRR Allocated Assets, or underlying, adjacent or in proximity to those structures or facilities described in the preceding clauses (2) and (3) and the following clause (5);

(5) signal, communications and computer facilities and equipment on the right-of-way and (to the extent used to operate the Routes included in the PRR Allocated Assets) off the right-of-way;

(6) tools and supplies located on and along, and automobiles, hi-rail cars and trucks assigned to, the Routes included in the PRR Allocated Assets, including repair materials and local repair equipment, except system stockpiles of inventory, material and supplies and Work Equipment;

(7) Contracts (other than Transportation Contracts) relating to a Route included in PRR Allocated

Assets, including without limitation trackage and other operating rights, public and private grade crossing agreements, side track and industrial track agreements, pipeline and wireline agreements, building and yard maintenance agreements, leases, licenses, reversions, longitudinal easements and other occupancy agreements, and the rents, security deposits and profits arising therefrom or in connection therewith;

(8) muniments of title, all original valuation maps, land schedules, track charts, surveys, bridge and other drawings, bridge inspection reports, environmental reports, permits, signal and communications plans, other engineering documentation, deeds (including such originals of acquisition or out-conveyances as may be in CRC's possession), current billing records (including billing addresses and, if in a computer format, the data and the programs), real estate work files, property tax records (and any computer database for such records), and all other Books and Records relating to a Route included in PRR Allocated Assets;

(9) mineral rights or easements of any sort held by CRR, CRC or their respective Affiliates located on, over, across and/or in the real estate or property heretofore described in this paragraph (A); and

(10) royalties or other payments in respect of real estate or other Assets heretofore described in this paragraph (A).

(B) **Altoona and Hollidaysburg Shops.** The CRC car and locomotive repair shops located at Altoona, PA and Hollidaysburg, PA and all rolling-stock-related and locomotive-related inventory and supplies (including rolling-stock-related and locomotive-related system stockpiles) located at such facilities (subject to provisions of Section 2.7 of the Agreement) and all FF&E located on or at such facilities.

(C) **Yards and Yard Access.** The following CRC yards, land and yard access tracks:

(1) Ashtabula Harbor facilities (subject to access and use by CSX pursuant to Ancillary Agreements);

(2) Rockport Yard (Cleveland, OH);

(3) Buckeye Hump Yard (Columbus, OH);

(4) East track between "CP 138" and "CP 136" (Columbus, OH);

(5) the right of way east of and parallel to the single track portion of the Columbus Line immediately north of "CP 136" (the current end of double track), and the Clintonville Siding east of the single track portion;

(6) portion of Piqua Yard (Fort Wayne, IN) used by or for Triple Crown Services Company, together with portion of Piqua Yard to be agreed upon between NSR and CSXT;

(7) Croxton Yard (New Jersey);

(8) E-Rail intermodal facility (New Jersey);

(9) Morrisville intermodal facility;

(10) Airline Jct. Yard (Toledo, OH); and

(11) Stanley E Yard (Toledo, OH).

(D) **Miscellaneous Property.** The following CRC assets and properties:

(1) Developable property east of CRC's Chemical Coast Secondary in the vicinity of the E-Rail intermodal facility (northern New Jersey);

(2) real estate comprising a portion of the right-of-way (east of the current single track) between PRR's Clintonville Siding and the north end of the double track at CP 136 on which NSR may construct new track;

(3) real estate comprising a portion of the right-of-way on which the Buckeye Yard lead track is located to enable NSR to construct a parallel track to the Buckeye Yard lead track (Buckeye Yard, Columbus, OH) (constructions to be governed by an Ancillary Agreement);

(4) Pittsburgh Division headquarters building, offices and land;

(5) Dearborn Division headquarters building, offices and land; and

(6) All undeveloped property that is part of, adjacent to or in the vicinity of Lincoln Yard (Detroit, MI).

(7) All real estate, trackage, track material and other Assets comprising CRC's abandoned Danville Secondary, together with all other Assets lying on, adjacent to or in the vicinity of the CRC right-of-way between Schneider and Danville, IL, including without limitation all Assets comprising such Danville Secondary thereon or adjacent thereto necessary for construction of connections at Schneider and Danville (excluding any NYC Allocated Assets). (If NSR elects to restore the line between Schneider and Danville, CSXT shall have the option to share in the costs of the line restoration on a reasonable basis that is mutually agreeable and, if CSXT elects so to share in such restoration costs, CSXT shall be granted overhead trackage rights on such line on a fair basis taking into consideration the cost paid by CSXT for such restoration.)

(E) **Stock Ownership and Other Interests**. The following interests:

(1) 16.67% of the issued and outstanding capital stock in The Belt Railway Company of Chicago;

(2) 25.64% of the issued and outstanding capital stock in Peoria and Pekin Union Railway Company;

(3) 100% of the issued and outstanding capital stock in TCV, Inc. (which owns a 50% partnership interest in Triple Crown Services Company); and

(4) 11.682% of the issued and outstanding capital stock in TTX Company.

ITEM 3 - RETAINED ASSETS

The "Retained Assets" shall include all of CRR's, CRC's and their respective Affiliates' right, title and interest in and to the following Assets:

(A) **Routes and Assets Related to Routes**. Routes within the Shared Asset Areas identified as Retained Assets in Attachment I and Attachment II (i.e., those lines colored in blue on Attachment II), together with the following Assets within the Shared Asset Areas that are related to such Routes (except as

otherwise expressly provided in this Schedule 1 or the Ancillary Agreements):

(1) the track structure (rails, ties, other track material, grading, bridges, tunnels, culverts, etc.);

(2) the underlying right-of-way, operating and non-operating, regardless of its width, and associated structures and fixtures;

(3) appurtenant yards, sidings, switch tracks and repair or other maintenance facilities (including but not limited to Oak Island Yard, auto terminals at Doremus Avenue, Greenville and Ridgefield Heights);

(4) real estate (whether or not used for operating purposes) adjacent or in proximity to the Routes included in the Retained Assets, or underlying, adjacent or in proximity to those structures or facilities described in the preceding clauses (2) and (3) and the following clause (5);

(5) signal, communications and computer facilities and equipment on the right-of-way and (to the extent used to operate the Routes included in Retained Assets) off the right-of-way;

(6) tools and supplies located on and along, and automobiles, hi-rail cars and trucks assigned to, the Routes included in the Retained Assets, including repair materials and local repair equipment, except system stockpiles of inventory, material and supplies and Work Equipment;

(7) Contracts (other than Transportation Contracts) relating to a Route included in Retained Assets, including without limitation trackage and other operating rights, public and private grade crossing agreements, side track and industrial track agreements, pipeline and wireline agreements, building and yard maintenance agreements, leases, licenses, reversions, longitudinal easements and other occupancy agreements, and the rents, security deposits and profits arising therefrom or in connection therewith;

(8) muniments of title, all original valuation maps, land schedules, track charts, surveys, bridge and other drawings, bridge inspection reports,

environmental reports, permits, signal and communications plans, other engineering documentation, deeds (including such originals of acquisition or out-conveyances as may be in CRC's possession), current billing records (including billing addresses and, if in a computer format, the data and the programs), real estate work files, property tax records (and any computer database for such records), and all other Books and Records relating to a Route included in Retained Assets;

(9) mineral rights or easements of any sort held by CRR, CRC or any of their respective Affiliates located on, over, across and/or in the real estate or property heretofore described in this paragraph (A); and

(10) royalties or other payments in respect of real estate or other Assets heretofore described in this paragraph (A).

(B) The "Retained Assets" shall include the SSO Facilities which shall be as follows:

(1) the building and offices, together with underlying land, of the Philadelphia Division headquarters located at Mt. Laurel, NJ within the Philadelphia/South Jersey Shared Assets Area;

(2) the Customer Service Center building and offices, together with underlying land, located at Pittsburgh, PA;

(3) use of the office space in the Dearborn Division headquarters building (the building and land are included in the PRR Allocated Assets) currently used for the crew management facility until the crew management facility is discontinued;

(4) the system maintenance-of-way equipment center building located adjacent to Canton Yard in Canton, OH on land included in the PRR Allocated Assets;

(5) the signal repair center building located within Buckeye Yard at Columbus, OH on land included in the PRR Allocated Assets;

(6) the offices of the system freight claims facility located at Buffalo, NY on land included in the NYC Allocated Assets;

(7) the offices of the system non-revenue billing facility and land located at Bethlehem, PA;

(8) the system rail welding plant building located at Lucknow (Harrisburg, PA) on land at Harrisburg Yard that is included in the PRR Allocated Assets;

(9) use of the offices located at Conway Yard, Pittsburgh, PA (the building and land are included in the PRR Allocated Assets), for the system road foreman/engineer training center until such center is discontinued; and

(10) the police operations center offices and land at Mt. Laurel, NJ.

(C) 51% of the issued and outstanding capital stock in Indiana Harbor Belt Railroad Co. (subject to provisions of Ancillary Agreement referred to in Schedule 4, Item 4(E)(1)).

ITEM 4 - POOLED ASSETS

The "Pooled Assets" shall include the following Assets of CRR, CRC and their respective Affiliates:

(A) Non-Operating property and improvements not in proximity to an Allocated Asset or a Retained Asset.

(B) Employee benefit plans and Assets of such plans.

(C) System stockpiles of inventory, materials and supplies regardless of location (other than those at Hollidaysburg and Altoona shops which shall be subject to Section 2.7 of the Agreement).

(D) The following interests:

(1) 100% of the issued and outstanding capital stock in Merchants Despatch Trans. Corp.;

(2) 100% of the issued and outstanding capital stock in CRC Properties, Inc.; and

(3) 100% of the issued and outstanding capital stock in CRR Investments, Inc.

However, if any of the Assets of the entities identified in clauses (D)(1) through (3) above are part of the Routes included in the NYC Allocated Assets (Item 1(A) above) or the PRR Allocated Assets (Item 2(A) above), then the Assets of such entity will be designated as and included in the NYC

Allocated Assets or the PRR Allocated Assets, as the case may be; provided that if such assets are valued at greater than $1 million, then there shall be an equitable adjustment by way of a cash payment from NYC or PRR, as the case may be, to the other equal to the CSX's or NSC's respective Percentage, as the case may be, applied against the value of such Assets or failing such payment, by way of including CRC cash equal to the value of such Assets in the NYC Allocated Assets or the PRR Allocated Assets as the case may be.

(E) The following interests:

(1) 100% of the issued and outstanding capital stock in CRR Industries, Inc.;

(2) 100% of the issued and outstanding capital stock in Conrail Direct, Inc.;

(3) 100% of the issued and outstanding capital stock in CG Projects, Inc.;

(4) 100% of the issued and outstanding capital stock in PennCentral Comm. Co.;

(5) 100% of the issued and outstanding capital stock in General American Ins. Co.; and

(6) 19.136% of the issued and outstanding capital stock in Amtech Logistics Corp.

(F) CRC's rights and interests in and with respect to the following:

(1) Locomotive Management Services Partnership (a partnership with General Electric relating to use of locomotives); and

(2) EMP (bilateral agreements relating to use of containers by CRC, NSR and UP).

The parties intend that CRC's rights and interests with respect to LMS and EMP will be shared based on their respective Percentage, that both CSXT and NSR will participate therein and that, in the case of EMP, CSX will participate as a partner.

NOTE: Notwithstanding any provision of this Schedule, to the extent an item herein describes an Ancillary Agreement between the parties the form of which is set forth as an Exhibit to this Agreement, such description shall be for purposes of identification only, and the terms of such Ancillary Agreement shall control.

Conrail Line Allocation

Attachment I

All CRC lines are not listed herein. Lines listed include main line routes, primary branch lines and other lines which may need clarification. Lines pertain to allocated CRC ownership or where identified (TR) to assumed present CRC freight rights. Customer access is attributed to the acquiror of the line on which the customer is located, unless otherwise identified in the Transaction Agreement. Lines not specifically listed are to be acquired by the owner/acquirer of the CRC route/line to which they connect. In the case that a line not listed connects to a line allocated to PRR and to a line allocated to NYC, allocation will be determined at a later date.

Primary Route And Extension Acquisitions	Segmt	From		To		
NYC ALLOCATED ASSETS						
NY/NJ to Cleveland - Water Level Route & Extensions						
	1	South End N. Bergen Yd	NJ	Selkirk/Albany Term.	NY	
	1	Poughkeepsie	NY	New York City	NY	TR
	1	Poughkeepsie	NY	New York City	NY	
	1	New York City	NY	White Plains	NY	TR
	1	Selkirk/Albany Term.	NY			
	1	Selkirk	NY	Poughkeepsie	NY	
	2	Selkirk/Albany Term.	NY	Syracuse	NY	
	3	Syracuse	NY	Buffalo	NY	
	3	Lyons Yard	NY			
	4	Buffalo	NY	Ashtabula	OH	
	5	Ashtabula	OH	Cleveland Terminal	OH	
	5	Portion of Kinsman Conn.	OH			
	5	Portion of 44 I.T	OH			
	5	All of 45 I.T.(including Dock 22, 24, & 26 Lds)	OH			
	5	Old Line Lead(Cleveland)	OH			
	40	Boston	MA	Selkirk/Albany Term.	NY	
	41	Syracuse	NY	Adirondack Jct.	PQ	
	41	Adirondack Jct.	PQ	Montreal (St. Luc)	PQ	TR
	41	Woodard	NY	Oswego	NY	
	41	Syracuse	NY	Hawk	NY	
	41	Hawk	NY	Port of Oswego	NY	TR
	43	Frontier Yard	NY			
	43	Belt Line Branch	NY			
	42	Buffalo Terminal	NY	Niagra Falls/Lockport	NY	
	42	Lockport	NY	West Somerset	NY	TR
	94	Syracuse	NY	NYSW/FL Connections	NY	
	165	Boston Terminal	MA			
	165	Selkirk/Boston Line	MA	MA Branch Lines	MA	
	165	Selkirk/Boston Line	MA	MA Branch Lines	MA	TR
	1	West 30th St. I.T.	NY			
	1	Fremont Secondary	NY			
	166	New York City	NY	Connecticut Branch Lines		TR
	166	Connecticut Branch Lines				
	166	Connecticut Branch Lines (including Amtrak)				TR
	3	Churchville	NY	Wayneport	NY	
	3	Mortimer	NY	Avon	NY	

Conrail Line Allocation

Primary Route And Extension Acquisitions	Segmt	From		To		
	3	Rochester Branch	NY			
Crestline to Chicago -Pennsylvania Route & Extensions						
	17	Crestline	OH	Dunkirk	OH	
	17	Bucyrus Yard Track and Connector	OH			
	18	Dunkirk	OH	Fort Wayne	IN	
	18	Decatur Sec. & Hunt I.T.	IN			
From NS via CR	19	Fort Wayne	IN	Warsaw	IN	
From NS via CR	20	Warsaw	IN	Chicago Terminal (Clarke Jct.)	IN	
	18	Adams	IN	Decatur	IN	
Berea to E. St. Louis Route & Extensions						
	21	Cleveland Terminal	OH	Crestline	OH	
	122	Crestline	OH	Galion	OH	
	22	Galion	OH	Ridgeway	OH	
	23	Ridgeway	OH	Indianapolis	IN	
	24	Indianapolis	IN	Terre Haute	IN	
	25	Terre Haute	IN	Effingham	IL	
	26	Effingham	IL	St. Elmo	IL	
	27	St. Elmo	IL	E. St. Louis	IL	
	27	Anderson	IN	Emporia	IN	
	55	Columbus(CP138)	OH	Galion	OH	
	55	Columbus(Hocking)	OH	Columbus(CP138)	OH	
	55	Neil I.T.	OH			
	83	Terre Haute	IN	Danville	IL	
	151	Danville	IL	Olin	IN	
	80	Pekin R.T	IL			
	100	Indianapolis Terminal	IN			
	99	Indianapolis	IN	Rock Island	IN	
	100	Indianapolis	IN	Crawfordsville/Bringhurst	IN	
	154	Indianapolis	IN	Shelbyville	IN	
	105	HN Cabin	IL	Valley Jct.	IL	
	106	St. Elmo	IL	Salem	IL	TR
	98	Terre Haute	IN	Beehunter	IN	TR
	28	Muncie(Walnut Street)	IN	New Castle R.T.	IN	TR
	28	New Castle RT	IN			
	28	Muncie I.T.	IN			
Columbus to Toledo Route & Extensions						
	53	Mounds Connector	OH			
	53	Western Branch	OH			
	53	Buckeye Yard Lead	OH			
	53	Columbus	OH	Ridgeway	OH	
	52	Ridgeway	OH	Blanchard	OH	
	51	Blanchard	OH	Toledo Terminal	OH	
	51	Toledo Terminal (Caruthers Sec. and I.T.)	OH	Woodville	OH	

Conrail Line Allocation

Primary Route And Extension Acquisitions	Segmt	From		To		
	51	Toledo Terminal	OH	Stonyridge	OH	
	51	Main Freight Tk. & Wye	OH			
	51	Stanley Yard and Interlocking	OH			
	51	Eastern R.T.	OH			
	51	Lakefront Docks Lead Tracks	OH			
Bowie to Woodzell, MD						
	90	Bowie	MD	Morgantown	MD	
	90	Brandywine	MD	Chalk Point	MD	
NY/NJ to Philadelphia (West Trenton Line)						
	182	Manville Yard & Lead	NJ			
	182	Drill Track Lead	NJ			
	182	Philadelphia/Greenwich Yd.	PA	North NJ Terminal	NJ	
	182	Park Jct.	PA	Belmont	PA	
	182	Phil	PA	CP-Field/CP-Gray	PA	
	182	Eastwick	PA	Vicinity of CP-Field/CP-Gray	PA	
Washington, DC to Landover, MD						
	33	Washington Terminal	DC			TR
	33	Washington (RO)	DC	Landover	MD	
Quakertown Branch						
	130	Philadelphia Terminal	PA	Quakertown	PA	TR
Chicago Area						
	192	Porter	IN	Ivanhoe	IN	
	190	Panhandle Stub		South of 49th Street	IL	
	190	Ivanhoe	IN	Westernmost point of CR Ownership	IN	
Monongahela						
	113	Monongahela RR	PA/WV			Subject to joint use agreement

Primary Route And Extension Acquisitions	Segmt	Conrail Line Allocation From		To		
PRR Allocated Assets						
NJ Terminal to Crestline - Pennsylvania Route & Extensions						
	10	North NJ Terminal	NJ	Somerville	NJ	
	10	Somerville	NJ	Allentown	PA	
	10	Little Falls	NJ	Dover	NJ	TR
	10	Orange	NJ	Denville	NJ	TR
	10	Dover	NJ	Rockport	NJ	TR
	10	Rockport	NJ	Phillipsburg	NJ	
	10	Phillipsburg	PA	E. Stroudsburg	PA	
	10	Allentown Terminal	PA			
	186	Orange	NJ	North Jersey Terminal	NJ	TR
	170	North Jersey Terminal	NJ	Little Falls	NJ	TR
	182	Bound Brook	NJ	Ludlow	NJ	TR
	11	Allentown	PA	Reading	PA	
	12	Reading	PA	Harrisburg	PA	
	12	Harrisburg Terminal	PA			
	13	Harrisburg	PA	Pittsburgh	PA	
	13	Creekside	PA	Homer City	PA	TR
	13	Conemaugh Line		via Saltsburg	PA	
	13	Pittsburgh	PA	W. Brownsville	PA	
	113	Monongahela RR	PA/ WV			
	13	Central City	PA	South Fork	PA	
	13	Pittsburgh Terminal	PA			
	13	Monongahela	PA	Marianna	PA	
	14	Pittsburgh Terminal	PA			
	14	Pittsburgh	PA	Salem	OH	
	14	Salem	OH	Alliance	OH	
	14	Beaver Falls	PA	Wampum	PA	
	15	Alliance	OH	Cleveland Terminal	OH	
	120	Mantua	OH	Cleveland Terminal	OH	
	120	Portion of Kinsman Conn.	OH			
	120	Portion of 44 I.T. (including Dock 20 Ld.)	OH			
	16	Alliance	OH	Crestline	OH	
	114	Alliance	OH	Omal	OH	
	114	Rochester	PA	Yellow Creek	OH	
	114	E. Steubenville	WV	Weirton	WV	
	114	Steubenville Branches, Bridge			OH	
	114	Pittsburgh Branches	PA			
	45	Ashtabula	OH	Youngstown	OH	
	162	Ashtabula Harbor	OH	Ashtabula	OH	
	46	Niles	OH	Latimer	OH	
	46	Alliance	OH	Youngstown	OH	
	46	Gem I.T. - Lordstown	OH			
	48	Youngstown	OH	Rochester	PA	
	87	Allentown	PA	Hazelton	PA	
		CP Harris	PA	Cloe	PA	TR
		Cloe	PA	Shelocta	PA	
		Tyrone	PA	Lock Haven	PA	TR

Conrail Line Allocation

Primary Route And Extension Acquisitions	Segmt	From		To		
Cleveland to Chicago - Water Level Route						
	6	Cleveland Terminal	OH	Toledo Terminal	OH	
	6	Elyria	OH	Lorain	OH	
	159	Toledo Terminal	OH	Sylvania	OH	
	7	Toledo Terminal	OH	Goshen	IN	
	107	Elkhart	IN	Goshen	IN	
	8	Elkhart	IN	Porter	IN	
Philadelphia to Washington (NEC) Route & Extensions						
	31	Philadelphia Terminal	PA	Perryville	MD	TR
	31	Wilmington Terminal	DE			
	32	Perryville	MD	Baltimore	MD	TR
	32	Baltimore Terminal	MD			
	32	Claremont R.T.	MD			
	32	Loneys Lane Lead	MD			
	32	Grays Yard	MD			TR
	33	Balt. BayView	MD	Landover	MD	TR
	33	Baltimore Terminal	MD			
	33	Baltimore	MD	Cockeysville	MD	
	33	Landover	MD	Union Station	DC	TR
	34	Pocomoke	MD	New Castle Jct	DE	TR
	34	Harrington	DE	Frankford/Indian River	DE	
	131	Newark	DE	Porter	DE	TR
Michigan Operations (Excluding Joint Detroit Area)						
	50	Toledo Terminal	OH	Detroit Terminal	MI	
	60	Detroit Terminal	MI	Jackson	MI	
	61	Jackson	MI	Kalamazoo	MI	
	62	Kalamazoo	MI	Elkhart	IN	
	70	Jackson	MI	Lansing	MI	
	71	Kalamazoo	MI	Grand Rapids	MI	
	71	Kalamazoo I.T.	MI			
	71	Comstock I.T.	MI			
	156	Kalamazoo	MI	Porter	IN	TR
Eastern PA Lines & Extensions						
	37	Philadelphia Terminal	PA	Reading	PA	
	37	Reading Terminal				
	37	Thorndale	PA	Woodbourne	PA	
	37	Portion of Stoney Creek Branch	PA			
	37	West Falls Yard	PA			
	37	Venice I.T.	PA			
	136	Leola/Chesterbrook PA Lines			PA	
	137	Philadelphia PA Terminal		Lancaster	PA	TR
	111	Lancaster	PA	Royalton	PA	TR
	112	Lancaster	PA	Lititz/Columbia	PA	

Conrail Line Allocation

Primary Route And Extension Acquisitions	Segmt	From		To		
Indiana Lines & Extensions						
	84	Anderson	IN	Warsaw	IN	
	85	Warsaw	IN	Goshen	IN	
	163	Marion	IN	Red Key	IN	
	101	Layfayette I.T.	IN			
Buffalo to NY/NJ Terminal Route & Extensions						
	44	NJ/NY Jct.	NJ	Suffern	NY	TR
	44	Suffern	NY	Port Jervis	NY	
	44	Port Jervis	NY	Binghamton	NY	
	44	Binghamton	NY	Waverly	NY	
	44	NJ/NY Jct.	NJ	Spring Valley	NY	TR
	44	Paterson Jct.	NJ	Ridgewood	NJ	TR
	38	Waverly	NY	Buffalo	NY	
	88	Waverly	NY	Mehoopany	PA	
	89	Sayre	PA	Ludlowville	NY	
	93	Lyons	NY	Himrods Jct	NY	
	95	Corning	NY	Himrods Jct	NY	
	171	North Jersey Terminal	NJ	Paterson Jct	NJ	TR
	171	Paterson Jct.	NJ	North Newark	NJ	
	171	NJ/NY Jct.	NJ	North Jersey Terminal	NJ	TR
Buffalo to Harrisburg and South						
	35	Perryville	MD	Harrisburg	PA	
	35	Carlisle	PA	Harrisburg	PA	
	35	Wago	PA	York (area)	PA	
	35	Harrisburg	PA	Shocks	PA	
	36	Williamsport	MD	Harrisburg	PA	
	39	Harrisburg	PA	Buffalo	NY	
	39	Watsontown	PA	Strawberry Ridge	PA	
	4	Ebenezer Jct.	NY	Lackawanna	NY	
	91	Hornell	NY	Corry	PA	
	91	Corry	PA	Erie	PA	TR
	91	Youngstown	OH	Oil City	PA	
Cincinnati, OH to Columbus, OH to Charleston, WV						
	54	Columbus	OH	Cincinnati	OH	
	54	Cincinnati Terminal	OH			
	56	Columbus Terminal	OH	Truro	OH	
	57	Truro	OH	Charleston	WV	
	150	Charleston	WV	Cornelia	WV	
	150	Charleston	WV	Morris Fork	WV	
Chicago South/Illinois Operations						
	193	Osborne	IN	Hartsdale	IN	
	193	Hartsdale	IN	Chicago Heights	IL	
	82	Hartsdale	IN	Schneider	IN	
	81	Schneider	IN	Hennepin	IL	

Conrail Line Allocation

Primary Route And Extension Acquisitions	Segmt	From		To		
	97	Keensburg	IL	Carol	IL	
	152	Schneider	IN	Wheatfield	IN	
Chicago Market						
	194	Western Ave Operations/Loop		Cicero/Elsdon	IL	
	194	Western Ave. I.T.	IL			
	194	Old Western Ave. I.T.	IL			
	194	North Joint Tracks	IL			
	194	Elevator Lead & Tri-River Dock	IL			
	195	Chicago	IL	Porter	IN	
	196	Clarke Jct.	IN	CP501	IN	
	196	CP 509	IL	Calumet Park	IL	
	194	CR&I Branch	IL			
	194	49th Street I.T.	IL			
	194	75th Street	IL	51st Street	IL	TR
	197	Port of Indiana	IN			
	196	Bernice I.T.	IL			
	190	CP502	IN	Osborne	IN	

CRC Retained Assets - Detroit Shared Assets Area

Detroit Line	Gibraltar(MP20)	MI	CP West Detroit	MI	
Michigan Line	CP Townline	MI	CP 15th Street	MI	Part TR
North Yard Branch	CP Bay City Jct.	MI	North Yard	MI	
Sterling Secondary	North Yard	MI	Sterling Yard	MI	
Junction Yard Secondary	CP Townline	MI	River Rouge Yard	MI	
Marsh Industrial Track	River Rouge Yard	MI	Tecumsah Yard	MI	
Lincoln Industrial Track	Ecorse Jct.	MI	Carleton	MI	
Term. East Ind. Track	Mack Yard	MI	North Yard	MI	
Term. West Ind. Track	North Yard	MI	Fullerton	MI	
Highland Park Ind. Track	Fullerton	MI	West Belt Jct.	MI	
Utica Industrial Track	Sterling Yard	MI	Ford Utica Plant	MI	
Forman Wye Track	Fort St - Rougemere	MI	NS Drawbridge	MI	
Overhead Rights on CSXT	West Belt Jct.	MI	Delray	MI	TR
Local Rights on CSXT	Oak	MI	End of Track - W. Detroit	MI	TR
Rights on Delray Connecting RR					

CRC Retained Assets - South Jersey/Philadelphia Shared Assets Area

NEC (Amtrak)	Zoo	PA	Trenton	NJ	TR
Harrisburg Line (Amtrak)	Zoo	PA	Overbrook	PA	TR
Delair Branch	CP Park	PA	Pavonia Yard	NJ	
West Chester Line (SEPTA)	Arsenal	PA	Media	PA	TR
Chestnut Hill W. Line (SEPTA)	N. Philadelphia	PA	Midvale	PA	TR
Midvale Yard/Midvale I.T.		PA			
Main Line (SEPTA)	Market East	PA	Newtown Jct.	PA	TR
Chester Secondary	Eastwick	PA	Essington	PA	

Conrail Line Allocation

Primary Route And Extension Acquisitions	Segmt	From		To		
Chester Industrial Track		Essington	PA	Marcus Hook	PA	
Bordertown Secondary		Pavonia	NJ	Trenton	NJ	
Beasley's Pt. Secondary		CP Brown	NJ	Palermo	NJ	Part TR
Vineland Secondary		CP Brown	NJ	Landis	NJ	
Millville Industrial Track		Landis	NJ	Manumiskin	NJ	
Manumuskin Ind. Track		Manumuskin	NJ	WW RR Connection	NJ	
Penns Grove Secondary		Woodbury	NJ	Deepwater	NJ	
Salem Running Track		Woodbury	NJ	Swedesboro	NJ	
Pemberton Ind. Track		CP Jersey	NJ	Mt. Holly	NJ	Part TR
Grenloch Industrial Track		CP Brown	NJ	Bellmawr	NJ	
Shell Industrial Track		Shell	NJ	End of Track	NJ	
Bustleton Ind. Track		Holmes	PA	Bustleton	PA	
Morrisville Line		CP "MA"	PA	Morris	PA	
Fairless Spur		Morrisville Yard	PA	Fairless Works	PA	
Richmond Ind. Track		Nice	PA	Pt. Richmond	PA	
60th Street Ind. Track		Essington	PA	End of Track	PA	
Camden Running Track		CP Brown	NJ	Pavonia	NJ	Part TR
Philadelphia Belt Line			PA			TR
Swanson St. IT		South Philadelphia	PA			
Port of Philadelphia			PA			
Pier I22			PA			
Blue Line Connecting Track		Wayne Jct.	PA	Nice	PA	

CRC Retained Assets - North Jersey/New York Shared Assets Area

NEC (Amtrak)		Trenton	NJ	Penn Station NY	NY	TR
Raritan Valley Line (NJT)		Aldene	NJ	Bound Brook	NJ	TR
North Coast Line (NJT)		Rahway(Union)	NJ	Neptune Yard	NJ	TR
Bayonne Line (NJT)		Bayonne	NJ	Greenville	NJ	TR
Southern Secondary (NJT)		Red Bank	NJ	Glidden	NJ	TR
Freehold Secondary (NJT)		Freehold	NJ	Farmingdale	NJ	TR
Lehigh Line		CP Port Reading Jct.	NJ	Oak Island Yard	NJ	
River Line		CP Waldo	NJ	North Bergen	NJ	
Port Reading Secondary		Bound Brook	NJ	PD Port Reading	NJ	
Chemical Coast Secondary		"PN" Oak Island	NJ	Perth Amboy	NJ	
P&H Branch		Lane	NJ	Hack	NJ	
Nave - Croxton Running Tk.		Nave	NJ	CP-Croxton	NJ	
Northern Running Track		CP-Croxton	NJ	North Bergen	NJ	
Marion Running Track		Hack	NJ	CP-Croxton	NJ	
National Docks Secondary		Oak Island	NJ	Nave	NJ	
Amboy Secondary		South Amboy	NJ	Monmouth Jct. (Midway)	NJ	
Bonhamton/Raritan Ind. Tks.		Metuchen	NJ	Perth Amboy	NJ	
Linden Industrial Track		Carteret	NJ	Linden	NJ	
Perth Amboy Running Track				Center	NJ	
GSA Lead		NS Lehigh Line Conn.	NJ	CSX Trenton Line Conn.	NJ	
Reformatory Ind. Track		Carteret	NJ	Chrome Yard	NJ	
Elizabeth Ind. Track		Aldene	NJ	Elizabeth	NJ	
Hightstown Ind. Track		Jamesburg	NJ	Hightstown	NJ	
Toms River Ind. Track		Lakehurst	NJ	Ciba	NJ	
Meadows #1 Track			NJ		NJ	
Port Newark/Port Elizabeth Access			NJ		NJ	
Auto Terminal Lead		Ridgefield Heights	NJ		NJ	

Primary Route And Extension Acquisitions	Segmt	Conrail Line Allocation From		To	
Greenville Yard and Lead		Greenville	NJ		NJ

SCHEDULE 2

MAJOR DECISIONS

1. From and after the Control Date, except by resolution of the CRC Board, none of CRR, CRC or any of their respective Affiliates (other than NYC and PRR) shall (other than as is necessary or convenient in connection with a Restructuring or is expressly set forth in this Agreement or the Ancillary Agreements), in any single transaction or series of transactions, take or commit to take any of the following actions:

(a) any action which would require or cause NYC or PRR to declare, make or pay any Distributions;

(b) conduct any business other than, or engage in any transaction not substantially related to and in the ordinary course of, the business of CRC and its Affiliates (other than NYC and PRR) as contemplated under this Agreement and the Ancillary Agreements (the "Continuing CRC Business");

(c) make any loans, advances or capital contributions to, or investments in, any other Person except CRC's wholly owned Subsidiaries;

(d) acquire any business or assets, other than assets acquired in the ordinary course of the Continuing CRC Business;

(e) consolidate with or merge into any Person or otherwise engage in any business combination;

(f) issue, sell, adjust, split, combine, subdivide, reclassify, transfer, pledge, redeem or otherwise acquire any shares of its capital stock;

(g) sell, transfer, lease, sublease, license or otherwise dispose of any assets (including leasehold interests and intangible assets) not in the ordinary course of the Continuing CRC Business or in excess of $100,000 in aggregate value in any 12 month period;

(h) commit to or make any capital expenditure other than in compliance in all material respects with the capital expenditure budget adopted by the CRC Board from time to time;

(i) commence or settle any litigation for equitable relief or for an amount in excess of $100,000 in any such commencement or settlement or series of related commencements or settlements;

(j) form or participate in a joint venture or partnership outside the ordinary course of the Continuing CRC

Business or involving over $100,000 in assets or over $100,000 in revenues;

(k) enter into or amend Contracts outside the ordinary course of the Continuing CRC Business or with a notional value in excess of $100,000 or for a period in excess of 12 months; provided that in respect of Contracts that are Allocated Assets, CRC shall follow NYC's (in the case of Contracts that are NYC Allocated Assets) or PRR's (in the case of Contracts that are PRR Allocated Assets) reasonable instructions in respect of such Contracts and no CRC Board approval shall be necessary for CRC to take such actions;

(l) create liens on or encumbrances of assets outside the ordinary course of the Continuing CRC Business or with an aggregate net book value in excess of $50,000;

(m) incur, assume, pre-pay, guarantee, endorse or otherwise become liable or responsible (whether directly, contingently or otherwise) for any indebtedness for borrowed money except in the ordinary course of the Continuing CRC Business;

(n) declare, make or pay any Distributions, other than Distributions to CRC by its wholly owned Subsidiaries (other than NYC and PRR);

(o) appoint or terminate any executive management;

(p) enter into or amend any written employment agreement or contract or employee benefit plan or employee policy;

(q) appoint or replace the independent auditors of CRR, CRC and their respective Affiliates;

(r) unless required by law or a change in generally accepted accounting principles in the United States, make any material change in the accounting methods of CRR, CRC and their respective Affiliates;

(s) dissolve, liquidate or wind up CRR, CRC or their respective Affiliates or commence a voluntary proceeding seeking reorganization or similar relief;

(t) approve, enter into or perform any transactions with any director, officer or employee of CRR, CRC or their respective Affiliates, or with an Affiliate of CSX or NSC, respectively, or with any partner, family member or other person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with any such director, officer or employee;

(u) transfer, pledge, create a security interest, or otherwise part with ownership or possession, in whole or part, of its membership interest in NYC or PRR; or

(v) any other action that could be reasonably expected to have a material impact on the performance, financial condition or prospects of CRR, CRC or their respective Affiliates.

2. Except by resolution of the CRC Board, CRC shall not (other than as is necessary or convenient in connection with a Restructuring) in its capacity as the sole member of NYC and PRR, respectively, amend or restate the NYC LLC Agreement or the PRR LLC Agreement, or suffer or permit NYC or PRR, as the case may be, to take or commit to any of the following actions:

(a) declare, make or pay any Distributions;

(b) conduct any business other than, or engage in any transaction not substantially related to and in the ordinary course of, the business of NYC or PRR, as the case may be, as contemplated under the Transaction Agreement and the Ancillary Agreements or the freight transportation business generally;

(c) consolidate with or merge into any Person or otherwise engage in any business combination;

(d) issue, sell, adjust, split, combine, subdivide, reclassify, transfer, pledge, redeem or otherwise acquire any interest in NYC or PRR, as the case may be;

(e) sell, transfer, lease, sublease, license, exchange or otherwise dispose of all or substantially all of their Assets, respectively (including leasehold interests and intangible Assets);

(f) dissolve, liquidate or wind up or commence a voluntary proceeding seeking reorganization or similar relief;

(g) enter into any agreement or arrangement with respect to, or engage in, any transaction (i) between NYC or PRR, as the case may be, on the one hand, and CRC or its Affiliates, on the other hand, and (ii) between the NYC or PRR, as the case may be, on the one hand, and CSX or NSC and their respective Affiliates, on the other hand, other than such a transaction which is on arm's length terms;

(h) transfer, provide trackage or operating rights or otherwise grant the right to use any railroad line (regardless of whether the grantor's rights depend on ownership or trackage rights or a combination thereof) which is part of any Main Line within the States of New Jersey or New York, or the area within twenty-five miles of the city of Philadelphia, PA (or consent to

any such action by the "Operator" under the CSXT Operating Agreement or the NSR Operating Agreement). As used in the preceding sentence, "Main Line" means a line of railroad that has daily rail service, but does not include any branch line connecting to a Main Line and does not include the Main Line that lies east of the Hudson River and south of Selkirk, NY; or

(i) amend any material provision of the CSXT Operating Agreement, the CSXT Equipment Lease, the NSR Operating Agreement or the NSR Equipment Lease.

SCHEDULE 3

PRESERVATION OF FAIR ACCESS TO CHICAGO GATEWAY

(a) For purposes of this Schedule 3, the following terms shall have the following meanings:

(i) "Chicago Area" means the geographic area in the States of Illinois and Indiana located within a 100-mile radius of the office building presently located at One First National Plaza in Chicago, Illinois;

(ii) "Chicago Area Terminal Railroad" means any railroad, whether currently in existence or later created, whose primary business is the provision of terminal or switching services within the Chicago Area including, without limitation, the Indiana Harbor Belt Line Railroad Company, the Belt Railway Company of Chicago, the Baltimore and Ohio Chicago Terminal Railroad Company and the Elgin, Joliet and Eastern Railroad Company; and

(iii) "Chicago Gateway" means railroad lines and interchange, dispatching and other related facilities necessary to the function of carrying by railroad freight moving through the Chicago Area generally in the direction from east to west or west to east, whether by interchange between carriers in the Chicago Area or by single-line service between points east of the Chicago Area and points west of the Chicago Area and passing through the Chicago Area.

(b) If CSXT or NSR shall after the Control Date acquire, directly or indirectly, ownership, or rights to exercise effective voting control, of any voting stock in any Chicago Area Terminal Railroad (the "Interests"), the party acquiring such Interests (the "Acquiror") shall, at the request of the other party, sell or transfer to the other party, on terms and conditions substantially the same on a pro rata per Interest basis as those governing the Acquiror's acquisition of Interests, one-half of such newly acquired Interests, provided, however, that if the Interests would give the Acquiror control, not theretofore held, of a Chicago Area Terminal Railroad, the Acquiror's obligation to sell or transfer shall attach to the lesser of (A) one-half of all the Interests (not solely newly acquired Interests) it holds in that Chicago Area Terminal Railroad, or (B) such portion of all the Interests (not solely newly acquired Interests) it holds in that Chicago Area Terminal Railroad as necessary to equalize the Interests of each party. The sale or transfer price for each such Interest shall be the per Interest price paid by the Acquiror for the newly acquired Interests.

(c) Neither CSXT nor NSR shall, following the Control Date, enter into any arrangement with any Chicago Area Terminal

Railroad, or any other railroad operating in the Chicago Area related to the Chicago Gateway, under which, in connection with the grant by such Chicago Area Terminal Railroad or such other railroad of trackage rights or similar operating rights to either CSXT or NSR, such Chicago Area Terminal Railroad or other railroad shall agree not to grant trackage rights or similar operating rights to the other of CSXT or NSR, with respect to such Chicago Area Terminal Railroad or the lines of such other railroad related to the Chicago Gateway.

(d) Should CSX or CSXT enter into a transaction in which either one shall be acquired by Burlington Northern Santa Fe Corporation ("BNSF"), or in which CSX or CSXT acquires BNSF, or in which substantially all of the rail operations of CSXT and BNSF shall be otherwise combined and put under common control or be merged together in any manner, at the request of CSX and any successor thereto made no later than one year following the consummation of such transaction, NSR shall sell and transfer to CSXT or its successor, at fair value, the Streator Line from Osborne, IN to Streator, IL (being the rail line located between Osborne, IN, and Schneider, IN, and Wheatfield, IN, and Moronts, IL), including all dispatching control with respect to said line. As used in this subsection, the term "fair value" shall mean the fair market value as determined by the parties by agreement or, failing agreement, as determined by binding arbitration. Any such sale and transfer shall be subject to all requisite governmental and regulatory approvals.

(e) Any dispute concerning the interpretation or application of this Schedule 3 shall be finally settled by binding arbitration pursuant to Section 11.12 of the Transaction Agreement. In any such arbitration, the arbitrator(s) shall have the authority to direct, subject to any required governmental or regulatory approvals and in accordance with any contractual limitations on transfer or assignment contained in any agreement with third parties (except one made in contravention of this Schedule 3), CSXT, NSR or both to transfer to each other ownership or control of voting stock in any Chicago Area Terminal Railroad, or to direct the release by a party violating subsection (c) of any obligation of exclusivity made in such violation, as are necessary to carry out the purposes of this Schedule 3.

SCHEDULE 4

SCHEDULE OF TRACKAGE RIGHTS, HAULAGE, SHARED ASSET AND OTHER OPERATING AGREEMENTS

ITEM 1 - TRACKAGE RIGHTS AGREEMENTS

All Trackage Rights Agreements referred to in Items 1.A and 1.B below will be substantially in the form of the Trackage Rights Agreement attached hereto as Exhibit C-1 (in the case of those referred to in Item 1.A.) or C-2 (in the case of those referred to in Item 1.B.) and will be between the operator of the involved rail line, the owner, and the tenant road. Forms of addenda and/or assignments relating to the trackage rights referred to in Item 1.A. are included with Exhibit C-1 and forms of addenda and/or assignments relating to the trackage rights referred to in Item 1.B. are included with Exhibit C-2. Unless otherwise provided herein, a trackage rights tenant shall only have the right to enter on and exit from the trackage rights lines at points other than the endpoints where the tenant may make a connection with its existing railroad line and joint CSXT/NSR lines ("Point of Permitted Entry or Exit"). If, in the opinion of the tenant, a new or upgraded connection is required at a Point of Permitted Entry or Exit other than the endpoints, or, if in the opinion of the tenant, other upgrading, including but not limited to switches, power switches, signals, communications, etc., is required for operational efficiency, the landlord will, subject to its own operational needs, cooperate and the tenant will be responsible for funding that construction/upgrading at actual cost or a cost mutually agreed to by CSXT and NSR. Where a tenant has access to 2-to-1 points via trackage rights, the tenant may at its option access the points via haulage.

A. **NSR on CSXT:** CSXT will grant to NSR trackage rights on the following rail lines which will be owned or operated by CSXT after the Closing Date:

1. Junction - Hadley (Fort Wayne, IN): NSR rights to operate over and share with CSXT the former CRC line between Junction and Hadley (the crossing of the former Pennsylvania RR and NYC&SL west of Fort Wayne).

2. Lafayette, IN - Crawfordsville (area): assignment of overhead trackage rights on CSXT's Lafayette - Crawfordsville, IN line to serve 2-to-1 shippers at Crawfordsville, IN, and to move overhead between Lafayette and Indianapolis.

3. Crawfordsville, IN - Indianapolis (area): overhead trackage rights on CRC's Crawfordsville - Indianapolis line to serve 2-to-1 shippers, the GM metal fabrication plant and the INRD via Hawthorne Yard.

4. Indianapolis: overhead trackage rights on CRC's Crawfordsville Branch from Woods to Washington Street in Indianapolis to serve 2-to-1 shippers, the GM metal fabrication plant and the INRD via Hawthorne Yard.

5. Indianapolis: overhead trackage rights on CSXT between Washington Street and Pine in Indianapolis to serve 2-to-1 shippers, the GM metal fabrication plant and the INRD via Hawthorne Yard.

6. Buffalo (CP 437) - Niagara Falls (Suspension Bridge): overhead trackage rights on CRC's Belt Line Branch and Niagara Branch to connect with, or with trackage of Canadian carriers at Suspension Bridge.

7. Philadelphia(Park Jct.) - Anacostia Jct., MD: NSR is assigned CRC's overhead trackage rights on CSXT.

8. Landover - RO (Alexandria, VA): overhead trackage rights on CRC's Landover Line.

9. Cleveland, OH: overhead trackage rights on CRC's Short Line from Quaker to Berea, OH.

10. Cleveland, OH: overhead trackage rights on CRC's Chicago Line (allocated to CSXT) from CP 181 to Collinwood Yard for purposes of interchange with CSXT.

11. Crestline, OH - Fort Wayne (Mike), IN: overhead trackage rights on CRC's Fort Wayne Line (which is to be allocated to CSXT), with train limits as follows:
    - 8 total trains/day between Crestline and Bucyrus
    - 6 total trains/day between Bucyrus and Fort Wayne including rights to serve 2-1 customers at Upper Sandusky.

    NSR trains over the above limits are subject to negotiations between CSXT and NSR for NSR contribution to CSXT investment needed for additional capacity. NS will supervise the dispatching of the Ft. Wayne to Crestline line until CSXT haulage over CRC Chicago Line between Berea and Chicago is terminated. NS will control the Bucyrus interlocking permanently.

12. Fort Wayne(Mike), IN - Chicago(Clarke Jct., IN): overhead trackage rights on former CRC Fort Wayne Line (Ft. Wayne - Chicago, now NSR), with ten total

trains/day limit (limit does not apply in Fort Wayne terminal). NSR trains over the above limits are subject to negotiations between CSXT and NSR for NSR contribution to CSXT investment needed for additional capacity. NSR will dispatch the line until CSXT haulage over CRC Chicago Line between Berea and Chicago is terminated.

13. Porter - Gibson Interlocking, IN: overhead trackage rights on CRC's Porter Branch.

14. CP Hocking - CP 138 (Columbus, OH): overhead trackage rights on CRC Buckeye Line from "CP Hocking" to "CP 138".

15. Scioto - CP Mounds (Columbus, OH): overhead trackage rights on CRC Western Branch from Scioto to "CP Mounds," including the Mounds Connection.

16. CP Buckeye - CP Darby (Columbus, OH): overhead trackage rights on Buckeye Yard Lead from "CP Buckeye" to "CP Darby".

17. CP 138 - MP 133.5 (Columbus, OH): overhead trackage rights on the CSXT - assigned west track of the CRC Columbus Line from "CP 138" to the vicinity of Milepost 133.5 (point of new NS connection).

18. Parsons Yard - Scioto (Columbus, OH): overhead trackage rights on CSXT between the south end of Parsons Yard (connection with Watkins - Parsons transfer track) and Scioto.

19. Lima, OH - Sidney, OH: overhead trackage rights on CSXT's Toledo Subdivision to serve 2-to-1 customers at Sidney.

20. Bound Brook, NJ - Woodbourne, PA: overhead trackage rights for twelve total trains/day limit on CRC's Trenton Line for dimensional trains until Pattenburg Tunnel on CRC's Lehigh line is cleared of dimensional restrictions, not to exceed three years.

21. Piqua Yard - Mike Interlocking (Fort Wayne, IN): NSR overhead rights to operate trains for Triple Crown Services Company between Piqua Yard and Mike interlocking (Fort Wayne).

22. Muncie, IN - Indianapolis (area): overhead trackage rights on CRC's Indianapolis Line, South Anderson Cutoff and part of Dow Secondary to serve 2-to-1 ship-

pers the GM metal fabrication plant and the INRD via Hawthorne Yard.

23. Toledo Terminal: overhead rights on CSXT-controlled portion of former Toledo Terminal Railroad.

24. Erie, PA: overhead trackage rights on CRC between Downing Avenue and Wallace Street in Erie, PA, subject to restriction against NSR use of CRC Chicago line main tracks.

25. CP Short - Parma, OH: overhead trackage rights on CRC Short Line from CP Short to Parma to serve but not directly switch Parma auto plant.

26. McCook - Franklin Park, IL: overhead trackage rights granted by B&OCT.

27. Pine Junction, IN - McCook, IL: overhead trackage rights on B&OCT.

B. **CSXT on NSR:** NSR will grant to CSXT trackage rights on the following rail lines which will be owned or operated by NSR after the Closing Date:

1. CP River (West Falls), PA - Abrams, PA: overhead trackage rights on CRC's Harrisburg Line for dimensional traffic.

2. CP King (Norristown), PA - Woodbourne (CP Wood), PA: overhead trackage rights on CRC's Morrisville Line for dimensional traffic plus incidental rights on short portion of SEPTA's Norristown Line.

3. Berea, OH - CP 181 (Cleveland, OH): overhead trackage rights on CRC's existing Chicago Line.

4. CP Short - CP 190 (Cleveland, OH) and Berea, OH - Lorain and Fairlane, OH: overhead trackage rights on CRC's line allocated to NSR and rights to serve 2-to-1 Ford Motor plants at Avon Lake and Fairlane.

5. CP Hocking - Buckeye Yard: overhead trackage rights on CRC Buckeye Line from "CP Hocking" to Buckeye Yard.

6. Bannon - Scioto, OH: overhead trackage rights on CRC Western Branch from Bannon to Scioto.

7. CP 139 - Buckeye Yard: overhead trackage rights on CRC Cincinnati Line from "CP 139" to Buckeye Yard, via the Miami Lead.

8. CP 138 - MP 133.5 (Columbus, OH): overhead trackage rights on the NSR-assigned east track of the CRC Columbus Line from CP 138 to the vicinity of MP 133.5 (point of new NSR connection).

9. CP Camp - CP 139 (Columbus): overhead trackage rights on CRC Auburn Connection from "CP Camp" to "CP 139".

10. Bannon - Watkins Yard: overhead trackage rights on NSR from Bannon to the south (RR east) end of NSR Watkins Yard (connection with Watkins - Parsons transfer track).

11. Youngstown (Center St.) - Ashtabula Harbor, OH: overhead trackage rights on CRC Youngstown Line to access Ashtabula Harbor facilities and the Water Level Route.

12. Osborne, IN - Streator, IL: overhead trackage rights on CRC Kankakee Line, Kankakee Secondary and Streator Secondary for up to 8 total trains/day to connect with, or with trackage of other intersecting railroads. CSXT trains over the above limits are subject to negotiations between CSXT and NSR for CSXT contribution to investment needed for additional capacity.

13. Clarke Jct., IN - CP 501: overhead trackage rights on CRC's Fort Wayne Line between Clarke Junction, IN and CP 501.

14. Pine, IN - Rock Island Jct. (Chicago, IL): CSXT overhead trackage rights on CRC's Chicago Line (allocated to NSR).

15. CP Short - CP Belt, OH: CSXT overhead trackage rights to allow CSXT to serve but not directly switch 2-to-1 Ford Motor Company plant at CP Belt, OH.

16. Ecorse Junction - Delray (Detroit, MI): overhead trackage rights on existing NSR tracks in the Detroit area from Ecorse Junction to Delray, MI.

17. Bucyrus - Sandusky: overhead trackage rights on NSR between Bucyrus and Sandusky to serve a 2-to-1 shipper at Sandusky, OH.

18. Brighton Park - Ash Street (Chicago IL): overhead trackage rights on CRC's Western Avenue Industrial Track from crossover connection with B&OCT at Brighton Park to Ash Street (Chicago, IL).

19. CP 509 - 63rd Street (Chicago, IL): overhead trackage rights on CRC's Chicago line limited, in combination with NSR haulage of CSXT trains, to a total of 6 trains/day in each direction between the above points for trains entering or leaving NSR trackage at Clarke Junction up to a maximum of three years.

C. **CRC ASSIGNMENTS TO NSR/CSXT:** CRC will assign to NSR and CSXT existing CRC rights with respect to the Northeast Corridor as follows (see Ancillary Agreement governing assignment of CRC rights as to Northeast Corridor):

NEC RIGHTS/OPERATING DEFINITION

1. Zoo Tower - Penn Station trackage: Rights shall be shared equally by NSR and CSXT and, in the event of an operating conflict, trains will be scheduled alternately.

2. Baltimore - Zoo Tower Trackage: CSXT shall be limited to 4 trains a day.

3. Landover - Baltimore: Rights will be shared equally by NSR and CSXT and, in the event of an operating conflict, trains will be scheduled alternately.

4. Washington Union Station - Landover, MD: Rights shall be shared equally by NSR and CSXT and, in the event of an operating conflict, trains will be scheduled alternately.

NEC RIGHTS/COMMERCIAL DEFINITION

1. Philadelphia (Zoo) - New York (Penn Station): Will be part of the North Jersey Shared Assets Area and the South Jersey/Philadelphia Shared Assets Area where NSR and CSXT will have equal customer access.

2. Washington, D.C. - Philadelphia (Zoo): Will be exclusive to NSR.

3. North of New York (Penn Station): Will be exclusive to CSXT.

ITEM 2 - CSX/NSC HAULAGE AGREEMENTS

The Haulage Agreement referred to in Item 2.A.1 will be substantially in the form of the Haulage Agreement included with Exhibit D and will be between the operator of the involved rail line (and with the owner, if appropriate) and the tenant road. The assignment of the Haulage Agreement

referred to in Item 2.A.2 will be in the form included with Exhibit D.

A. NSR Haulage for CSXT on NSR Lines:

1. Berea, OH - Chicago (63rd St.): Overhead haulage for CSXT by NSR on CRC's Chicago Line for maximum of six merchandise and/or intermodal trains/day each way to the Park Manor Yard at 63rd St. in Chicago, until CRC's Ft. Wayne Line (Ft. Wayne - Chicago now NS) is upgraded, up to a maximum of 3 years.

2. Normal, IL - Lafayette, IN: Assignment to CSXT of CRC's Haulage Agreement with NSR for 2-to-1 automotive traffic only.

ITEM 3 - SHARED ASSETS AGREEMENTS

1. North Jersey Shared Assets Agreement among CRC, CSXT and NSR (attached as **Exhibit G**), covering the following matters:

   (1) North Jersey Shared Assets Area
   (2) North Jersey CSXT/NSR Trackage

2. Philadelphia\Southern Jersey Shared Assets Agreement among CRC, CSXT and NSR (attached as **Exhibit H**), covering the following matters:

   (1) Philadelphia/South Jersey Shared Assets Area
   (2) Philadelphia/South Jersey NS/CSXT Trackage

3. Detroit Area Shared Assets Agreement among CRC, CSXT and NSR (attached as **Exhibit I**), covering the following matters:

   (1) Detroit Shared Assets Area
   (2) Detroit Dispatching
   (3) NSR/CSXT trackage Rights - Detroit

ITEM 4 - OTHER OPERATING AGREEMENTS

A. **INTERLOCKING AGREEMENTS (CSXT-Controlled)** between CSXT and NSR as to which the interlocking will be controlled by CSXT:

1. Ashtabula Interlocking (crossing of the existing CRC Youngstown Line and Chicago Line at Ashtabula, OH)

2. CP-Mounds Interlocking (Columbus, OH)

3. Warsaw Interlocking (Warsaw, IN)

4. Crestline Interlocking (Crestline, OH)

B. **INTERLOCKING AGREEMENTS (NSR-Controlled)** between NSR and CSXT as to which the interlocking will be controlled by NSR:

1. Buckeye Interlocking (Columbus, OH)

2. Mike Interlocking (Fort Wayne, IN)

3. Bucyrus Interlocking (Bucyrus, OH)

C. **INTERLOCKING SEPARATION AGREEMENTS** between NSR and CSXT as to which the interlocking will be "separated" (i.e., divided so that each operator is not subject to the control of the other when making moves on the operator's own lines through a point) prior to or as soon as possible after the Closing Date:

1. CP 138 Interlocking (Columbus, OH)

2. Short Interlocking (Cleveland, OH)

3. Berea Interlocking (Berea, OH)

D. **SWITCHING AND/OR YARD ACCESS AGREEMENTS** between CSXT and NSR:

1. Ashtabula - Agreement between NSR and CSXT providing for CSXT use of and access to Ashtabula Harbor facilities owned by CRC, up to a proportion of the total ground storage, throughput and tonnage capacity of the facilities equal to the Percentage

2. Yard Access Agreement - Agreement between CSXT and NSR providing for access by NSR to yard tracks in Seneca Yard at Buffalo, NY (yard to be assigned to CSXT) sufficient for the origination and termination of trains, at the end of the existing CRC Buffalo Line to be assigned to NSR, for purposes of improved interchange with the South Buffalo RR.

3. Ford (Rockport) - Agreement between NSR and CSXT providing for NSR switching for CSXT at the Ford engine plant in Cleveland (located on NSR portion of CRC lines in Cleveland).

4. GM Parma - Agreement between CSXT and NSR providing for CSXT switching for NSR at Parma auto plant located on the CSXT Portion of CRC in Cleveland.

5. Indianapolis Switching - Agreement between CSXT and NSR relating to NSR's use of Hawthorne Yard providing that NSR will have sufficient tracks and space for the arrival, departure and make-up of trains and will have reasonable access to and from the designated tracks; also providing for CSXT switching for NSR at 2-to-1 shippers in Indianpolis, the GM metal fabrication plant, and the INRD.

6. GM Lordstown - Agreement between CSXT and NSR for switching at GM assembly plant at Lordstown, OH.

7. Lorain Switching: Agreement between CSXT and NSR providing for NSR switching for CSXT at Lorain/Avon Lake auto plant located in Lorain, OH.

8. Fairlane Switching: Agreement between CSXT and NSR providing for NSR switching for CSXT at Fairlane auto plant located in Fairlane, OH.

9. Crawfordsville Switching: Agreement between CSXT and NSR providing for CSXT switching for NSR at 2-to-1 customers located in Crawfordsville, IN.

10. Sidney Switching: Agreement between CSXT and NSR providing for CSXT switching for NSR at 2-to-1 customers located in Sidney, OH.

11. Sandusky Switching: Agreement between CSXT and NSR providing for NSR switching for CSXT at a 2-to-1 customer at Sandusky, OH.

12. Upper Sandusky Switching: Agreement between CSXT and NSR providing for CSXT switching for NSR at 2-to-1 customers at Upper Sandusky, OH.

E. **MISCELLANEOUS AGREEMENTS** between NSR and CSXT:

1. IHB Agreement: Agreement among CRC, CSXT and NSR covering matters relating to Indiana Harbor Belt.

2. Monongahela Agreement - Agreement among NSR and CSXT providing for shared access to and joint use by CSXT of NSR assigned, controlled, operated and maintained lines serving the Monongahela coal fields' current and future facilities.

3. Temporary Lease Agreement between NSR or its designee and CSXT providing interim use by CSXT of the Park Manor (63rd St., Chicago, IL) intermodal facility during the period of CSXT's interim haulage between Chicago and Berea.

4. Letter Agreement providing for NSR and CSXT construction projects:

   (a) NSR construction of connection in eastern Cleveland, OH (granting to NSR rights to construct a connection in eastern Cleveland to make direct moves between NSR's Cleveland-Buffalo Line and the CRC's existing Chicago Line, using NSR rights over existing CRC Cleveland Short Line to be assigned to CSXT)

   (b) North of the current end of double track at CP 136 (Columbus, OH), NSR will be assigned the right of way east of the single remaining track and the Clintonville Siding (which is also east of the single remaining track), with the right to connect these two segments of track, at NSR's expense, at CP 136 and the Clintonville Siding into a continuous track east of and parallel to the single remaining track. Another new connection will be constructed, at NSR expense, between the Clintonville Siding and the existing NSR Bellevue - Portsmouth main line in the vicinity of Milepost 133.5, where both the NSR and CRC rights of way are parallel and level. CSXT shall, at its option and expense, have the right to construct a connection from its assigned track (i.e., the west located track of the right of way) to the new NSR Clintonville Siding, so that both tracks can be utilized for operational flexibility between the vicinity of Milepost 133.5 to CP 138, under the control of the respective assignee of each track.

   (c) Construction of Junction - Hadley trackage (a line relocation project underway in Fort Wayne will force NSR and CSXT to share the former CRC line between Junction and Hadley (the crossing of the former Pennsylvania RR and NYC&SL west of Fort Wayne); if NSR and CSXT decide that capacity needs mandate an additional track, NSR and CSXT will equally share the cost of constructing a new track between Junction and Hadley on the north side of the existing track, and ownership of the south track will revert to NSR and

ownership of the north track will revert to CSXT).

5. Construction at Buckeye Yard - Letter Agreement providing for NSR to have the right to construct a parallel track to the Buckeye Yard lead track (at Buckeye Yard, Columbus, OH) in order to provide for the proper functioning of Buckeye Yard.

6. Construction from Field - Belmont - Letter Agreement giving NSR the right to reconstruct, own and control an additional track where practical between Belmont and CP Field.

7. Deed of Easement between CSXT and NSR providing for conveyance by CSXT to NSR of a free easement (for NSR relocation of mainline in Erie, PA area) along existing CRC right of way through Erie, PA (assigned to CSXT) to replace NSR right of way through streets in downtown Erie at its expense. NSR will have trackage rights in Erie to connect its route from Corry to its existing Buffalo - Cleveland line if such connection can be achieved without using the CR Buffalo - Cleveland line.

8. Letter agreement between NSR and CSXT providing that (i) NSR's existing Fort Wayne - to - Chicago (former CRC line) line will be transferred to CSXT as part of a like kind exchange transaction for the Streator line and (ii) if CSXT were to merge with BNSF and if CSXT requests, then NSR would transfer the Streator Line from Osborne, IN including the dispatching control, for fair value.

9. Piqua Yard (Fort Wayne) - Letter Agreement between NSR and CSXT providing for division of space in Piqua Yard and determine most efficient means of utilizing the physical plant in Fort Wayne; Triple Crown Services Company will retain its current space in Piqua Yard and the right to have NSR operate its trains between Piqua Yard and Mike interlocking.

10. E-Rail Support Tracks - Letter Agreement between CSXT and NSR providing for access by NSR to use up to two tracks located on NYC allocated property of Elizabethport Yard (Trumbell St. Yard) for support of PRR's E-Rail intermodal facility.

11. Agreement between CSXT and NSR providing for assignment of CRC rights over CSXT lines to NSR (except as otherwise provided in the Transaction Agreement) and for assignment of CRC rights over NSR lines to CSXT

(except as otherwise provided in the Transaction Agreement).

12. Letter Agreement between NSR and CSXT providing CSXT the right to construct an Eastwick connection to provide a contiguous route through Philadelphia, via CP Field and portions of CR's Harrisburg and Trenton Lines to CP River and points north.

13. Letter Agreement among CRC, NSR and CSXT providing for assignment by CRC of rights relating to the Northeast Corridor.

14. Letter Agreement between NSR and CSXT providing for (i) assignment to both NSR and CSXT of CRC's trackage rights over BNSF to access BNSF's Willow Springs Yard (Chicago), subject to approval of BNSF, and (ii) if such trackage rights are assigned, CSXT's right to construct a connection in the vicinity of Ash Street (Chicago) to enable CSXT to use these rights, if necessary.

NOTE: Notwithstanding any provision of this Schedule, to the extent an item herein describes an Ancillary Agreement between the parties the form of which is set forth as an Exhibit to this Agreement, such description shall be for purposes of identification only, and the terms of such Ancillary Agreement shall control.

CSXT and NSR will cooperate with one another for the construction of various connections and improvements of the involved carriers referred to in their respective Operating Plans.

$150.00

PWK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FILED

MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

AT&T COMMUNICATIONS, INC.,
900 Route 202/206 North
Bedminster, NJ 07921

Plaintiff,

v.

CONSOLIDATED RAIL CORPORATION,
Serve: Corporation Service Company
2704 Commerce Drive
Harrisburg, PA 17110

Defendant.

Civil Action No. 03-CV-0147
JURY TRIAL DEMANDED

COMPLAINT

Plaintiff AT&T Communications, Inc. ("AT&T"), for its complaint for damages, declaratory judgment, an accounting and other relief against Defendant Consolidated Rail Corporation ("Conrail"), states as follows:

NATURE OF ACTION

1. AT&T brings this action to enforce Conrail's contractual obligation to comply with the "most favored nation" covenant (the "MFN Covenant ") in a license agreement between AT&T and Conrail dated January 1, 1984 (the "License Agreement") relating to AT&T's use of Conrail's right of way for a fiber optic cable ("FOC") system.

2. AT&T has paid Conrail over $200 million in license fees in connection with the License Agreement and currently is paying Conrail more than $17 million per year in license fees.

3. The MFN Covenant requires that if a third party is given the right to use any right of way between any two points on or parallel to the AT&T Licensed Premises for installation of a FOC system, either (i) the third party shall be charged a per mile fee at least equal to the average per mile fee paid by AT&T, or (ii) AT&T's per mile fee shall be reduced to the average per mile fee charged to the third party. Conrail has breached this obligation to AT&T's detriment by entering into agreements with third parties that charge a per mile fee that is effectively less than the average per mile fee paid by AT&T without reducing AT&T's average per mile fee to the amount charged the third party licensees.

4. Conrail also has breached the MFN Covenant, and repudiated the License Agreement, by transferring to its wholly-owned subsidiaries its interests in some or all of the right of way that is subject to AT&T's license and then disclaiming any further obligation to AT&T with respect to the transferred right of way and disabling itself of the ability to perform its obligations under the MFN Covenant.

5. AT&T seeks monetary damages for Conrail's breaches of the MFN Covenant and, at AT&T's election, the right to terminate the License Agreement without further obligation to Conrail. AT&T also seeks a judgment declaring that (i) the MFN Covenant is applicable to agreements permitting third parties to use FOC on the right of way that is subject to the License Agreement, even if Conrail is not a party to the agreements, and (ii) that Conrail is liable to AT&T to the extent such agreements charge the licensees an average per mile fee that is less than the average per mile fee paid by AT&T for the same right of way. AT&T also seeks a judgment declaring that, by virtue of Conrail's breaches and repudiation, AT&T, at its election, (i) is discharged from any further obligation under the License Agreement, or alternatively (ii) is entitled to a reduction of its future license fees by the amount that those fees exceed the average per mile fee charged to any other

licensee for the right to use the same right of way covered by the MFN Covenant. Finally, AT&T seeks a judgment declaring that, in the event AT&T elects to reduce its future license fees (rather than terminating the License Agreement), Conrail is required to disclose to AT&T all future agreements allowing the installation of FOC on the right of way covered by the MFN Covenant and to submit to an accounting of the average per mile fees paid by each licensee under each agreement that it is required to disclose.

PARTIES

6. AT&T is a corporation organized and existing under the laws of Delaware, with its principal place of business at Bedminster, New Jersey. AT&T owns and operates telecommunications equipment and provides telecommunications and related services throughout the United States.

7. Defendant Conrail is a corporation organized and existing under the laws of Pennsylvania with its principal place of business at Philadelphia, Pennsylvania. Conrail owns and operates railroads and railroad properties.

JURISDICTION AND VENUE

8. This Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1332(a)(1) because the matter in controversy exceeds the sum of $75,000, exclusive of interest and costs, and the parties are citizens of different states.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because Conrail is a resident of Philadelphia, Pennsylvania and a substantial part of the events giving rise to this complaint occurred in Philadelphia.

MATERIAL BACKGROUND FACTS

A. The License Agreement

10. In the 1980s, to improve its telecommunications services offered to the public, AT&T began creating a network of fiber optic telecommunications cable throughout the United States.

11. In 1984, AT&T and Conrail entered into a License Agreement which permitted AT&T to install a FOC system on selected portions of Conrail's railroad right of way. This License Agreement was the first agreement that AT&T entered into with any railroad in connection with the development of AT&T's new fiber optic network.

12. Upon information and belief, the License Agreement was also the first agreement that Conrail entered into with any major telecommunications company relating to the development of a new fiber optic network.

13. The License Agreement permitted AT&T to use specified right of way (initially, approximately 750 miles between Harrisburg, Pennsylvania and Chicago, Illinois) owned or controlled by Conrail for the purpose of constructing, installing, maintaining, operating and repairing a FOC system.

14. The License Agreement also granted AT&T the option to license up to 2,250 miles of additional Conrail right of way for its FOC system.

15. The License Agreement required AT&T to pay Conrail a monthly per mile fee for the original right of way it licensed for its FOC system. Those fees are periodically adjusted for changes in the Consumer Price Index ("CPI"), with a stated minimum increase of no less than twelve percent (12%) over various three-year time periods. The License Agreement also sets forth a per mile fee structure for the additional right of way that AT&T licensed, with attendant CPI increases.

16. The License Agreement expressly limits AT&T's FOC system to a single fiber optic cable containing not more than 24 fibers, along with the associated electronics. AT&T was given the right to install cable consisting of 36 fibers provided that the additional fibers did not create "fiber miles in excess of the product of 10% of the right of way comprising the Licensed Premises, multiplied by 12." (The term "Licensed Premises" as used in the License Agreement covers all of the right of way licensed by AT&T.)

17. AT&T subsequently licensed additional miles and has installed a total of approximately 2,700 miles of fiber optic cable on Conrail's right of way. AT&T continues to operate its FOC system on this right of way.

18. The original term of the License Agreement, which commenced on January 1, 1984, was for 15 years ending on January 1, 1999. The License Agreement gave AT&T the option of extending the License Agreement for two additional 15-year terms. AT&T exercised the first of those options and the License Agreement is now effective until January 1, 2014.

19. AT&T has paid Conrail over $200 million in license fees in connection with the License Agreement. AT&T is currently paying Conrail more than $17 million per year in license fees and, unless the License Agreement is terminated, AT&T will continue to pay Conrail license fees through January 1, 2014.

20. In 1986, when AT&T wanted to install FOC containing more than 24 fibers, such that the additional fibers created "fiber miles in excess of the product of 10% of the right of way comprising the Licensed Premises, multiplied by 12," Conrail advised AT&T that the additional fibers would result in "the creation of a theoretical segment, for pricing purposes of 17.3 miles." Conrail required that AT&T pay license fees for these additional 17.3 miles at the highest per mile in service rate required in the License

Agreement. AT&T has been paying Conrail the highest in service license fee rate in effect on these miles since January 1986.

B. The MFN Covenant

21. Because the License Agreement was Conrail's first agreement for the use of its right of way by a major telecommunications firm for the installation of a FOC system, and it was expected that Conrail would enter into similar agreements with other firms for the right to use its right of way, AT&T bargained for a "most favored nation" obligation. Paragraph 11.2 of the License Agreement contains the MFN Covenant in which Conrail agreed that, in the event agreements were entered with third parties providing for the use of any right of way between any two points on or parallel to the AT&T Licensed Premises, the third parties would be charged a per mile fee that was at least equal to the average per mile fee paid by AT&T, or AT&T's average per mile fee would be reduced to the average per mile fee paid by the third party. Specifically, the MFN Covenant states:

> CONRAIL covenants and agrees that, in the event it enters into any agreement with a party other than [AT&T] providing for the use by such party of right of way owned or controlled by CONRAIL for the installation of a FOC system between any two points on the Licensed Premises, whether such system is to be installed on the Licensed Premises or parallel to the Licensed Premises, CONRAIL will, at its option, either (i) charge such other party a per mile fee at least equal to the average per mile fee (including adjustments thereto referred to in Paragraphs 3 and 4 hereof), between such two points which [AT&T] is obligated to pay CONRAIL pursuant to this License, or, in the alternative, (ii) reduce its average per mile fee between such two points to [AT&T] to the average per mile fee charged to such other party.

22. The purpose of the MFN Covenant was to protect AT&T against a possible competitive disadvantage in the event that the MFN ROW was licensed to others. (As used in this Complaint, the term "MFN ROW" will refer to the right of way that is covered by

the MFN Covenant, specifically, any right of way that is between any two points on the AT&T Licensed Premises, whether on or parallel to the Licensed Premises.)

23. The MFN Covenant gives AT&T "most favored" status on the MFN ROW for the full term of the License Agreement.

C. Conrail's Breaches of the MFN Covenant

24. Since the inception of the License Agreement in 1984, Conrail and its successors have entered into numerous license agreements with third parties for the installation by those parties of FOC systems on Conrail right of way. Some of those license agreements cover the MFN ROW. In connection with those agreements that cover the MFN ROW, Conrail has a duty to AT&T under the MFN Covenant to ensure that those licensees are charged a per mile fee that is at least equal to the average per mile fee AT&T pays Conrail in connection with that right of way, or to reduce AT&T's average per mile fee so that it does not exceed the average per mile fee paid by any of those licensees.

25. Conrail has entered into a number of license agreements providing for the use of the MFN ROW in which it charges licensees an average per mile license fee that is less than the average per mile fee paid by AT&T.

26. Conrail has failed or refused to reduce the fees AT&T pays under the License Agreement so that AT&T's fees do not exceed the average per mile fee paid by those licensees. As a result, AT&T has paid, and is paying, Conrail license fees that are greater than the average per mile fees paid by other licensees for the right to use the MFN ROW.

27. In 1999, as part of a corporate reorganization, Conrail formed two wholly-owned subsidiaries, New York Central Lines LLC ("NYC") and Pennsylvania Lines LLC.

Upon information and belief, Conrail has conveyed to NYC and Pennsylvania Lines all, or a substantial portion, of the right of way that is subject to the AT&T License Agreement.

28. AT&T has paid and continues to pay Conrail monthly license fees under the License Agreement for the right to use the right of way property that Conrail transferred to its wholly owned subsidiaries, NYC and Pennsylvania Lines.

29. In consideration for large annual payments based upon the value of the transferred property, NYC and Pennsylvania Lines have entered into operating agreements with third-party operating companies and assigned the right of way for the use and enjoyment of those operating companies. The operating agreements require those operating companies to obtain the written consent of NYC or Pennsylvania Lines in connection with any agreement granting a third party the right to use the assigned property, including the right of way subject to the AT&T License Agreement.

30. Upon information and belief, in its property conveyances to NYC and Pennsylvania Lines, Conrail specifically recognized that the conveyances are subject to the License Agreement.

31. Paragraph 16.5 of the License Agreement provides that the obligations under the License Agreement are binding on Conrail and its successors and assigns.

32. Upon information and belief, one or more of the third-party operating companies has entered into one or more agreements with a third party pursuant to which the third party is permitted to use the MFN ROW.

33. Conrail has asserted to AT&T that it has no control over the transferred right of way and the third-party operating companies and it does not have any authority over the terms of their license agreements.

34. AT&T has requested that Conrail provide AT&T with information about the agreements that the third-party operating companies have made with third parties pursuant to which the third parties are permitted to use the MFN ROW. AT&T made this request to allow it to determine whether these agreements also implicate the MFN Covenant. Conrail has refused to produce any information, claiming that it has no liability to AT&T for any license agreement entered into by any of the third-party operating companies and approved by one of its wholly-owned subsidiaries, NYC or Pennsylvania Lines, even if such agreements license some of the MFN ROW and even if such agreements charge the third party a per mile fee that is effectively less than the average per mile fee AT&T is charged.

COUNT I

BREACH OF CONTRACT

35. AT&T adopts and incorporates by reference as though fully set forth herein the allegations of paragraphs 1 through 34 as stated above.

36. The License Agreement constitutes a valid and binding contract under which Conrail has a continuing duty to charge AT&T an average per mile fee for its licensed right of way that is no greater than average per mile fee charged to any third party for the right to use the MFN ROW.

37. AT&T has at all times performed, and continues to perform, its obligations under the License Agreement.

38. In addition to its express duties under the MFN Covenant, Conrail has an obligation, implied by law into the License Agreement, to refrain from taking any actions that have the effect of destroying or injuring AT&T's right to receive the bargained-for

fruits of the License Agreement, including its "most favored" status under the MFN Covenant.

39. Conrail has breached its express and implied duties under the License Agreement by:

a. entering into agreements with third parties allowing the use of the MFN ROW, and charging those third parties an effective per mile license fee that is lower than the average per mile fee paid by AT&T under the License Agreement;

b. failing to disclose to AT&T that it had entered into agreements providing for the use of the MFN ROW in which it charged others an effective per mile license fee that is lower than the average per mile fee paid by AT&T under the License Agreement;

c. transferring portions of the MFN ROW to its wholly-owned subsidiaries (NYC and Pennsylvania Lines) and then disclaiming any responsibility for subsequent agreements providing for the use of the MFN ROW that may violate the MFN Covenant;

d. transferring portions of the MFN ROW to its wholly-owned subsidiaries (NYC and Pennsylvania Lines) and then divesting itself of the ability to perform its obligations under the MFN Covenant; and

e. refusing to disclose to AT&T whether agreements providing for the use of the MFN ROW (that were made after Conrail transferred the MFN ROW to its wholly-owned subsidiaries) charge third parties an effective per mile license fee that is lower than the average per mile fee paid by AT&T under the License Agreement.

40. As a result of Conrail's breaches of the License Agreement identified in Paragraphs 39(a) and (b) above, AT&T has suffered monetary damages in an as yet

unknown amount. AT&T continues and will continue to suffer harm throughout the remaining term of the License Agreement to the extent that the monthly fees it pays Conrail exceed the average per mile fees paid for the use of the MFN ROW by any other licensee.

41. Conrail's breaches of the License Agreement identified in Paragraphs 39(c) and (d) above constitute a repudiation of the License Agreement. As a result of Conrail's repudiation, AT&T is discharged from any further obligation to render performance under the License Agreement.

42. As a result of Conrail's breaches of the License Agreement identified in Paragraphs 39(c), (d) and (e) above, AT&T may have been damaged and may continue to suffer damages to the extent that one or more of the third-party operating companies may have entered into one or more agreements providing for the use of the MFN ROW in return for an average per mile license fee that is less than the average per mile fee paid by AT&T for the MFN ROW. AT&T is entitled to an accounting of the terms of the contracts involving the MFN ROW and the fees charged and paid under all such contracts in order to determine the full extent of its damages.

WHEREFORE, AT&T prays that the Court enter judgment for AT&T and against Conrail:

A. Awarding AT&T compensatory damages for Conrail's past breaches of the MFN Covenant in an amount to be proved at trial, including damages for any breaches that are identified from the accounting that is sought in Paragraph B(2)(b) below;

B. Declaring either

(1) that AT&T is discharged from any further performance of its duties and obligations under the License Agreement, or, alternatively, at AT&T's election,

(2) that (a) the amount of AT&T's monthly license fees owed Conrail on an ongoing basis through the current term of the License Agreement be reduced by the amounts that AT&T's average per mile fees exceed the average per mile fees charged to any third party for the right to use the MFN ROW; (b) Conrail must submit to an annual accounting of the terms of its contracts providing for the use of the MFN ROW and the fees charged and paid under all such contracts, (c) Conrail must disclose and provide to AT&T any future agreements in its possession, custody or control providing for the use of some of the MFN ROW, including, but not limited to, agreements entered into between third-party operating companies and others with the consent of Conrail's subsidiaries; and (d) Conrail must submit to an annual accounting of the average per mile fees charged to and paid by each of the licensees under all agreements that it is ordered to disclose pursuant to subparagraph (c) above; and

C. Granting such other and further relief as the Court deems just and proper.

COUNT II

DECLARATORY JUDGMENT UNDER 28 U.S.C. § 2201

43. AT&T adopts and incorporates by reference as though fully set forth herein the allegations of paragraphs 1 through 42 as stated above.

44. An actual controversy exists between AT&T and Conrail as to whether the MFN Covenant is applicable to, and Conrail has liability to AT&T for, agreements entered

into by the third-party operating companies that allow the use of some or all of the MFN ROW, if under such agreements the right of way user is charged an average per mile fee that is effectively less than the average per mile fee AT&T is charged under the License Agreement for the same right of way.

45. AT&T is entitled to a declaratory judgment against Conrail declaring that the MFN Covenant is applicable to any agreements providing for the use of the MFN ROW for a FOC system, even if Conrail is not a party to the agreements.

46. AT&T is entitled to a declaratory judgment against Conrail declaring that Conrail has repudiated the License Agreement as a result of Conrail's disabling itself of the ability to perform its obligations under the MFN Covenant, thereby discharging AT&T's remaining duties to render performance and permitting AT&T to elect to terminate the License Agreement.

47. In the alternative, AT&T is entitled to a declaratory judgment against Conrail declaring that

a. where any license agreement provides for the use of the MFN ROW for a FOC system in return for an average per mile license fee that is less than the average per mile fee paid by AT&T for the MFN ROW Conrail must reduce AT&T's average per mile fee to the amount charged the third party licensee;

b. Conrail is required to disclose and provide to AT&T for the remaining term of the License Agreement any future agreements in its possession, custody or control that provide for the use of the MFN ROW for a FOC system, even if Conrail is not a party to the agreements; and

c. Conrail must submit to an annual accounting of the average per mile fees charged to and paid by each of the licensees under all agreements that it is ordered to disclose.

WHEREFORE, AT&T prays that the Court enter judgment for AT&T and against Conrail:

A. Declaring that the MFN Covenant is applicable to any agreements providing for the use of the MFN ROW for a FOC system, even if Conrail is not a party to the agreement;

B. Declaring that Conrail has repudiated the License Agreement as a result of Conrail's disabling itself of the ability to perform its obligations under the MFN Covenant, thereby discharging AT&T's remaining duties to render performance and permitting AT&T to elect to terminate the License Agreement;

C. Alternatively, declaring that

(1) under the terms of the License Agreement, any license agreement that provides for the use of the MFN ROW for a FOC system in return for an average per mile license fee that is less than the average per mile fee paid by AT&T for the MFN ROW requires a reduction of AT&T's average per mile fee to the amount charged the third party licensee;

(2) under the terms of the License Agreement, Conrail must disclose and provide to AT&T for the remaining term of the License Agreement any agreements in its possession, custody or control that provide for the use of the MFN ROW for a FOC system, even if Conrail is not a party to the agreement; and

(3) Conrail must submit to an annual accounting of the average per mile fees charged to and paid by each of the licensees under all agreements that it is ordered to disclose pursuant to subparagraph (2) above; and

D. Granting such other and further relief that the Court deems just and proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), AT&T hereby demands a trial by jury.

Dated: January 10, 2003

Respectfully Submitted,

By _____

Paul W. Kisslinger (Pa. I.D. No. 68668)
Robert J. Higgins
Howard N. Feldman
Laura H. Calaluca
DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20037-1526
(202) 785-9700

Of Counsel:

B. Haven Walling, Jr.
AT&T CORPORATE CENTER
2022 Chain Bridge Road, Room 3-D
Oakton, VA 22185

Lois Lipton
AT&T LAW DIVISION
222 W. Adams Street, Suite 1500
Chicago, IL 60606

Attorneys for Plaintiff AT&T Communications, Inc.

Agreement
Registry No. 267 666

LICENSE AGREEMENT

This License Agreement (the "License"), dated as of the 1st day of January 1984, by and between CONSOLIDATED RAIL CORPORATION, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania ("CONRAIL"), and AT&T COMMUNICATIONS, INC., a corporation organized and existing under the laws of the State of Delaware ("LICENSEE").

WHEREAS, an efficient communications system is, and has always been, essential to the safe and cost-effective operation of a railroad;

WHEREAS, CONRAIL'S communications system is, and has always been, furnished by LICENSEE;

WHEREAS, since the advent of deregulation in the rail and trucking industries, competition within and between those industries has dramatically intensified;

WHEREAS, in order to survive and prosper in the present deregulated environment, it is necessary that CONRAIL be able to use a cost-effective and efficient communications system

capable of expeditiously transmitting and receiving pricing, routing and other information necessary to rail operations;

WHEREAS, fiber optic communications ("FOC") technology appears to CONRAIL to be the most appropriate communications technology presently available which is suitable to CONRAIL'S needs for rail communications;

WHEREAS, the installation and operation by LICENSEE of FOC systems on CONRAIL right of way will enhance CONRAIL'S communications system;

WHEREAS, LICENSEE is a recognized world leader in the telecommunications industry;

WHEREAS, in furtherance of CONRAIL'S objective to have the use of, pursuant to tariff, an efficient communications system, CONRAIL desires that LICENSEE construct and operate a FOC system(s) along the railroad right of way owned or controlled by CONRAIL between Harrisburg, Pennsylvania and Chicago, Illinois, and between other locations, said FOC system(s) to be defined as a telecommunications transmission system, including fiber optic cable, repeaters, junctions, terminals, power supply access, and attendant buildings, equipment, fixtures, and appurtenances necessary and incidental to such use, all as further defined in and qualified by this License;

WHEREAS, in furtherance of CONRAIL'S objective to have the use of, pursuant to tariff, an efficient communications system, CONRAIL desires that LICENSEE acquire various options for the acquisition of other licenses with respect to other rights of way owned or controlled by CONRAIL for possible future construction and operation of additional FOC systems;

WHEREAS, CONRAIL, for the reasons set forth above, desires to have its communications, to the extent practicable, carried over said FOC systems, as such systems may be expanded from time to time, for its own communications purposes as such purposes may be expanded from time to time and LICENSEE agrees to use its best efforts to do so, pursuant to its applicable tariffs and statutes;

WHEREAS, LICENSEE desires to furnish to its customers, including Conrail, high quality, reliable telecommunications services at reasonable rates;

WHEREAS, the foregoing objective of LICENSEE will be furthered by licensing the right of way owned or controlled by Conrail between Harrisburg, Pennsylvania and Chicago, Illinois for the construction and operation of an FOC system;

WHEREAS, since LICENSEE has no experience with the construction and operation of an FOC system along a railroad

right of way, this License Agreement will allow LICENSEE to gain such experience;

WHEREAS, if such experience indicates that construction and operation of an FOC system along a railroad right of way is cost effective, LICENSEE may desire to construct and operate additional FOC systems along CONRAIL'S right of way;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the parties hereto, intending to be legally bound, agree as follows:

1. The Licensed Premises

1.1. CONRAIL, to the extent its rights, title or interest with respect to its right of way permit, hereby licenses LICENSEE, for the term and upon the conditions, covenants, and agreements hereinafter set forth, to use such portion of its right of way between Harrisburg, Pennsylvania and Chicago, Illinois, the mileposts of which are set forth in Exhibit A hereto, as is necessary for the sole purposes of construction, installation, operation, maintenance and repair by LICENSEE of a FOC system(s) consisting of one fiber optic cable containing not more than 24 fibers (subject to Paragraph 4.5 hereof), together with associated electronics, between Harrisburg, Pennsylvania and Chicago, Illinois (the "Licensed Premises"). CONRAIL and LICENSEE shall mutually

determine the specific location of the Licensed Premises and said fiber optic cable on said right of way in order to provide for optimum installation and maintenance of the cable, subject to CONRAIL'S consideration of its needs for orderly and efficient rail operations; provided, however, that said cable shall not be installed between existing tracks or within four (4) feet of the gage of the near rail, in either case without the mutual written agreement of the parties. In addition to such portion of the right of way, the Licensed Premises shall include : (i) access to property, including bridges, trestles, overpasses, tunnels and other structures, owned or controlled by CONRAIL in order to permit cable installation, operation, maintenance and repair, subject to CONRAIL'S consideration of its needs for orderly and efficient rail operations, and (ii) use of land owned or controlled by CONRAIL on or adjacent to such right of way for LICENSEE to construct or install repeater stations at locations to be mutually agreed upon in writing by CONRAIL and LICENSEE at intervals of approximately sixteen (16) to twenty (20) miles. By granting this License, CONRAIL is not conveying any real property interest in the Licensed Premises, nor any right or interest not specifically set forth herein.

1.2. The Licensed Premises shall not include any space or land along or adjacent to the right of way for the installation of any facilities or equipment for the

performance or provision by LICENSEE of communications or other activities or services other than those necessary to the operation of the FOC system. For purposes of the preceding sentence, "activities or services necessary to the operation of the FOC system" include activities involving interconnection on a temporary or emergency basis to communications facilities other than the FOC system to provide for alternate routing or restoral of communications services in cases of interruption or failure of the FOC system, as well as the ability to interconnect on a permanent basis, subject to this License, with any communications facility necessary to extend communications carried over the FOC system.

1.3. By granting this License, CONRAIL is not conveying, and this License does not convey, to LICENSEE any right to use electrical power purchased by or available to CONRAIL. LICENSEE shall be solely responsible for securing, purchasing, separately metering, and paying for all electrical power used to construct, operate, maintain, and repair any FOC system, including the repeater stations, whether such electrical power is used for normal operation of said system or for emergency purposes. Where practicable, CONRAIL will permit LICENSEE, at LICENSEE'S cost, to connect with AC power leads on CONRAIL'S right of way to provide power to the repeater stations.

2. Term of License

2.1. The License shall commence at 12:01 a.m. on January 1, 1984, and shall terminate at 12:01 a.m. on January 1, 1999 ("Initial Term"), unless extended pursuant to Paragraph 2.2 hereof.

2.2. LICENSEE shall have the option to extend this License for two (2) terms of fifteen (15) years each, the first of which extensions shall terminate at 12:01 a.m. on January 1, 2014 (the "First Extended Term") and the second of which extensions shall terminate at 12:01 a.m. on January 1, 2029 (the "Second Extended Term"); provided, however, that the Second Extended Term shall be available to LICENSEE only if LICENSEE is not in default on December 31, 2012 under any of the provisions of this License. Said options shall be exercisable by LICENSEE'S giving written notice of extension to CONRAIL by December 31, 1997 and December 31, 2012, respectively, and the license granted shall be on the same terms and conditions as set forth herein.

3. License Charges

3.1. LICENSEE shall pay CONRAIL a license fee of (i) $333.34 per mile by the first business day of February 1984, (ii) $166.67 per mile by the first business day of each month thereafter during 1984 and 1985, and (iii) $250.00 per

mile by the first business day of the earlier of (a) the first month after commencement of operation of any activated portion of a FOC system on the Licensed Premises referred to in Paragraph 1.1 hereof, or (b) January 1986, and each month thereafter during the Initial Term for use of the right of way referred to in Paragraph 1.1 hereof (which, for purposes of calculation of license fees pursuant to this License shall be deemed to be 750 miles), said license fee to be adjusted pursuant to Paragraph 3.2 hereof.

3.2. On January 1, 1987 and every three years thereafter on January 1 of each third year during the Initial Term the $250.00 per mile monthly license fees referred to in Paragraphs 3.1 and 4.2 hereof shall be increased by the same percentage as the percentage increase in the Consumer Price Index for All Urban Consumers, All Items, United States, Base 1967 = 100, issued by the Bureau of Labor Statistics of the United States Department of Labor ("CPI-U"), for the immediately preceding three-year period; provided, however, that in no event shall any such increase be less than twelve percent (12%) or more than eighteen percent (18%). If the governmental body issuing the CPI-U ceases to use the 1967 average of 100 as the basis for calculation, the CPI-U shall be adjusted to the figure that would have been arrived at had the manner of so calculating the CPI-U not been so changed. If the CPI-U (or a successor or a substitute index) ceases to be published, or ceases to be generally recognized as an

index of inflation, the parties hereto shall select and substitute an index which is mutually acceptable, published by a governmental or other disinterested body with appropriate reconciliation of the base of the substituted index with the base of the CPI-U.

3.3. As an additional license fee, LICENSEE agrees and covenants to pay all taxes, excluding income taxes, but including assessments, use and occupancy taxes, charges for public utilities, excises, and levies (collectively, "Taxes") that are levied on LICENSEE'S property on the Licensed Premises or that arise out of the construction, maintenance, or operation of any FOC system on the Licensed Premises, including without limitation any Taxes, or any increases in Taxes, imposed on CONRAIL by virtue of the construction, maintenance or operation of any FOC system. CONRAIL shall promptly provide reasonable notice and documentation to LICENSEE with regard to any proposed or actual assessment of Taxes of which CONRAIL has actual notice, or any increases in Taxes, imposed or to be imposed on CONRAIL of which CONRAIL has actual notice and for which LICENSEE is responsible for payment pursuant to the terms of this Section 3.3. If LICENSEE determines that such Taxes or increase in taxes is unreasonable or excessive, CONRAIL shall appeal such imposition at the written request and expense of LICENSEE.

4. Options of LICENSEE

4.1. CONRAIL hereby grants to LICENSEE an option to acquire a license for up to 2,250 additional miles (including the 250 miles referred to in Paragraph 4.2 hereof) of right of way owned or controlled by CONRAIL, in addition to the license of right of way referred to in Paragraph 1.1 hereof, subject to the provisions of Paragraphs 4.1.a through 4.1.d hereof, such option to expire on December 31, 1985. LICENSEE shall select the right of way to be included in said option pursuant to Paragraphs 4.1.a and 4.1.b hereof. LICENSEE hereby agrees to pay CONRAIL $375,000 by February 1, 1984 and $187,500 by the first business day of each month thereafter to and including December 1986 for such option, unless (i) LICENSEE fails to exercise either its option under Paragraph 4.3 hereof or Paragraph 4.3 hereof, in which event such payments shall cease with the December 1985 payment, or (ii) LICENSEE exercises its option under 4.2 hereof but not under 4.3 hereof, in which event LICENSEE shall pay to CONRAIL on the first business day of each month during 1986 an amount equal to $83.33 for each mile of right of way as to which LICENSEE has exercised its option under 4.2 hereof.

4.1.a. If CONRAIL, before September 1, 1984, receives an offer from another party for use by such other party of right of way owned or controlled by CONRAIL for a telecommunication transmission system, CONRAIL shall promptly notify LICENSEE in writing of such offer. LICENSEE shall have sixty (60) days from the date of such notice to notify CONRAIL in writing whether or not LICENSEE wishes to identify any portion of such right of way as part of the up to 2,250 miles with respect to which LICENSEE has an option pursuant

to Paragraph 4.1 hereof; provided, however, that LICENSEE will not use this option process as a means of willfully interfering with CONRAIL'S ability to license its right of way between major terminal points to other parties. If LICENSEE so notifies CONRAIL on or before the sixtieth (60th) day after the date of CONRAIL'S written notice referred to in the first sentence of this Paragraph 4.1.a, LICENSEE shall, at CONRAIL'S expense, within thirty (30) days after LICENSEE'S notice to CONRAIL, survey the right of way referred to in such notice and identify the location on said right of way where LICENSEE would elect to install its cable. LICENSEE shall not be required to perform such surveys for more than 500 miles of right of way in any calendar month. LICENSEE shall, as promptly as practicable after the completion of such survey, notify CONRAIL of the location of the proposed cable installation, which location shall be determined in accordance with the provisions governing the location of the cable on the Harrisburg to Chicago right of way, as set forth in Paragraph 1.1 hereof. If LICENSEE fulfills each of its obligations pursuant to this Paragraph 4.1.a, CONRAIL shall not enter into an agreement before January 1, 1986 with any other party which would significantly interfere with the installation, operation or maintenance of a FOC cable by LICENSEE in such location. If LICENSEE fails to fulfill any such obligations, CONRAIL shall have the unrestricted right at any time to enter into any

agreement with any other party with respect to such portion of the right of way, and the provisions of Paragraph 11.2 hereof shall not apply to such agreement.

4.1.b. LICENSEE shall, at one or more times before September 1, 1984, identify those portions of right of way owned or controlled by CONRAIL which LICENSEE selects to comprise the 2,250 miles as to which it has an option pursuant to Paragraph 4.1 hereof. Any right of way which LICENSEE has (i) identified to CONRAIL as part of said 2,250 miles pursuant to Paragraph 4.1.a hereof, or (ii) exercised its option pursuant to Paragraph 4.2 hereof, shall be deemed included in such selection.

4.1.c. CONRAIL shall have the unrestricted right to enter into agreements with other parties at any time on or after September 1, 1984 with respect to portions of its right of way not identified by LICENSEE as part of the 2,250 miles pursuant to Paragraph 4.1.b hereof, and the provisions of Paragraph 11.2 hereof shall not apply to any such agreement.

4.1.d. If CONRAIL, on or after September 1, 1984, receives an offer from another party for use by such other party of right of way identified by LICENSEE as part of said 2,250 miles, CONRAIL shall promptly notify LICENSEE in writing of such offer. LICENSEE shall, at its own expense, within thirty (30) days after the date of such notice, survey

the right of way referred to in said notice and specify in writing to CONRAIL the location on such right of way where LICENSEE proposes to install its cable. Such location shall be determined in accordance with the provisions governing the location of the cable on the Harrisburg to Chicago right of way, as set forth in Paragraph 1.1 hereof. LICENSEE shall not be required to survey more than 500 miles of right of way in any calendar month. If LICENSEE fulfills each of its obligations pursuant to this Paragraph 4.1.d, CONRAIL shall not enter into an agreement before January 1, 1986 with any other party which would significantly interfere with the installation, operation or maintenance of a FOC cable by LICENSEE in such location. If LICENSEE fails to fulfill any such obligations, CONRAIL shall have the unrestricted right at any time to enter into any agreement with any other party with respect to such portion of the right of way, and the provisions of Paragraph 11.2 hereof shall not apply to such agreement.

4.2. At any time prior to January 1, 1985, LICENSEE may exercise a separate option for up to 250 miles of right of way owned or controlled by CONRAIL, in addition to the right of way referred to in Paragraph 1.1 hereof; provided, however, that such option shall be exercised for not more than four segments of right of way of not less than 60 miles each. Upon exercise of any portion of the option referred to in this Paragraph 4.2, LICENSEE shall, on the first business

day of the first month after the exercise of such option, and on the first business day of each month thereafter pay CONRAIL a license fee of (i) $83.33 per mile through the earlier of (a) the month before commencement of operation of a FOC system on any activated portion of said 250 miles of right of way, or (b) December 1986, and (ii) in the event of such commencement of operation prior to January 1, 1987, $166.67 per mile after such commencement through December 1986, and (iii) $250.00 per mile commencing January 1987 and continuing thereafter during the Initial Term, which license fee shall be increased in accordance with the provisions of Paragraph 3.2.

4.3. In the event LICENSEE before January 1, 1986 exercises its option with respect to any right of way owned or controlled by CONRAIL pursuant to Paragraphs 4.1.a through 4.1.d in addition to any right of way as to which LICENSEE has exercised its option pursuant to Paragraph 4.2 hereof, LICENSEE shall pay to CONRAIL (i) commencing on the first business day of the first month after commencement of construction by LICENSEE of a FOC system on any portion of CONRAIL right of way as to which LICENSEE has exercised its option pursuant to Paragraphs 4.1.a through 4.1.d and 4.2, and continuing until the first business day of the first month after commencement of operation of such FOC system, a monthly license fee equal to the product of (x) $83.33 during 1986, and (y) $166.67 thereafter, in each case multiplied by

the number of miles of right of way under construction, and (ii) commencing on the first business day of the first month after commencement of operation of any such FOC system and continuing thereafter throughout the Initial Term, a monthly license fee equal to the product of $250 multiplied by the number of miles of right of way in such FOC system; provided, however, that for purposes of this Paragraph 4.3, LICENSEE shall be deemed (a) to have commenced construction by January 1, 1987 of FOC systems on at least 1,000 miles of such right of way, plus any miles of right of way as to which LICENSEE did not exercise its option pursuant to Paragraph 4.2 hereof, and to have commenced operations of all such FOC systems by January 1, 1989, and (b) to have commenced construction by January 1, 1988 of FOC systems on an additional 1,000 miles of such right of way, and to have commenced operations of all such FOC systems by January 1, 1990; further provided that in no event shall the total miles of right of way covered by the License exceed 3,000. The license fees set forth above in this Paragraph 4.3 shall be increased on the dates and pursuant to the formula set forth in Section 3.2 hereof.

4.3.a. In addition to the license fees set forth elsewhere in this License, LICENSEE shall pay to CONRAIL commencing on the first business day of January 1990 and each month thereafter during the Initial Term, a license fee of $187,500, which shall be increased commencing January 1, 1993

on the dates and pursuant to the formula set forth in Paragraph 3.2 hereof.

4.4. In the event that LICENSEE exercises its option to extend this License to January 1, 2014 pursuant to Paragraph 2.2 hereof, (A) the license fees referred to in Paragraphs 4.2, 4.3 and 4.3.a hereof, in each case as increased pursuant to Paragraph 3.2 hereof, shall be increased, effective January 1, 1999, by the amount in each case which is equal to the difference between (i) two-thirds of the percentage increase in the CPI-U between January 1, 1984 and January 1, 1999, and (ii) the aggregate amount of percentage increases by which such license fees were increased during such period pursuant to Paragraph 3.2 hereof; provided, however, that there shall be no increase in the event that the percentage increase referred to in (ii) is greater than the two-thirds percentage increase referred to in (i), and (B) the license fees referred to in Paragraph 3.1 hereof, as increased pursuant to Paragraph 3.2 hereof, shall be increased, effective January 1, 1999, by the amount in each case which is equal to the difference between (i) 55% of the percentage increase in the CPI-U between January 1, 1984 and January 1, 1999, and (ii) the aggregate amount of percentage increases by which such license fees were increased during such period pursuant to Paragraph 3.2 hereof; provided, however, that there shall be no increase in

the event that the percentage increase referred to in (ii) is greater than the 55% increase referred to in (i). All such increased fees shall be increased on January 1, 2002 and each third anniversary thereafter during the First Extended Term in accordance with the formula set forth in Section 3.2 hereof. In the event that LICENSEE exercises its option to extend this License to January 1, 2029 pursuant to Paragraph 2.2 hereof, the license fees referred to in Paragraphs 3.1, 4.2, 4.3 and 4.3.a hereof shall be increased, effective January 1, 2014, by the amount in each case which is equal to the difference between (i) the percentage increase in the CPI-U between January 1, 1999 and January 1, 2014, and (ii) the aggregate amount of percentage increases by which such license fees were increased during such period pursuant to Paragraph 3.2 hereof and the preceding sentences of this Paragraph 4.4; provided, however, that there shall be no increase in the event that the percentage increase referred to in (ii) is greater than the percentage increase referred to in (i). Such increased fees shall be increased on January 1, 2017 and each third anniversary thereafter during the Second Extended Term in accordance with the formula set forth in Section 3.2 hereof.

4.5. Any portions of right of way with respect to which LICENSEE exercises an option pursuant to any of the provisions of Paragraph 4 shall from the date of such exercise be deemed Licensed Premises for all purposes under

this License, and subject to all of the terms, conditions and restrictions contained herein; provided, however, that LICENSEE may install cable containing up to 36 fibers on the Licensed Premises, including the right of way referred to in Paragraph 1.1 hereof, so long as the additional fibers in such cables do not create fiber miles in excess of the product of 10% of the right of way comprising the Licensed Premises, multiplied by twelve.

4.6. Except as otherwise provided in Paragraph 11.2 hereof, CONRAIL shall have the unrestricted right to enter into agreements with other parties at any time on or after January 1, 1986 with respect to any portions of its right of way, whether or not LICENSEE has a license to use such right of way pursuant to this License; provided however, that CONRAIL shall not permit any other party to use any CONRAIL right of way as to which LICENSEE has exercised an option pursuant to Paragraph 4 hereof in a manner which would significantly interfere with the installation, operation or maintenance of a FOC cable by LICENSEE pursuant to this License in the location on such right of way specified by LICENSEE for its cable installation if LICENSEE fulfills all of its obligations under this Paragraph 4.6. If LICENSEE has not specified the location for cable installation on a portion of the CONRAIL right of way prior to the time that CONRAIL contemplates executing an agreement with another party with respect to such right of way, CONRAIL shall notify

LICENSEE in writing of its intention to enter into such agreement, and the LICENSEE shall have thirty (30) days thereafter to survey, at its own expense, the right of way referred to in said notice and specify in writing to CONRAIL the location on such right of way where LICENSEE proposes to install its cable. Such location shall be determined in accordance with the provisions governing the location of the cable on the Harrisburg to Chicago right of way, as set forth in Paragraph 1.1 hereof. LICENSEE shall not be required to survey more than 500 miles of right of way in any calendar month.

5. Construction of FOC Systems; Repairs and Maintenance

5.1. CONRAIL agrees to deliver to LICENSEE, promptly upon request therefor, upon payment to CONRAIL of its costs in connection therewith, copies of the following items:

(a) route maps;

(b) plan and profile drawings and engineering and architectural data heretofore prepared or compiled with respect to bridges, tunnels and other such engineering obstacles along the Licensed Premises; and

(c) such other documents and materials as may reasonably be required to construct and maintain the FOC system;

provided, however, that CONRAIL'S sole obligation under this paragraph shall be to provide documents, maps, drawings, and data in its existing files, and CONRAIL shall not be under any obligation to develop new documents, maps, drawings, or data for LICENSEE.

5.2. LICENSEE and its designated employees, agents, and representatives shall have the right to enter the Licensed Premises for the purpose of surveying and inspecting the same and performing engineering or other tests or studies necessary to the construction of FOC systems, and for the installation, maintenance and repair of said systems, subject to CONRAIL'S determination of its needs for orderly and efficient rail operations. Neither LICENSEE nor any of its employees, agents or representatives shall move equipment or material across CONRAIL right of way without advance approval by CONRAIL. Such activities shall be coordinated in advance with CONRAIL. LICENSEE shall require its agents and contractors, but not LICENSEE or its employees, to execute and deliver appropriate releases to CONRAIL.

5.3. Prior to commencement of construction of any FOC system on any portion of the Licensed Premises, LICENSEE

shall submit to CONRAIL construction plans and specifications (not to include technical specifications of the FOC system, but which shall include the placement of marker tape approximately twelve (12) inches above the cable or cable duct and the placement at specified intervals or locations of marker posts as mutually agreed to indicate the location of the cable and the telephone number of LICENSEE to be called in case of damage or repair or maintenance to be performed), including repeater stations and any other facilities to be used in connection therewith, together with a timetable for completion of construction, said timetable to include specific milepost references for the completion of particular segments of such FOC system. LICENSEE shall not commence construction until said plans, specifications and timetable are approved in writing by CONRAIL, which approval shall not be unreasonably withheld or delayed. LICENSEE understands and agrees that CONRAIL labor shall have the right to perform, at LICENSEE'S expense, any work in connection with the construction or installation of any FOC system which CONRAIL labor is entitled to perform under any collective bargaining agreement; provided, however, that LICENSEE may, at its option, perform, or have performed, any such work so long as LICENSEE indemnifies CONRAIL for any expenses incurred by CONRAIL arising out of the performance of such work by LICENSEE or its agents or contractors.

5.4. LICENSEE shall construct the FOC systems in accordance with the plans and specifications referred to in Paragraph 5.3. LICENSEE shall not depart from, change, alter, revise or amend said plans and specifications without the prior approval of CONRAIL, which approval shall not be unreasonably withheld or delayed. CONRAIL shall have the right to verify by inspection that the construction of any FOC system is in compliance with the plans and specifications referred to in Paragraph 5.3. Any repeater stations constructed or installed in connection with any FOC system shall be constructed or installed by LICENSEE at its own expense and at its own risk, and CONRAIL shall not be responsible for, although it will use reasonable caution to avoid, conditions in and around said stations that might adversely affect or cause damage thereto or to the contents thereof. LICENSEE agrees that all repeater stations constructed or installed by LICENSEE on CONRAIL'S property shall be approximately five hundred (500) square feet in area.

5.5. The plans and specifications referred to in Paragraph 5.3 may, at LICENSEE'S option, include the use by LICENSEE or its agent of a rail-mounted plow for installation of FOC systems. If requested, CONRAIL shall provide LICENSEE or its agent with other railroad equipment or personnel useful in conjunction with (i) the use of said plow, and (ii) to the extent deemed appropriate by CONRAIL, other

aspects of installation of FOC systems. LICENSEE shall pay CONRAIL the costs, plus CONRAIL'S normal corporate overheads, for any equipment or personnel furnished to LICENSEE or its agent pursuant to this Section 5.5.

5.6. All construction plans and specifications shall comply with current railroad engineering standards and any Federal, state or local laws applicable to railroad crossings and occupancy of railroad rights of way. In constructing the FOC systems, LICENSEE hereby agrees to comply with all applicable Federal, state, and municipal laws, orders, rules and regulations now or hereinafter enacted, to assume all costs and expense and responsibility in connection therewith, and to defend and indemnify CONRAIL with respect to any costs, expenses or liabilities in connection therewith.

5.7. Except as otherwise provided in Paragraph 4.1.a hereof, all costs of surveying, inspection by LICENSEE, engineering or other tests or studies, construction and installation of the FOC systems, including costs relating to attachments to bridges, trestles, overpasses, tunnels and other structures, and costs relating to power connections, shall be borne by LICENSEE, including without limitation engineering fees, fees and expenses provided for in any construction contracts, and the financing and purchase of all equipment owned by LICENSEE used in the FOC systems.

5.8. If at any time during the work of construction or repair or maintenance of any FOC system on any portion of the Licensed Premises, CONRAIL should in its sole discretion deem flagmen or watchmen or other measures, including but not limited to train rerouting, desirable or necessary to protect its operations or property or its employees or other persons on or near the Licensed Premises, CONRAIL shall have the right to place such personnel or take such measures, at the sole risk, cost and expense of LICENSEE. LICENSEE hereby covenants and agrees to bear the full risk, cost and expense thereof and to promptly reimburse CONRAIL upon receiving from CONRAIL an itemized, written demand for such reimbursement. LICENSEE shall have the right to audit such costs and expenses. The failure to furnish such personnel or take such measures by CONRAIL shall not relieve LICENSEE of any obligations or liabilities it might otherwise have assumed.

5.9. All cranes, lifts, drilling equipment, or other machinery that is to be operated in the vicinity of CONRAIL'S electrification or power transmission facilities in connection with construction or repair or maintenance of any FOC system on any portion of the Licensed Premises shall be electrically grounded as directed by CONRAIL. LICENSEE shall require in any contracts for the operation of such cranes, lifts, drilling equipment, or other machinery that any of contractors' employees or agents operating any such equipment shall have no less than twelve (12) months' experience in the

operation of the machinery being used, and LICENSEE'S employees operating such machinery shall also have such level of experience.

5.10. If, during construction or repair or maintenance of any FOC system on any portion of the Licensed Premises, LICENSEE, its agents, employees, or contractors discover scientific or historical artifacts, LICENSEE shall immediately notify CONRAIL of said discovery and shall not harm such artifacts until identified and removed by the appropriate authorities exercising jurisdiction, if so requested by CONRAIL.

5.11. Prior to completion of construction of any FOC system on any portion of the Licensed Premises, LICENSEE will deliver to CONRAIL a plan for regular maintenance and repair of such FOC system in sufficient detail to meet CONRAIL'S operational needs. LICENSEE will deliver to CONRAIL any amendments to any such plan throughout the Initial Term and any Extended Term.

5.12. Upon completion of construction of each FOC system on any portion of the Licensed Premises, LICENSEE shall notify CONRAIL of such completion, shall provide to CONRAIL maps and drawings sufficient to identify clearly such FOC system "as built" on the Licensed Premises, and shall

leave CONRAIL right of way in a condition satisfactory to CONRAIL.

5.13. LICENSEE shall maintain and repair each FOC system on any portion of the Licensed Premises in accordance with communications industry and applicable railroad industry standards and all applicable Federal, state and municipal laws, orders, rules and regulations. CONRAIL shall advise LICENSEE with respect to applicable railroad industry standards. Except as otherwise set forth in Paragraph 7.3, LICENSEE shall bear all costs and expenses of all maintenance and repair to each FOC system.

5.14. LICENSEE shall make emergency repairs as promptly as practicable in order to ensure that any FOC system is fully restored to operation with the least possible interruption. LICENSEE agrees to consult with CONRAIL and to seek CONRAIL'S approval prior to the initiation of any emergency measures, to the extent that it is feasible to engage in such consultation and to obtain such approval. After emergency measures have been implemented to provide service substantially equivalent to that provided over the FOC system, LICENSEE shall take subsequent measures to restore the FOC system to full and continuing operation, subject to regulatory requirements.

5.15. CONRAIL shall have the right to inspect all maintenance and repairs performed on each FOC system which may affect rail operations.

5.16. CONRAIL approvals pursuant to this License shall be limited in scope to the impact on rail operations of the matters for which such approvals are sought, and shall not in any way imply CONRAIL'S approval of the operational aspects of any FOC system, nor shall any such approval give rise to any liability on the part of CONRAIL to LICENSEE or any third party.

6. Liens and Encumbrances

LICENSEE will not permit any mortgage, pledge, security interest, lien or encumbrance, including without limitation tax liens or encumbrances and liens or encumbrances with respect to work performed or equipment furnished in connection with the construction, installation, repair, maintenance or operation of any FOC system on any portion of the Licensed Premises (collectively, "Liens or Encumbrances"), to be established or remain against the Licensed Premises or any portion thereof; provided, however, that the existence of such Liens or Encumbrances shall not constitute a violation of this sentence if payment with respect thereto is not yet due and payable; and provided further that LICENSEE shall not be required to pay, discharge

or remove any such Lien or Encumbrance against the Licensed Premises or any portion thereof, so long as LICENSEE shall, after written notice to CONRAIL, contest the same or the validity thereof in good faith by appropriate proceedings which shall operate to prevent the collection of such Lien or Encumbrance so contested and the transfer of LICENSEE'S or CONRAIL'S interest in the Licensed Premises or any portion thereof to satisfy the same. If any such Lien or Encumbrance does attach to or affect in any way the Licensed Premises or any portion thereof and is not so contested, LICENSEE shall bond, discharge or otherwise cause to be removed such Lien or Encumbrance within sixty (60) days of receipt of actual notice of its existence.

7. Railroad Operations

7.1. CONRAIL and LICENSEE shall cooperate to avoid, to the extent practicable, actions which could endanger any FOC system or the railroad. LICENSEE shall not interfere with railroad operations in the Licensed Premises. CONRAIL may, at its option, require that employees, agents and contractors of LICENSEE who are or will be involved in the construction, operation and maintenance of any FOC system on any portion of the Licensed Premises be trained in railroad safety matters via courses or materials to be offered or provided by CONRAIL.

7.2. LICENSEE understands and agrees that the normal course of railroad operations may involve construction, maintenance, demolition and similar activities that have the potential to cause interruption or damage to the installation, operation, maintenance and repair of the FOC systems. CONRAIL recognizes the serious and essential nature of the functioning of the FOC systems and understands and agrees that reasonable precautions shall be taken by its personnel and agents to avoid such interruption or damage, and whenever practicable CONRAIL will notify LICENSEE in advance of activities that might reasonably be foreseen to cause such interruption or damage. CONRAIL'S only liability for interruption or damage to the installation, operation, maintenance or repair of any FOC system shall be limited to the liability of CONRAIL as set forth in Paragraph 7.3 hereof.

7.3. CONRAIL agrees that, to the extent the negligence of CONRAIL, its employees, agents or other parties performing services for CONRAIL causes an interruption in service over, or damage to, any FOC system, CONRAIL shall pay the reasonable and necessary expenses of restoring such FOC system to full and continuing operation. The actual cost of restoring an FOC system to operation shall be the sole remedy of LICENSEE and the sole liability of CONRAIL for any delay in commencement or interruption of service over, or damage to, any FOC system and in no event shall CONRAIL be liable

for loss of income, cost of substitute services, or other consequential damages of any kind. For purposes of this paragraph, the term "interrupt" or "interruption" shall mean an actual break in, or failure of, service and shall not encompass degradations of service.

7.4. LICENSEE shall notify CONRAIL in advance of LICENSEE'S maintenance and other activities requiring access to the Licensed Premises, in order to coordinate said access by LICENSEE with CONRAIL'S railroad operations. CONRAIL shall provide LICENSEE with a list of telephone numbers which will be staffed 24 hours a day.

7.5. CONRAIL and LICENSEE shall cooperate with each other and coordinate their activities in an effort to ensure that FOC system construction, operation, repair and maintenance activities do not conflict with, and are not inconsistent with, the duties and obligations of CONRAIL under CONRAIL'S labor agreements with the Brotherhood of Railroad Signalmen, the International Brotherhood of Electrical Workers, and any other labor unions with which CONRAIL has or may have labor agreements. CONRAIL shall use its best efforts to ensure that nothing contained in its labor agreements interferes with or obstructs the construction, operation and maintenance of the FOC systems. In the event of any such conflict, inconsistency, interference or obstruction, CONRAIL shall be entitled to

fulfill its duties and obligations under its labor agreements and shall have no liability to LICENSEE as a result thereof.

8. Governmental Approvals and Related Matters

8.1. LICENSEE shall not commence installation of any FOC system on any portion of the Licensed Premises before obtaining, at its own cost and expense, all permits, licenses and approvals for the construction, operation, maintenance, repair and use of such FOC system required by the Federal Communications Commission ("FCC"), state and local public utility commissions, and any other governmental authorities, including but not limited to construction permits and common carrier operating authority. LICENSEE shall continue in full force and effect throughout the Initial Term and any Extended Term all such permits, licenses and approvals. CONRAIL will cooperate with LICENSEE to the extent reasonably requested by LICENSEE in obtaining such permits, licenses and approvals. In the event LICENSEE'S application for any such permit, license or approval is denied or is not granted within one year after such application was filed or submitted, LICENSEE shall have the right to select other right of way owned or controlled by CONRAIL equal in length to the right of way covered by such application, whereupon such selected

right of way shall become Licensed Premises for all purposes under this License, and this License shall terminate as to the right of way covered by such application.

8.2. LICENSEE will ensure at all times that the design, construction, operation and maintenance of each FOC system complies with sound electronic and engineering practices; with the engineering and safety rules and regulations imposed by any governmental authority having jurisdiction over any FOC system or railroad operations, including but not limited to the FCC, the Federal Railroad Administration, and the Rural Electrification Administration; with appropriate standards of recognized industry and professional associations, including but not limited to, as applicable, the Safety Rules for the Installation and Maintenance of Electric Supply and Communications Lines, National Electrical Safety Code Handbook, Part 2; and with CONRAIL'S standards for engineering and safety, pipeline occupancy, and wire, conduit and cable operations, which standards shall be made available to LICENSEE. The manner of, and the equipment and devices to be used for, any installation, relocation or removal of LICENSEE'S equipment must be approved by CONRAIL, which approval shall not be unreasonably withheld.

9... Insurance

9.1. LICENSEE represents and warrants that it is self-insured for the following coverages in the following amounts:

a. Workers' Compensation, Employer's Liability Insurance and Occupational Disease Insurance;

b. Public Liability Insurance

Public Liability Insurance covering actions by LICENSEE providing for a limit of not less than $2,000,000, single limit, bodily injury and/or property damage combined, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to or destruction of property, including the loss of use thereof, in any one occurrence.

c. Protective Public Liability Insurance

Protective Public Liability Insurance covering actions by LICENSEE'S contractors and agents providing for a limit of not less than $2,000,000, single limit, bodily injury and/or property damage combined, for damages arising out of bodily injuries to or death of all persons in any one occurrence and

for damage to or destruction of property, including the loss of use thereof, in any one occurrence.

d. Automobile Liability Insurance

If any motor vehicles are used in connection with the work to be performed, Automobile Public Liability Insurance with limits of not less than $2,000,000 single limit, bodily injury and/or property damage combined, for damages to or destruction of property including the loss of use thereof, in any one occurrence.

9.2. Except to the extent expressly waived in writing by CONRAIL, LICENSEE shall, as soon as practicable after the execution of this License, at its own expense obtain and deliver to CONRAIL, the original copy of the AAR-AASHTO policy for Railroad Protective Public Liability Insurance in the name of Consolidated Rail Corporation providing for a limit of not less than $2,000,000, single limit, bodily injury and/or property damage combined, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to or destruction of property, including the loss of use thereof, in any one occurrence. Such insurance shall be furnished with an aggregate of not less than $6,000,000 for all damages as a result of more than one occurrence.

9.3. The insurance hereinbefore specified shall be continued until three years after the termination of the last Extended Term, or, in the event there is no Extended Term, the Initial Term. The amounts of insurance referred to in Paragraphs 9.1 and 9.2 hereof shall be increased by LICENSEE, at its sole cost and expense, not less than once every five years during the term of this License, said increased amount to be in the same percentage as the net increase in the CPI-U over said five-year period.

9.4. The insurance provided for in Paragraph 9.2 hereof shall be effected under standard form policies issued by insurers of recognized responsibility, authorized to do business in all of the states in which any portion of the Licensed Premises is located, which are well-rated by national ratings associations and have been approved in writing by CONRAIL, such approval not to be unreasonably withheld.

9.5. Not less than thirty (30) days prior to the expiration dates of the expiring policies theretofore furnished pursuant to this Section 9, originals or duplicate originals of the insurance policies required hereunder, bearing notations evidencing the payment of premiums or accompanied by other evidence satisfactory to CONRAIL of such payment, shall be delivered by LICENSEE to CONRAIL.

9.6. Each policy delivered hereunder shall, to the extent obtainable, contain an agreement by the issuer that such policy shall not be cancelled without at least thirty (30) days prior written notice to CONRAIL.

10. Indemnification and Liability

10.1. LICENSEE agrees to indemnify, defend and hold CONRAIL harmless from and against any and all claims, damages, liabilities, costs and expenses, including reasonable attorney's fees, for:

(a) Libel, slander, infringement of copyright, or unauthorized use of any trademark, trade name, or service mark, arising out of the material, data, information or other content transmitted or received over any FOC system (excluding material, data, information or other content transmitted by or on behalf of CONRAIL); and

(b) Except to the extent caused by CONRAIL'S negligence, but subject to the provisions of Paragraph 7.3 hereof, any personal injury to, or death of, any person or persons, and any loss, damage, defacement, or destruction of property, arising out of the presence on or about any portion of the Licensed

Premises of any FOC system or LICENSEE, its agents, contractors, or employees.

10.2. LICENSEE shall be solely responsible for any settlement or damage to the Licensed Premises, including but not limited to settlement of or damage to roadbed, tracks, facilities, shelters, structures, and appurtenances of CONRAIL, arising from or as a result of the construction, installation, maintenance, repair and operation of any FOC system by LICENSEE on the Licensed Premises. In the event that LICENSEE fails to repair any such damage, CONRAIL shall have the right to repair, replace, restore or correct any such settlement or damage at the sole cost and expense of LICENSEE.

10.3. Upon written notice by CONRAIL to LICENSEE of a claim or suit covered by Paragraph 10.1 or 10.2, LICENSEE shall promptly assume responsibility for the claim or undertake the defense of any litigation on behalf of CONRAIL, its agents, contractors, and employees; hold CONRAIL harmless for any expense associated therewith; and promptly pay any settlement or judgment that may be agreed to by the parties or entered by a court. CONRAIL shall not settle or compromise any such claim or suit without the written consent of LICENSEE.

10.4. In the event that LICENSEE does not assume and meet its obligations under Paragraph 10.3 promptly upon receiving written notice from CONRAIL, CONRAIL may, at its option, defend or settle any such claims or suits and make any reasonable expenditures or incur any reasonable obligations for the payment of money in connection with or arising out of the matters referred to in Paragraphs 10.1 or 10.2, including but not limited to attorney's fees. Such sums paid or obligations incurred shall be deemed to be additional license charges under this License and shall be paid promptly by LICENSEE upon the rendering of a statement to LICENSEE therefor.

11. Representations and Warranties

11.1. Each party hereby represents to the other and warrants that:

(a) It has been duly incorporated and is validly existing as a corporation in good standing under the laws of the state of its incorporation, is, or one of its subsidiaries is, duly qualified to do business as a foreign corporation and in good standing in each state in which any portion of the Licensed Premises is located.

(b) There is no litigation or governmental or administrative proceeding pending, or, to the best knowledge of the party, threatened against either the party or the real or personal property that the party is providing pursuant to this License, that might adversely affect the right or ability of the party to enter into or perform this License. Both parties recognize that regulatory approval is required with respect to the construction and operation of FOC systems.

(c) The execution and delivery by the party of this License, and the performance of its obligations thereunder, have been duly authorized by all necessary corporate action and do not, and adherence by the party to this License will not, violate any provision of law or of the party's certificate of incorporation or by-laws, or any material agreement or instrument which is binding on the party or by which it or its property is bound or affected, or any statute, order, judgment, decree, rule, or regulation of any court or governmental agency or body having jurisdiction over the party or the real or personal property being provided by the party pursuant to the terms of this License, or any franchise, license, or permit with respect to said real or personal property, subject to the provisions of Section 11.5 hereof.

(d) This License Agreement is a legal, valid and binding obligation of the party, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy or similar laws relating generally to enforcement of creditors' rights.

(e) No authorization, approval, consent, or other order of, or registration with, any governmental authority is legally required for the execution and delivery by the party of this License or the performance of its obligations thereunder, except as referred to Paragraph 8 hereof.

11.2. CONRAIL covenants and agrees that, in the event it enters into any agreement with a party other than LICENSEE providing for the use by such party of right of way owned or controlled by CONRAIL for the installation of a FOC system between any two points on the Licensed Premises, whether such system is to be installed on the Licensed Premises or parallel to the Licensed Premises, CONRAIL will, at its option, either (i) charge such other party a per mile fee at least equal to the average per mile fee (including adjustments thereto referred to in Paragraphs 3 and 4 hereof), between such two points which LICENSEE is obligated to pay CONRAIL pursuant to this License, or, in the alternative, (ii) reduce its average per mile fee between

such two points to LICENSEE to the average per mile fee charged to such other party.

11.3. CONRAIL covenants and agrees that it will defend, at its sole cost and expense, any and all claims or disputes challenging, on the basis of alleged insufficiency of title, CONRAIL'S right to license to LICENSEE any portion of the Licensed Premises, whether before a court or a governmental agency having jurisdiction of the matter, to a final, non-appealable judgment or order; provided, however, that if in the opinion of counsel to CONRAIL, which counsel shall be acceptable to LICENSEE, CONRAIL does not have a significant likelihood of success on the appeal of any such order or judgment CONRAIL, at its option, shall be relieved of any obligation to defend or prosecute such appeal, and LICENSEE, at its sole cost and expense, shall thereafter be entitled to defend or prosecute such appeal; and provided further that any such claim or dispute may be settled or otherwise disposed of at any time with the agreement of both CONRAIL and LICENSEE.

11.4. Each party covenants and agrees to give the other prompt written notice of the institution of any claim or dispute referred to in Paragraph 11.3 hereof. LICENSEE covenants and agrees to cooperate as reasonably requested by CONRAIL in the defense of any such claim or dispute (such cooperation to be at CONRAIL'S sole cost and expense), and to

satisfy and discharge without any liability to CONRAIL, and to indemnify CONRAIL against, any final judgment, order or settlement arising out of any such claim or dispute; provided, however, that in the event any such final judgment, order or settlement shall prohibit LICENSEE from using the right of way the title to which was being contested, CONRAIL shall, as promptly as practicable, return to LICENSEE the full amount of all license fees previously paid by LICENSEE to CONRAIL pursuant to this License with respect to such right of way, and LICENSEE shall have no further obligations to CONRAIL pursuant to this License with respect to such right of way. In the event that LICENSEE institutes condemnation proceedings against any right of way which any final judgment, order or settlement prohibits LICENSEE from using, CONRAIL agrees to cooperate as reasonably requested by LICENSEE in any such condemnation proceedings (such cooperation to be at LICENSEE'S sole cost and expense) and not to oppose such proceedings. Such condemnation proceedings shall not contemplate any interference with CONRAIL'S interest in such right of way.

11.5. Nothing in this License shall be deemed or construed to be a representation, warranty or covenant to the effect that CONRAIL'S right, title or interest with respect to its right of way will permit LICENSEE'S use of such right of way as contemplated by this License, or a limitation on

the rights of CONRAIL to abandon or discontinue service over any portion of its right of way.

11.6. LICENSEE covenants and agrees that it intends to use its best efforts to transmit CONRAIL communications subscribed to by CONRAIL pursuant to tariff over the FOC systems. LICENSEE covenants and agrees to provide CONRAIL with quarterly reports with respect to CONRAIL'S communications transmissions over the FOC systems.

12. Events of Default

12.1. The following events shall constitute "Events of Default" under this License:

(a) Non-payment by LICENSEE of any amount due CONRAIL pursuant to Paragraphs 3 or 4 hereof on the date on which such amount is due;

(b) LICENSEE shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the

appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing; or an involuntary case or other proceeding shall be commenced against LICENSEE seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, involvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of sixty 60 days; or an order for relief shall be entered against LICENSEE under the Federal bankruptcy laws as now or hereafter in effect; and

(c) Breach by CONRAIL or LICENSEE as to any other representations, warranties, or covenants of this License.

12.2. Upon the occurrence of an Event of Default as defined in Paragraph 12.1(b), this License shall terminate immediately without the necessity of any action by CONRAIL. Upon the occurrence of an Event of Default as defined in

Paragraph 12.1(a) or (c), the other party may give written notice to the defaulting party of such Event of Default, and the defaulting party shall then have thirty (30) days to cure the default. Upon the failure of the defaulting party to cure before the expiration of (i) said thirty (30) days, or, (ii) sixty (60) days after such written notice if the default cannot reasonably be cured within thirty (30) days and the defaulting party is diligently proceeding to cure said default at the expiration of said thirty (30) days, this License may be terminated, but only as to the Licensed Premises as to which such default relates, at the option of the non-defaulting party, upon written notice to the defaulting party.

12.3. In the event that this License or any part thereof terminates because of an Event of Default by LICENSEE, (a) CONRAIL shall have an unqualified right to retain (as payment pursuant to this License, and not as liquidated damages) the full amount of the license charges with respect to the terminated portion made by LICENSEE pursuant to the terms of this License, and (b) to receive from LICENSEE the aggregate amount of all future license charges set forth in this License with respect to the terminated portion until the expiration of the Initial Term, or, if the Initial Term has expired, until the expiration of the then current Extended Term, discounted at the then

appropriate rate to the then present value of such aggregate amount.

12.4. The termination provisions of Paragraphs 12.2 and 12.3 shall be in addition to, and not in lieu of, any other rights, whether in law or equity, either party hereto has for breach of this License by the other.

12.5. If LICENSEE fails to obtain the guarantee by American Telephone and Telegraph Company of all of LICENSEE'S obligations under this License by February 3, 1984 in a form satisfactory to CONRAIL, CONRAIL may, in its sole discretion and without any liability, terminate this License upon written notice to LICENSEE.

13. Expiration of Term of License.

Upon the expiration or termination of this License, LICENSEE (i) shall, at its cost and expense, remove all repeater stations from the Licensed Premises and restore the Licensed Premises substantially to the condition of the Licensed Premises prior to the commencement of the Initial Term, and (ii) may at its option remove, at its cost and expense, any fiber optic cable and associated electronics and other equipment placed on the Licensed Premises by LICENSEE or its agents or contractors. Any such material not removed by LICENSEE within twelve (12) months after the later of

(i) said expiration, or (ii) the obtaining of any necessary regulatory approval, shall at the end of said twelve-month period become the property of CONRAIL and LICENSEE shall execute and deliver such documents as are useful or necessary to evidence full vesting of title thereto in CONRAIL. If LICENSEE does not receive the required regulatory approval to discontinue service on any FOC system by the expiration or termination (other than as a result of LICENSEE'S default under Section 12.1 hereof) of this License, this License shall be extended until such regulatory approval has been obtained. All such removals and restoration shall be subject to the same terms and conditions set forth in Paragraph 5 hereof which apply to LICENSEE'S repair and maintenance activities.

14. Assignment

14.1. LICENSEE shall not assign, sell, or transfer, for collateral or for any other purpose, all or any of its rights or obligations under this License, or sublicense all or any part of the Licensed Premises without the prior written approval of CONRAIL, which will not be withheld if such transferee is a subsidiary or affiliate of LICENSEE and CONRAIL is satisfied with the financial and operational ability of the transferee to perform all of the terms and conditions of this License.

14.2. CONRAIL shall have an unrestricted right to assign, for collateral or for any other purpose, all or part of its right to receive payments pursuant to the terms of this License.

15. Notices

15.1. All notices, demands, requests, or other communications which may be or are required to be given, served, or sent by one party to the other pursuant to this License (except as otherwise specifically provided in this License, including but not limited to Paragraph 5.14) shall be in writing and shall be mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, or transmitted by telegram or telex, addressed as follows:

(a) If to CONRAIL:

Consolidated Rail Corporation
Six Penn Center
Philadelphia, Pennsylvania 19104

Attention: Richard C. Sullivan
Vice President - Resource Development

(b) If to LICENSEE:

AT&T Communications
3033 Chain Bridge Road
Oakton, Virginia 22185

Attention: M. E. Perkins
General Manager - Engineering

15.2. All payments due from LICENSEE to CONRAIL hereunder shall be delivered to: Treasury Department, Consolidated Rail Corporation, P.O. Box 8538-230, Philadelphia, Pennsylvania 19117, or such other address as CONRAIL, by notice to LICENSEE in writing, may direct LICENSEE to use for payment delivery.

15.3. Either party may designate by notice in writing a new address and/or individual to which any notice, demand, request or communication made thereafter shall be so given, served or sent.

15.4. Each notice, demand, request, or communication which shall be mailed or telexed in the manner described in Paragraph 15.1, or which shall be delivered to a telegraph company, shall be deemed sufficiently given, served, sent or received for all purposes at such time as it is delivered to the addressee first named above as to each party (with the return receipt or the delivery receipt being deemed conclusive evidence of such delivery, or (with respect to a telex) the answerback being deemed presumptive evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation.

16. Miscellaneous Matters

16.1. By licensing occupancy of the Licensed Premises to LICENSEE, CONRAIL is not hereby establishing any joint undertaking, joint venture or partnership with LICENSEE, its agents, or contractors. Each party shall be deemed to be an independent contractor, and shall act solely for its own account.

16.2. CONRAIL shall have the right, but not the obligation, after LICENSEE has been given notice and an opportunity to cure in accordance with Paragraph 12.2 hereof, to cure any defaults by LICENSEE of its obligations pursuant to any loan agreements, governmental requirements, or any other matters regarding LICENSEE'S construction, maintenance or operation of any FOC system.

16.3 This License constitutes the entire agreement between the parties, and supersedes all previous oral or written understandings, agreements, commitments, or representations concerning the subject matter of this License. This License may not be changed, amended, or modified in any way, and none of its provisions may be waived, except as may be agreed to in writing executed by each of the parties.

16.4. Neither the waiver by either of the parties hereto of a breach of or a default under any of the provisions of this License, nor the failure of either of the parties, on one or more occasions, to enforce any of the provisions of this License or to exercise any right or privilege hereunder shall thereafter be construed as a waiver of any subsequent breach or default, or as a waiver of any of such provisions, rights, or privileges hereunder. Time shall be of the essence with respect to each obligation of either LICENSEE or CONRAIL under this License which obligation is required to be performed by a specific date, or within a certain number of days, specified herein.

16.5. This License shall be binding upon and shall inure to the benefit of both parties hereto and, subject to the provisions of Paragraph 14.1 hereof, their respective legal representatives, successors and assigns.

16.6. This License, the rights and obligation of the parties hereto, and any claims or disputes relating thereto, shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, except that all claims or disputes referred to in Paragraph 11.3 hereof shall

be governed by and construed in accordance with the laws of the state in which the real property as to which such claim or dispute arose is located.

16.7. To facilitate execution, this License may be executed in as many counterparts as may be required; and it shall not be necessary that the signatures of, or on behalf of, each party, or that the signatures of all persons required to bind any party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each party, or that the signatures of the persons required to bind any party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this License to produce or account for more than a number of counterparts containing the respective signatures of, or on behalf of, all of the parties hereto.

16.8. Section headings contained in this License are inserted for convenience of reference only, shall not be deemed to be a part of this License for any purpose, and shall not in any way define or affect the meaning, construction or scope of any of the provisions hereof.

16.9. In connection with this License, LICENSEE may find it necessary to disclose to CONRAIL specifications, drawings, computer programs and/or technical or business information (herein collectively referred to as information) which LICENSEE considers confidential or proprietary.

16.9.a. LICENSEE shall clearly mark proprietary information provided under this License by either applying the following inscription:

AT&T COMMUNICATIONS - PROPRIETARY
Use pursuant to company instructions

or by marking the information as proprietary and placing on it the date the information is disclosed, e.g., "AT&T Communications Proprietary Information 1/1/84."

16.9.b. In connection with information marked proprietary CONRAIL shall:

(a) restrict disclosure of such information solely to those of its employees with a need to know, and not disclose it to other parties,

(b) advise employees of the obligation of confidentiality hereunder, and

(c) use and require employees to use the same degree of care as is used with CONRAIL'S proprietary information.

16.9.c. Upon request, CONRAIL shall return all copies of information marked proprietary to LICENSEE, or if requested by LICENSEE, shall certify to LICENSEE that all such information has been destroyed; provided, however, that CONRAIL shall be entitled to retain, until the expiration or termination of this License in its entirey, any information which is necessary or useful to enable CONRAIL to monitor LICENSEE'S performance under this License.

16.9.d. Notwithstanding anything to the contrary herein, CONRAIL shall have no obligation to preserve the confidentiality of any information which:

(a) was previously known to CONRAIL free of any obligation to keep it confidential, or

(b) is disclosed to other parties by LICENSEE without restriction, or

(c) is or becomes publicly available, by other than unauthorized disclosure by CONRAIL.

16.9.e. Nothing contained in this paragraph shall be construed as granting or conferring any rights by license or otherwise in any information marked proprietary and disclosed to CONRAIL.

16.9.f. Notwithstanding any of the foregoing, in the event that CONRAIL receives a request to disclose all or any part of the information marked proprietary under the terms of a valid and effective subpoena or order issued by a court of competent jurisdiction or by other governmental body authorized to issue compulsory process, CONRAIL agrees to (i) notify LICENSEE as promptly as practicable of the existence, terms and circumstances surrounding such a request, and (ii) consult with LICENSEE on the advisability of taking legally available steps to resist or narrow such request or to motion the court for protection of the information if disclosed. If CONRAIL is nonetheless, in the opinion of its counsel, which counsel shall be satisfactory to LICENSEE, obliged to disclose such information or else be adjudged in contempt or suffer other sanction or penalty, CONRAIL may so disclose such information without liability hereunder.

IN WITNESS WHEREOF, the undersigned have caused this License Agreement to be duly executed on their behalf as of the day and year first hereinabove set forth.

[Corporate Seal]
ATTEST:

CONSOLIDATED RAIL CORPORATION

By: _____
Richard C. Sullivan
Vice President -
Resource Development

[Corporate Seal]
ATTEST:

A. G. Walton

AT&T COMMUNICATIONS, INC.

By: _____
Robert Kleinert
President and
Chief Operating Officer

EXHIBIT A

CONRAIL RIGHT OF WAY TO BE OCCUPIED BY AT&T FIBER CABLE BETWEEN HARRISBURG, PA. AND CHICAGO, ILL.

Line Code	From MP	To MP	Description
13-1302	105.5	113.5	Main Line Harrisburg to Pittsburgh
21-2102	113.5	290.2	Main Line Harrisburg to Pittsburgh
22-2202	290.2	353.3	Main Line Harrisburg to Pittsburgh
22-2202	0.0	25.9	Main Line Pittsburgh to Chicago
22-2233	25.9	29.3	Low Grade Branch
25-2433	29.3	41.8	E&A Branch
25-2423	41.8	75.5	PY&A Secondary
25-2424	75.5	80.9	Main Line Meadville
25-6501	160.5	164.9	Freedom Secondary
25-6501	164.9	201.7	Main Line Alliance to Cleveland
25-2412	88.5	98.0	Main Line Alliance to Cleveland
35-2412	98.0	102.0	Main Line Alliance to Cleveland
35-3512	102.0	123.6	Main Line Buffalo to Chicago
35-3500	182.3	194.3	Main Line Buffalo to Chicago
-3600	194.3	420.0	Main Line Buffalo to Chicago
-3200	420.0	501.0	Main Line Pittsburgh to Chicago
-3202	446.7	466.2	

Note: Several alternate routes exist through Cleveland, Oh. The final route may include the following line segments as appropriate:

35-3534	9.2	12.9	Clark Branch
35-3532	12.9	22.3	Clark Branch
35-3531	9.0	17.9	Cleveland Short Line
35-3541	0.0	1.8	Harvard Connection
35-6502	2.2	5.2	Randall Secondary

GUARANTEE AGREEMENT

This Guarantee Agreement (the "Guarantee"), dated as of the 1st day of February 1984, by and between CONSOLIDATED RAIL CORPORATION, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania ("CONRAIL"), and AMERICAN TELEPHONE AND TELEGRAPH COMPANY, a corporation organized and existing under the laws of the State of New York ("AT&T").

WHEREAS, CONRAIL and AT&T Communications, Inc., a wholly-owned subsidiary of AT&T (the "LICENSEE") have executed a License Agreement dated as of January 1, 1984 (the "License Agreement") providing for, among other things, the acquisition by LICENSEE of a license over 750 miles of CONRAIL right of way and options by LICENSEE to acquire licenses over up to an additional 2,250 miles of CONRAIL right of way for the purpose of installing and operating fiber optic cable communications systems on said rights of way;

WHEREAS, AT&T and LICENSEE have significant internal purposes for having LICENSEE execute the License Agreement instead of AT&T;

WHEREAS, CONRAIL is relying on the financial and operational ability of AT&T for the performance of LICENSEE'S obligations under the License Agreement; and

WHEREAS, the License Agreement provides for termination by CONRAIL should LICENSEE fail to obtain this Guarantee;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. AT&T Guarantee

AT&T hereby unconditionally guarantees each and every obligation, whether financial or otherwise, of LICENSEE under the License Agreement, and agrees that, upon the default of LICENSEE to perform any such obligation under the License Agreement, CONRAIL may obtain the performance of AT&T of any obligation as to which LICENSEE is in default without any obligation on the part of CONRAIL to first seek legal recourse against LICENSEE.

2. CONRAIL Waiver

CONRAIL hereby waives any and all termination rights it has under Section 12.5 of the License Agreement.

IN WITNESS WHEREOF, the undersigned have caused this Guarantee Agreement to be duly executed on their behalf as of the day and year first hereinabove set forth.

[Corporate Seal]
ATTEST:

Judith Coleridge
ASSISTANT SECRETARY

CONSOLIDATED RAIL CORPORATION

By: Richard C. Sullivan
Richard C. Sullivan
Vice President -
Resource Development

[Corporate Seal]
ATTEST:

A. J. Batson
Assistant Secretary

AMERICAN TELEPHONE AND TELEGRAPH

By: W. G. Sloewell

EXHIBIT 1

TRANSACTION AGREEMENT

by and among

CSX CORPORATION,

CSX TRANSPORTATION, INC.,

NORFOLK SOUTHERN CORPORATION,

NORFOLK SOUTHERN RAILWAY COMPANY,

CONRAIL INC.,

CONSOLIDATED RAIL CORPORATION

and

CRR HOLDINGS LLC

Dated as of June 10, 1997

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS

Section 1.1. Defined Terms 1
Section 1.2. Other Definitive Provisions 15

ARTICLE II

DESIGNATION AND ALLOCATION OF ASSETS AND LIABILITIES

Section 2.1. Conveyance of Assets. 16
Section 2.2. Allocation of Certain Assets 16
Section 2.3. System Support Operations; Dispatching 24
Section 2.4. Transition Period Accommodation 27
Section 2.5. Trackage, Haulage, Shared Asset and Other Operating Agreements 30
Section 2.6. Equipment 30
(a) Locomotive Equipment. 30
(b) Rolling Stock Equipment 31
(c) Work Equipment 32
(d) Assignment 32
(e) Lease of Equipment 32
(f) Equitable Adjustment 33
Section 2.7. Inventory at Altoona and Hollidaysburg 33
Section 2.8. Allocated and Retained Liabilities 34
Section 2.9. Other Liabilities 35
Section 2.10. Interline Accounts and Allocation 36
Section 2.11. Insurance Proceeds 37

ARTICLE III

CLOSING AND CLOSING DATE

Section 3.1. Closing 37
Section 3.2. Pre-Closing Actions 37
Section 3.3. Closing Deliveries 37

ARTICLE IV

CRR PARENT, CRR AND CRC GOVERNANCE AND FUNDING

Section 4.1.	Pre-Control Date Matters	39
Section 4.2.	Post-Control Date CRC Governance	40
Section 4.3.	Post-Closing Date CRC Funding	41
Section 4.4.	Post-Control Date CRC and Other Distributions.	41
Section 4.5.	Operating Fees, Interest Rentals and Base Rent	42

ARTICLE V

NYC and PRR GOVERNANCE AND CONDUCT

Section 5.1.	NYC Governance	42
Section 5.2.	PRR Governance	43
Section 5.3.	NYC and PRR Actions	43
Section 5.4.	NYC and PRR Distributions	43
Section 5.5.	Actions	43

ARTICLE VI

EMPLOYEE MATTERS

Section 6.1.	Employees of CRR and CRC	43
Section 6.2.	Employee Related Liabilities	44
Section 6.3.	Non-Agreement Employee Benefit Plans	46
Section 6.4.	Residual Liability	47

ARTICLE VII

REPRESENTATIONS AND WARRANTIES

Section 7.1.	CSX	48
	(a) Organization and Good Standing	48
	(b) Authority	48
	(c) Enforceability	48
	(d) No Violation	48
	(e) No Approvals	48
Section 7.2.	NSC	49
	(a) Organization and Good Standing	49
	(b) Authority	49
	(c) Enforceability	49
	(d) No Violation	49
	(e) No Approvals	49

ARTICLE VIII

COVENANTS

Section 8.1.	Conduct of Business	50
Section 8.2.	Best Efforts	50
Section 8.3.	Further Assurances; Consents	50
Section 8.4.	STB Approval	51
Section 8.5.	Other Approvals	52
Section 8.6.	INTENTIONALLY OMITTED	52
Section 8.7.	Risk of Loss; Forced Disposal	53
Section 8.8.	Public Statements; Public Filings	53
Section 8.9.	Restructuring of CRC	53
Section 8.10.	Provision of Corporate Records	55
Section 8.11.	Access to Information	55
Section 8.12.	Production of Witnesses and Individuals	56
Section 8.13.	Confidentiality	56
Section 8.14.	Privileged Matters	57
Section 8.15.	Administration of Actions	58
Section 8.16.	Administration of FELA Claims	59
Section 8.17.	Tax Matters	60
Section 8.18.	Committees	60
Section 8.19.	Chicago Gateway Access	60
Section 8.20.	Car Hire and Car Service	61

ARTICLE IX

CONDITIONS PRECEDENT TO THE CLOSING

Section 9.1.	Conditions Precedent to Obligations	61

ARTICLE X

INDEMNIFICATION

Section 10.1.	Indemnification	62
Section 10.2.	Indemnification Procedures	62
Section 10.3.	Remedies	63

ARTICLE XI

MISCELLANEOUS

Section 11.1.	Amendment	64
Section 11.2.	Extension; Waiver	64
Section 11.3.	Notices	64
Section 11.4.	Interpretation	65
Section 11.5.	Entire Agreement	65
Section 11.6.	Parties in Interest	66

Section 11.7. Governing Law 66
Section 11.8. Counterparts 66
Section 11.9. Assignment 66
Section 11.10 Severability 67
Section 11.11. Lack of Control; Effect on CRR and its Controlled Subsidiaries 67
Section 11.12. Dispute Resolution 67
Section 11.13. CRC Status 68

Schedule 1
Assets
Attachment I
Attachment II

Schedule 2
Major Decisions

Schedule 3
Preservation of Fair Access to Chicago Gateway

Schedule 4
Schedule of Trackage Rights, Haulage,
Shared Assets and Other Operating Agreements

Exhibit A
Form of Operating Agreements
Exhibit A-1 (CSXT Operating Agreement)
Exhibit A-2 (NSR Operating Agreement)

Exhibit B
Form of LLC Agreements

Exhibit C
Form of Trackage Rights Agreements
Exhibit C-1 (NSR on CSXT)
Exhibit C-2 (CSXT on NSR)

Exhibit D
Form of CSX/NSC Haulage Agreements

Exhibit E
Form of Capital Contribution, Assignment
And Assumption Agreements

Exhibit F
Tax Allocation Agreement

Exhibit G
North Jersey Shared Assets Agreement

Exhibit H
South Jersey/Philadelphia Shared Assets Agreement

Exhibit I
Detroit Shared Assets Agreement

Exhibit J
Ashtabula Interlocking Agreement

Exhibit K
CP-Mounds Interlocking Agrement

Exhibit L
Warsaw Interlocking Agreement

Exhibit M
Crestline Interlocking Agreement

Exhibit N
Buckeye Interlocking Agreement

Exhibit O
Mike Interlocking Agreement

Exhibit P
Bucyrus Interlocking Agreement

Exhibit Q
CP 138 Interlocking Agreement

Exhibit R
Short Interlocking Agreement

Exhibit S
Berea Interlocking Agreement

Exhibit T
Ashtabula Access Agreement

Exhibit U
Seneca Yard Access Agreement

Exhibit V
Ford (Rockport) Switching Agreement

Exhibit W
GM Parma Switching Agreement

Exhibit X
Indianapolis Switching Agreement

Exhibit Y
GM Lordstown Switching Agreement

Exhibit Z
Lorain Switching Agreement

Exhibit AA
Fairlane Switching Agreement

Exhibit BB
Crawfordsville Switching Agreement

Exhibit CC
Sidney Switching Agreement

Exhibit DD
Sandusky Switching Agreement

Exhibit EE
Upper Sandusky Switching Agreement

Exhibit FF
Indiana Harbor Belt Agreement

Exhibit GG
Monongahela Access and Use Agreement

Exhibit HH
Park Manor Temporary Lease Agreement

Exhibit II
NSR and CSXT Construction Rights Agreement

Exhibit JJ
NSR Buckeye Construction Rights Agreement

Exhibit KK
NSR Field-Belmont Construction Rights Agreement

Exhibit LL
Erie Deed of Easement

Exhibit MM
Fort Wayne-Chicago/Streator Line Exchange Agreement

Exhibit NN
Piqua Yard Agreement

Exhibit OO
Elizabethport Yard Access Agreement

Exhibit PP
Agreement for Assignment of CRC Rights

Exhibit QQ
CSXT Eastwick Construction Agreement

Exhibit RR
Agreement for Assignment of CRC Rights
(Northeast Corridor)

Exhibit SS
Agreement for Assignment of Chicago Rights

TRANSACTION AGREEMENT

TRANSACTION AGREEMENT, dated as of June 10, 1997 ("Agreement"), by and among CSX CORPORATION, a Virginia corporation ("CSX"), CSX TRANSPORTATION, INC., a Virginia corporation, for itself and on behalf of its controlled Subsidiaries (collectively, "CSXT"), NORFOLK SOUTHERN CORPORATION, a Virginia corporation ("NSC"), NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation, for itself and on behalf of its controlled Subsidiaries (collectively, "NSR"), CONRAIL INC., a Pennsylvania corporation, for itself and on behalf of its controlled Subsidiaries (collectively, "CRR"), CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation ("CRC"), and CRR HOLDINGS LLC, a Delaware limited liability company ("CRR Parent").

WHEREAS, CSX and NSC have entered into a letter agreement dated as of April 8, 1997 (the "April 8 Agreement").

WHEREAS, pursuant to the April 8 Agreement, CSX and NSC have jointly acquired all of the outstanding capital stock of CRR through CRR Parent, in which CSX and NSC each owns a 50% voting interest.

WHEREAS, CSX and NSC are seeking the approval of the STB to undertake the transactions contemplated by this Agreement and the April 8 Agreement.

WHEREAS, pursuant to the April 8 Agreement the parties wish to provide herein for the governance and operation of CRR and its Affiliates and for the basis pursuant to which CRR's assets and liabilities will be allocated to or shared by CSX and its Affiliates, on the one hand, and NSC and its Affiliates, on the other hand, after the Closing Date (as hereinafter defined).

NOW, THEREFORE, in consideration of the premises and the respective agreements hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Defined Terms. As used in this Agreement, the following terms have the meanings set forth below:

"AAC" means Atlantic Acquisition Corporation, a Pennsylvania corporation and a wholly owned Subsidiary of NSC.

"AAR" means the Association of American Railroads.

"AAR Car Service Rules" means the Code of Car Service Rules/Code of Car Hire Rules contained in AAR Circular OT-10 as promulgated in the Official Railway Equipment Register.

"AAR Depreciated Value" means depreciated value as determined in accordance with Rule 107 of the Office and Field Manuals of the AAR Interchange Rules adopted by the AAR Technical Services Division, Mechanical Section, Operations and Maintenance Department.

"Action" shall mean any action, claim, suit, arbitration, inquiry, subpoena, discovery request, proceeding or investigation by or before any Governmental Entity or forum or authority having jurisdiction over the matter involving or related to CRR, CRC or their respective Affiliates, the Assets, the Retained Liabilities or the Allocated Liabilities, but shall exclude FELA Claims.

"Affiliate" means, with respect to a specified Person, any Person that directly or indirectly controls, is controlled by or is under common control with, the specified Person or any trust for the benefit of such Person or any entities controlled by such Person; provided that, for the purposes of this Agreement, (a) NYC shall not be an Affiliate of CSX and its Subsidiaries or NSC and its Subsidiaries, (b) PRR shall not be an Affiliate of NSC and its Subsidiaries or CSX and its Subsidiaries and (c) CSX and NSC and their respective Subsidiaries shall not be Affiliates of CRR or CRR Parent and their respective Subsidiaries and vice versa.

"Allocated Assets" means the Assets to be transferred at the Closing to either NYC ("NYC Allocated Assets") or PRR ("PRR Allocated Assets").

"Allocated Liabilities" means the Liabilities of CRR, CRC or their respective Affiliates to be assumed at the Closing by either NYC ("NYC Allocated Liabilities") or PRR ("PRR Allocated Liabilities").

"Amended and Restated Voting Trust Agreement" means the Voting Trust Agreement among CSX, NSC, CRR Parent, Green and Deposit Guarantee National Bank, dated as of April 8, 1997.

"Ancillary Agreements" means the Equipment Agreements, the CSXT Operating Agreement, the NSR Operating Agreement, the NYC LLC Agreement, the PRR LLC Agreement, the CRR Holdings LLC Agreement, the Trackage Rights Agreements, the CSXT/NSR Haulage Agreements, the Tax Allocation Agreement, the Shared Assets Agreements and the Other Operating Agreements.

"April 8 Agreement" has the meaning set forth in the preamble to this Agreement.

"Assets" means any and all of CRR's, CRC's or their respective Affiliates' right, title and interest in and to all of the rights, properties, assets, claims, Contracts and businesses of every kind, character and description, whether real, personal or mixed, whether tangible or intangible, whether accrued, contingent or otherwise and wherever located, owned or used primarily by such party. On the Closing Date, all Assets will be either (i) NYC Allocated Assets, (ii) PRR Allocated Assets or (iii) Retained Assets.

"Base Inventory" has the meaning ascribed thereto in Section 2.7.

"Base Rent" has the meaning set forth in the CSXT Equipment Agreement and the NSR Equipment Agreement.

"Books and Records" means the books, files and records (including computerized databases and records) of CRR, CRC or their respective Affiliates and includes the NYC Books and Records and the PRR Books and Records.

"Capital Contribution, Assignment and Assumption Agreements" means the instruments (including quitclaim deeds or other instruments transferring title to real estate) pursuant to which the Allocated Assets and the Allocated Liabilities will be transferred at the Closing to NYC or PRR, as the case may be, substantially in the form attached hereto as Exhibit E.

"Closing" has the meaning ascribed thereto in Section 3.1.

"Closing Date" has the meaning ascribed thereto in Section 3.1.

"Co-Chairmen" means the co-chairmen of the CRC Board after the Control Date, being the CSX Co-Chairman and the NSC Co-Chairman.

"Code" means the Internal Revenue Code of 1986, as amended from time to time or any successor United States federal tax statute. References to a specific section of the Code shall include a reference to the corresponding provisions of any such successor United States federal tax statute.

"Communications Team" has the meaning ascribed thereto in Section 2.2.

"Continuing CRC Management" means employees (regardless of craft, position or classification) of CRR, CRC or their respective Affiliates (other than NYC, PRR and their respective Subsidiaries) who are determined to be Continuing CRC Management pursuant to Section 6.1(c), which employees will consist of the

following categories: (a) employees performing general and administrative functions for CRR, CRC or their respective Affiliates (other than NYC, PRR and their respective Subsidiaries), (b) employees performing interim general, administrative or technical functions for CRR, CRC or their respective Affiliates (other than NYC, PRR and their respective Subsidiaries) (including employees performing such functions at CRR's headquarters office building and information technology center in Philadelphia, PA) which functions CSX and NSC shall identify prior to the Closing Date and shall agree are necessary for an interim period after the Closing Date in accordance with Section 2.4, (c) employees operating, managing or performing work at the SSO Facilities, and (d) employees (other than those described in clauses (a), (b) and (c) above) operating, managing or performing work on Retained Assets that are to be operated pursuant to the Shared Assets Agreements.

"Contracts" means any contract, lease, loan agreement, deed, easement, license, reversion, mortgage, security agreement, trust indenture or other agreement or instrument to which any of CRR, CRC or their respective Affiliates is a party or by which any of them is bound or to which any of the Assets is subject.

"Contracts Team" has the meaning ascribed thereto in Section 2.2.

"Control Date" means the effective date on which CSX and NSC are authorized by the STB to exercise control over CRR.

"Corporate Level Liabilities" means the following Liabilities of CRR, CRC or their respective Affiliates: (a) Environmental Liabilities that are designated as Corporate Level Liabilities pursuant to Section 2.8(b)(iii); (b) all Liabilities (except as specified in Section 2.8(b)(i) or (ii), Section 2.8(c) or Section 2.9) associated with the handling and disposition of Actions arising prior to the Closing Date; (c) all Liabilities (except as specified in Section 2.8(b)(i) or (ii), Section 2.8(c) or Section 2.9) associated with the handling and disposition of Actions arising on or after the Closing Date and that do not relate predominantly to Allocated Assets; (d) all Liabilities (except as specified in Section 2.8(b)(i) or (ii), Section 2.8(c) or Section 2.9) associated with the handling and disposition of Actions arising on or after the Closing Date designated as Corporate Level Liabilities pursuant to Section 2.8; (e) Employee Related Liabilities that are designated as Corporate Level Liabilities pursuant to Article VI; (f) all Taxes accruing for periods prior to the Closing Date, including in respect of tax leverage transactions; (g) Taxes, if any, associated with the designation, allocation and transfer of the Assets as contemplated in this Agreement; (h) Liabilities under leases (including without limitation lease termination costs) that arise prior to the Closing Date (other than the lease Liabilities in respect of

the CRC headquarters office building in Philadelphia, PA, or the information technology center in Philadelphia, PA, or the Altoona, PA or Hollidaysburg, PA shops); (i) Indebtedness (other than intercorporate Indebtedness of direct or indirect Subsidiaries of CRR the capital stock, or similar interests, of which is included in the Allocated Assets, which will be treated as agreed to by the parties prior to the Closing); (j) all Liabilities associated with the handling and disposition of FELA Claims made prior to the Control Date and all Liabilities associated with the handling and disposition of FELA Claims made on or after the Control Date and designated as Corporate Level Liabilities pursuant to Section 2.8(c); (k) all employee costs not otherwise allocated under this Agreement; (l) all Liabilities arising prior to the Closing Date not otherwise allocated under this Agreement; (m) transition costs not the sole responsibility of CSX, CSXT, NYC, NSC, NSR or PRR and not otherwise allocated under this Agreement; and (n) all Liabilities incurred with respect to Continuing CRC Management, the SSO Facilities and the Retained Assets, except where this Agreement (including the Schedules and Exhibits hereto) or the Ancillary Agreements may expressly designate the Liability in some other manner.

"Corporate Memorabilia" means all corporate memorabilia, antiques, artifacts, charters and art owned by CRR, CRC or their respective Affiliates, wherever located.

"CRC" has the meaning set forth in the preamble to this Agreement.

"CRC Board" means the Board of Directors of CRC.

"CRR" has the meaning set forth in the preamble to this Agreement.

"CRR Holdings LLC Agreement" means the Limited Liability Company Agreement of CRR Holdings LLC, dated May 21, 1997, as amended from time to time.

"CRR Industries" means CRR Industries, Inc., a Pennsylvania corporation and a wholly owned Subsidiary of CRR.

"CRR Parent" has the meaning set forth in the preamble to this Agreement.

"CRR Shares" means the shares of Common Stock and Series A ESOP Convertible Junior Preferred Stock of CRR.

"CRR Stay Bonus Program" means either the Conrail Inc. Stay Bonus Program, Classes 8 And Below, or the Conrail Inc. Stay Bonus Program Classes 9-11, both to be entered into pursuant to Attachment A to the Third Amendment.

"CSX" has the meaning set forth in the preamble to this Agreement.

"CSX Co-Chairman" has the meaning ascribed thereto in Section 4.2.

"CSX Directors" has the meaning ascribed thereto in Section 4.2.

"CSXT" has the meaning set forth in the preamble to this Agreement.

"CSXT Equipment" means the Equipment subject to the CSXT Equipment Agreement.

"CSXT Equipment Agreement" means the agreement to be entered into between NYC and CSXT in a form to be agreed by CSX and NSC, to provide CSXT with the right to use, operate and maintain certain of the Equipment which NYC has the right to use and operate pursuant to the NYC Equipment Agreement.

"CSXT/NSR Haulage Agreements" means the agreements pursuant to which CSXT and/or NSR will provide haulage services for the other, in substantially the form attached hereto as Exhibit D; each CSXT/NSR Haulage Agreement shall be in respect of a Route identified on Item 2 of Schedule 4 and shall incorporate the terms set forth therein.

"CSXT Operating Agreement" means the agreement to be entered into between CSXT and NYC, substantially in the form attached hereto as Exhibit A-1, to provide for the use, operation and maintenance by CSXT of certain of the NYC Allocated Assets after the Closing Date.

"Damages" means all assessments, losses, damages, liabilities, costs and expenses, including without limitation interest, penalties and attorneys' and consultants' fees.

"Distribution" means any dividend or other distribution with respect to any shares of capital stock or similar equity interests.

"Employee Related Liabilities" means Liabilities to be designated as NYC Allocated Liabilities, PRR Allocated Liabilities or Corporate Level Liabilities pursuant to Article VI.

"Environmental Laws" means any and all federal, state, local and foreign statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, codes, plans, injunctions, permits, concessions, grants, franchises, licenses, agreements and governmental restrictions, whether now or hereafter in effect, relating to human health, the environment

or to emissions, discharges, or releases of pollutants, contaminants, hazardous or toxic materials or substances or wastes into the environment, including, without limitation, ambient air, surface water, ground water or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, hazardous or toxic materials or substances or wastes or the cleanup or other remediation thereof.

"Environmental Liabilities" means any and all Liabilities arising in connection with or in any way relating to any Asset (or formerly held Asset) and which arise under or relate to matters covered by any Environmental Laws.

"Equipment" means all freight car rolling stock, cabooses, trailers, containers, end of train devices, locomotives and Work Equipment of CRR, CRC or their respective Affiliates, whether owned or leased.

"Equipment Agreements" means the NYC Equipment Agreement, the PRR Equipment Agreement, the CSXT Equipment Agreement and the NSR Equipment Agreement.

"Fair Market Rental Value" has the meaning set forth in the CSXT Operating Agreement, the NSR Operating Agreement, the CSXT Equipment Agreement and the NSR Equipment Agreement.

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

"FF&E" means all furniture, fixtures, computers, office supplies and equipment (other than Equipment and system stockpiles of supplies and inventory) of CRR, CRC or their respective Affiliates.

"Governmental Entity" means any federal, state, local or foreign court, administrative agency or commission or other

governmental or regulatory authority or commission or any arbitration tribunal.

"Green" means Green Acquisition Corp., a Pennsylvania corporation and a wholly owned Subsidiary of CRR Parent.

"Indebtedness" means, when used with reference to a specified Person, at any date, without duplication, (a) all obligations of such Person for borrowed money, including, without limitation, all principal, interest, premiums, fees, expenses, overdrafts and penalties with respect thereto, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable, (d) all obligations of such Person to reimburse any bank or other Person in respect of amounts paid under a letter of credit or similar instrument, (e) all payment obligations under capitalized leases and (f) all indebtedness of any other Person of the type referred to in clauses (a) to (e) above directly or indirectly guaranteed by such Person.

"Indemnified Party" means a Person who requires or requests indemnification under Article X.

"Indemnifying Party" means a Person who is required or requested to indemnify another Person under Article X.

"Interest Rental" has the meaning set forth in the Shared Assets Agreements.

"Inventory Team" has the meaning ascribed thereto in Section 2.2.

"IRS Submission" has the meaning ascribed thereto in Section 8.9.

"Liabilities" means any and all debts, liabilities and obligations of any kind whatsoever, whether or not accrued, contingent or reflected on a balance sheet, known or unknown, absolute, determined, determinable or otherwise, including, without limitation, those arising under any law, rule, regulation, action, order or consent decree of any Governmental Entity or any judgment in any Action of any kind or award of any arbitrator of any kind and those arising under any Contract. At the Closing Date, all Liabilities of CRR, CRC or their respective Affiliates will be either (i) NYC Allocated Liabilities, (ii) PRR Allocated Liabilities or (iii) Retained Liabilities.

"Locomotive Team" has the meaning ascribed thereto in Section 2.6.

"Major Decisions" means any of the items identified on Schedule 2 hereto.

"Merger" means the merger of a subsidiary of Green with and into CRR pursuant to the Merger Agreement.

"Merger Agreement" means the Agreement and Plan of Merger by and among CRR, CSX and Green dated as of October 14, 1996 and as amended as of November 5, 1996, December 18, 1996, March 7, 1997 and April 8, 1997 and as may be further amended from time to time in accordance with its terms and the terms of this Agreement.

"NSC" has the meaning set forth in the preamble to this Agreement.

"NSC Co-Chairman" has the meaning ascribed thereto in Section 4.2.

"NSC Directors" has the meaning ascribed thereto in Section 4.2.

"NSR" has the meaning set forth in the preamble to this Agreement.

"NSR Equipment" means the Equipment subject to the NSR Equipment Agreement.

"NSR Equipment Agreement" means the agreement to be entered into between PRR and NSR, in a form to be agreed among CSX and NSC, to provide NSR with the right to use, operate and maintain certain of the Equipment which PRR has the right to use and operate pursuant to the PRR Equipment Agreement.

"NSR Operating Agreement" means the agreement to be entered into between NSR and PRR, substantially in the form attached hereto as Exhibit A-2, to provide for the use, operation and maintenance by NSR of certain of the PRR Allocated Assets after the Closing Date.

"NYC" means New York Central Lines LLC (or such other name as may be specified by CSX), which will be organized on or prior to the Closing pursuant to Section 3.2 as a Delaware limited liability company and a wholly owned Subsidiary of CRC.

"NYC Action" has the meaning ascribed thereto in Section 8.14.

"NYC Allocated Assets" means the Assets identified on Item 1 of Schedule 1 hereto and the Transportation Contracts allocated to NYC pursuant to Section 2.2(c) (unless CSX and NSC in their discretion agree that any such Assets shall not be NYC

Allocated Assets) together with the Unallocated Assets designated as NYC Allocated Assets prior to the Closing Date pursuant to Article II, including any cash benefit in lieu of such Assets pursuant to Section 8.7.

"NYC Allocated Liabilities" means the Liabilities designated as NYC Allocated Liabilities pursuant to Section 2.8 or Article VI, together with all Liabilities allocated to and the responsibility of NYC under any Ancillary Agreement.

"NYC Books and Records" shall mean the books, files and records (including computerized databases and records) of CRR, CRC or their respective Affiliates that relate principally to the NYC Allocated Assets or NYC Allocated Liabilities and are necessary or useful for the operation of the business in respect thereof.

"NYC Equipment Agreement" means the agreement to be entered into between CRC and NYC, in a form to be agreed among CSX and NSC, to provide NYC with the right to use, operate and maintain certain of the Equipment allocated to NYC pursuant to Section 2.6(e)(i).

"NYC LLC Agreement" means the Limited Liability Company Agreement of NYC, substantially in the form attached hereto as Exhibit B.

"NYC Restructuring" has the meaning ascribed thereto in Section 8.9.

"Operating Fee" has the meaning set forth in the CSXT Operating Agreement and the NSR Operating Agreement.

"Other Operating Agreements" means the agreements to be entered into between and among CRC, NYC, PRR, CSXT and/or NSR, substantially in the forms attached hereto as Exhibits J through RR, providing for various operating, access, construction and other matters. The Other Operating Agreements are listed in Item 4 of Schedule 4 hereto.

"PBCL" means the Pennsylvania Business Corporation Law of 1988, as amended from time to time.

"Pennsylvania Control Transaction Law" means Subchapter E of Chapter 25 of the PBCL, as amended from time to time.

"Percentage" means, in the case of CSX, 42% and, in the case of NSC, 58%.

"Person" includes any individual, corporation, association, partnership (general or limited), joint venture, trust,

estate, limited liability company or other legal entity or organization.

"Pooled Assets" means all Unallocated Assets for which no allocation methodology is provided for in Section 2.2(a) through (i), including the Assets identified on Item 4 of Schedule 1.

"Privileged Information" has the meaning ascribed thereto in Section 8.14.

"Privileges" has the meaning ascribed thereto in Section 8.14.

"PRR" means Pennsylvania Lines LLC (or such other name as may be specified by NSC), which will be organized on or prior to Closing pursuant to Section 3.2 as a Delaware limited liability company and a wholly owned Subsidiary of CRC.

"PRR Action" has the meaning ascribed thereto in Section 8.15.

"PRR Allocated Assets" means the Assets identified on Item 2 of Schedule 1 hereto and the Transportation Contracts allocated to PRR pursuant to Section 2.2(c) (unless CSX and NSC in their discretion agree that any such Assets shall not be PRR Allocated Assets), together with the Unallocated Assets designated as PRR Allocated Assets prior to the Closing Date pursuant to Article II, including any cash benefit in lieu of such Assets pursuant to Section 8.7.

"PRR Allocated Liabilities" means the Liabilities designated as PRR Allocated Liabilities pursuant to Section 2.8 or Article VI, together with all Liabilities allocated to and the responsibility of PRR under any Ancillary Agreement.

"PRR Books and Records" shall mean the books, files and records (including computerized databases and records) of CRR, CRC or their respective Affiliates that relate principally to the PRR Allocated Assets or PRR Allocated Liabilities and are necessary or useful for the operation of the business in respect thereof.

"PRR Equipment Agreement" means the agreement to be entered into between CRC and PRR, in a form to be agreed among CSX and NSC, to provide PRR with the right to use, operate and maintain certain of the Equipment allocated to PRR pursuant to Section 2.6(e)(i).

"PRR LLC Agreement" means the Limited Liability Company Agreement of PRR, substantially in the form attached hereto as Exhibit B.

"PRR Restructuring" has the meaning ascribed thereto in Section 8.9.

"Radio Licenses" has the meaning ascribed thereto in Section 2.2.

"Required Approvals" has the meaning ascribed thereto in Section 7.1.

"Restructuring" means either the NYC Restructuring or the PRR Restructuring, as the context requires.

"Retained Assets" means the Assets identified on Item 3 of Schedule 1 hereto (unless CSX and NSC in their discretion agree that any such Assets shall not be Retained Assets) together with the Unallocated Assets designated as Retained Assets prior to the Closing Date pursuant to Article II, including (a) Equipment that is not included in the Allocated Assets, (b) the SSO Facilities and (c) the Pooled Assets not designated as Allocated Assets pursuant to Section 2.2(j).

"Retained Liabilities" means the Liabilities designated as Retained Liabilities pursuant to Section 2.8 (including, without limitation, all Corporate Level Liabilities), together with all Liabilities allocated to and the responsibility of CRR, CRC or their respective Affiliates under any Ancillary Agreement.

"Rolling Stock Team" has the meaning ascribed thereto in Section 2.6.

"Route" means the rights and Assets used to provide transportation service along a railroad line connecting two or more stations and consisting of one or more tracks (together with associated sidings, side tracks, signaling, land and other related facilities).

"Ruling" has the meaning ascribed thereto in Section 8.9.

"Separation Costs" means labor protection costs, including dismissal allowances, displacement allowances and the cost of administering, arbitrating and litigating such labor protection provisions, severance (including payments under severance agreements), personnel relocation expenses and all other dismissal expenses and stay bonuses, including any payment intended to reimburse for excess parachute excise tax imposed under Section 4999 of the Code with respect to such dismissal expenses or stay bonuses.

"Service" has the meaning ascribed thereto in Section 8.9.

"Shared Assets Agreements" means the agreements between and among CRC, NYC, PRR, CSXT and/or NSR, substantially in the forms attached hereto as Exhibits G through I, providing for the operation of certain Retained Assets for the benefit of CSXT and NSR. The Shared Assets Agreements are listed in Item 3 of Schedule 4 hereto.

"Shared Assets Areas" means (a) the North Jersey shared Asset facility to be covered by the Shared Assets Agreement substantially in the form attached hereto as Exhibit G, (b) the South Jersey/Philadelphia shared Asset facility to be covered by the Shared Assets Agreement substantially in the form attached hereto as Exhibit H and (c) the Detroit shared Asset facility to be covered by the Shared Assets Agreement substantially in the form attached hereto as Exhibit I.

"SSO Facilities" means the CRR or CRC system support operations facilities described in Item 3(B) of Schedule 1 (including equipment and other Assets associated with such facilities) used as of the date hereof by CRR and CRC or their respective Affiliates to provide support functions benefitting the CRC rail system as a whole, including: (a) the customer service center in Pittsburgh, PA; (b) the crew management facility in Dearborn, MI; (c) the system maintenance-of-way equipment center in Canton, OH; (d) the signal repair center in Columbus, OH; (e) the system freight claims facility in Buffalo, NY; (f) the system non-revenue billing facility at Bethlehem, PA; (g) the system rail welding plant at Lucknow (Harrisburg), PA; (h) the system road foreman/engineer training center at Philadelphia and Conway, PA; (i) the CRC police operations center at Mt. Laurel, NJ; and (j) such other facilities providing system-wide support functions as CSX and NSC shall identify and agree upon prior to the Closing Date.

"STB" means the Surface Transportation Board or, if there shall be no Surface Transportation Board, any federal agency which is charged with the function of approving combinations by rail carriers or persons controlling them, or of other arrangements between such rail carriers, and granting exemptions from other laws with respect thereto or regulating other specific functions with respect to the context in which such term is employed or any successor entity thereof.

"Subsidiary" means, when used with reference to a specified Person, any corporation or other organization, whether incorporated or unincorporated, of which at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the Board of Directors or others performing similar functions with respect to such corporation or other organization is directly or indirectly owned or controlled by such Person or by any one or more of its Subsidiaries, or by such Person and one or more of its Subsidiaries; pro-

vided that CRR Parent and any Person in which CRR Parent owns, directly or indirectly an interest (it being assumed for the purposes of this Agreement that CRR Parent does not own, directly or indirectly, an interest in either CSX or NSC) shall not be a Subsidiary of either CSX or NSC.

"Surviving Corporation" means the surviving corporation of the Merger.

"Tax" or "Taxes" means taxes of any kind, levies or other similar assessments, customs, duties, imposts, charges or fees, including, without limitation, income taxes, gross receipts, ad valorem, excise, real or personal property, sales, use, payroll, withholding, unemployment, transfer and gains taxes or other governmental taxes imposed by or payable to the United States, or any state, local or foreign government or subdivision thereof, and in each instance such term shall include any interest, penalties or additions to tax attributable to such Tax or Taxes. The term "Tax" or "Taxes" shall not include any payment intended to reimburse the recipient for an excess parachute excise tax imposed under Section 4999 of the Code.

"Tax Allocation Agreement" means the agreement to be entered into among Green, CRR, CRC, CRR Industries, PRR and NYC, substantially in the form attached hereto as Exhibit F, pursuant to which the rights and obligations relating to Tax matters involving the operations of CRR, CRC, PRR and NYC shall be allocated.

"Tax Returns" means all returns, information returns, statements, certifications, reports or other documentation relating to Taxes.

"Third Amendment" means the third amendment, dated March 7, 1997, to the Merger Agreement.

"Third Party Claim" has the meaning ascribed thereto in Section 10.2.

"Trackage Rights Agreements" means the agreements pursuant to which CSXT and NSR will grant trackage rights to the other, in substantially the form attached hereto as Exhibit C; each Trackage Rights Agreement shall be in respect of a Route identified on Item 1 of Schedule 4 and shall incorporate the terms set forth therein.

"Transaction Expenses" means, with respect to a specified Person, all of such Person's fees and expenses, including, without limitation, filing fees and fees and expenses of legal counsel, depositaries, dealer managers, proxy solicitors, information agents, printers, investment bankers or advisors, financing sources, accountants, public relations advisors and other

consultants and advisors incurred in connection with the acquisition of CRR Shares, the Merger, the April 8 Agreement, this Agreement, the Ancillary Agreements and the transactions contemplated herein and therein.

"Transportation Contracts" means Contracts between rail carrier(s) and a Person or Persons relating to the purchase of transportation services as specified in 49 U.S.C. § 10102(9)(A) and (B); provided that, if a Transportation Contract covers service between more than one pair of points, the provisions governing service between each pair of points shall be treated as a distinct Transportation Contract.

"Unallocated Assets" means Assets which are not as of the date of this Agreement identified on Schedule 1 hereto as Allocated Assets or Retained Assets.

"Valuation Date" has the meaning set forth in the CSXT Operating Agreement, the NSR Operating Agreement, the CSXT Equipment Agreement, the NSR Equipment Agreement and the Shared Assets Agreements.

"Voting Trust" means the voting trust for the shares of capital stock of CRR or CRC created under the Amended and Restated Voting Trust Agreement.

"Work Equipment" means track machinery, non-revenue rolling stock dedicated to track maintenance (such as ballast and tie cars), other mobile equipment (such as backhoes, bulldozers and the like), other engineering equipment and automobiles and trucks assigned to CRC system and staff functions (automobiles and trucks assigned to Allocated Asset locations shall be included in the Allocated Assets).

"Work Equipment Team" has the meaning ascribed thereto in Section 2.6.

Section 1.2. Other Definitive Provisions. When used in this Agreement in respect of a Liability or an Action, the terms "arise" or "arising" mean that the circumstances giving rise to the Liability or Action have transpired, whether or not such Action or Liability has been discovered, asserted or accrued. When used in this Agreement, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

ARTICLE II

DESIGNATION AND ALLOCATION OF ASSETS AND LIABILITIES

Section 2.1. Conveyance of Assets. On the Closing Date and upon the terms and subject to the conditions set forth in this Agreement, (i) CRC and its Affiliates shall contribute, assign, transfer, convey and deliver the NYC Allocated Assets to NYC and NYC shall accept from CRC and its Affiliates all of the right, title and interest of CRC and its Affiliates in all of the NYC Allocated Assets, and (ii) CRC and its Affiliates shall contribute, assign, transfer, convey and deliver the PRR Allocated Assets to PRR and PRR shall accept from CRC and its Affiliates all of the right, title and interest of CRC and its Affiliates in all of the PRR Allocated Assets. Except as expressly provided in this Agreement, CSX and its Affiliates, on the one hand, and NSC and its Affiliates, on the other hand, shall retain all their existing rights with respect to the Assets.

Section 2.2. Allocation of Certain Assets. As soon as practicable after the date hereof and in any event prior to the Closing Date, CSX and NSC shall use their best efforts to designate the Unallocated Assets as either NYC Allocated Assets, PRR Allocated Assets or Retained Assets. CSX and NSC shall continue to monitor such designation up to, and shall update such designation as of, the Closing Date. Such designation shall be as agreed between CSX and NSC in accordance with the following guidelines (which shall not, unless CSX and NSC otherwise agree, affect Assets already designated as Allocated Assets or Retained Assets pursuant to Schedule 1 hereto):

(a) Unallocated FF&E shall be designated as follows: (i) all FF&E located in or along Allocated Assets shall be designated in the same manner as such Allocated Assets, (ii) all FF&E located in or along Retained Assets shall be designated as Retained Assets and (iii) all FF&E not designated pursuant to clause (i) or (ii) above shall be designated as NYC Allocated Assets or PRR Allocated Assets by value in proportion to CSX's and NSC's respective Percentage.

(b) On or prior to the Closing Date, CSX, NSC and CRR shall take an inventory of all Corporate Memorabilia, and CSX and NSC shall value the principal items or categories, engaging an appraiser if they cannot agree on the value thereof. One half of the Corporate Memorabilia by value shall be designated as NYC Allocated Assets and the other half shall be designated as PRR Allocated Assets by the mutual agreement of CSX and NSC. If CSX and NSC have not agreed on the particular items or categories of Corporate Memorabilia to be designated as NYC Allocated Assets and PRR Allocated Assets, respectively, they will alternate selecting Corporate Memorabilia having a value of 5% (as near as

may be) of the total value of all of the Corporate Memorabilia, with the party having first choice selected by lot.

(c) The parties recognize the importance of assuring that the acquisition of CRC does not create shipping disruptions for CRC customers and hence are hereby making arrangements to carry out CRC's Transportation Contracts in the manner hereinafter set forth.

(i) All CRC Transportation Contracts in effect as of the Closing Date ("Existing Transportation Contracts") shall remain in effect through their stated term and the obligations thereunder shall be carried out thereafter by CSXT utilizing NYC Allocated Assets and NSR utilizing PRR Allocated Assets, or pursuant to the Shared Assets Agreements, as the case may be.

(ii) CSXT and NSR shall allocate the responsibilities to serve customers under the Existing Transportation Contracts in a manner to achieve reliability and proper service to the customers, and the revenues and expenses associated with the Existing Transportation Contracts and related services shall be allocated and accounted for between CSXT and NSR in accordance with the Percentage Division to the extent that the performance of contracts allocated by Percentage Division departs from the Percentage Division.

(iii) The following decision rules shall be applied on an annual basis with tentative settlements to the extent required by subsection (c)(ii) on a quarterly basis 60 days after the end of the quarter and an annual true-up 90 days after the end of the year:

(A) For purposes of this Subsection (c), "Local" means a station that is not Dual and is served solely by CSXT or NSR, and "Dual" means a station with line-haul service by both, including service accessed by one or the other through trackage rights or haulage, in each case as of the date of this Agreement giving effect to the effectuation of the Closing. For purposes of the definition of "Dual", the term includes (a) as to commodities that are handled by rail before or after shipment by water, all stations at which such commodities are handled in Ocean, Gulf and Great Lakes port cities to which each of CSXT and NSR has line haul service to any such station, and (b) as to intermodal service, all intermodal facilities in any city in which each of CSXT and NSR has line haul service to any intermodal facility. Further, references to "Off Line" stations in this Subsection (c) do not include a situation where such station is Local or Dual to NSR or CSXT

or a third railroad whose sole connection is with CSXT or NSR.

(B) In addition, for purposes of this Subsection (c) only, the phrase "Percentage Division" shall mean 50% CSXT - 50% NSR.

(C) Revenues shall be allocated as follows:

(aa) Where the Existing Transportation Contract calls for transportation from an origin station located on the PRR Allocated Assets, the allocation shall be solely to NSR, except as follows:

(x) If the origin station is Local to NSR and the destination station is on the NYC Allocated Assets and Local to CSXT, then the allocation shall be on a joint line basis between NSR and CSXT with the interchange to be negotiated between NSR and CSXT and the revenues to be split 30% to NSR, 30% to CSXT, and the remainder to be based upon a mileage prorate; and

(y) If, notwithstanding its location on the PRR Allocated Assets, the origin station is Dual and the destination station is on the NYC Allocated Assets and Local to CSXT, then the allocation shall be solely to CSXT.

(bb) Where the Existing Transportation Contract calls for transportation from an origin station located on the NYC Allocated Assets, the allocation shall be solely to CSXT, except as follows:

(x) If the origin station is Local to CSXT and the destination station is on the PRR Allocated Assets and Local to NSR, then the allocation shall be on a joint line basis between CSXT and NSR with the interchange to be negotiated between CSXT and NSR and the revenues to be split 30% to CSXT, 30% to NSR, and the remainder to be based an a mileage prorate; and

(y) If, notwithstanding its location on the NYC Allocated Assets, the origin station is Dual and the destination station is on the PRR Allocated Assets and Local to NSR, then the allocation shall be solely to NSR.

(cc) Where the Existing Transportation Contract calls for transportation where at least one of the origin and destination stations is Dual or which is located in a Shared Assets Area or located on or accessed from the tracks of the former Monongahela Railway or Waynesburg Southern Railway ("MGA") (collectively, a "Specified Station"), the following shall apply as to such Existing Transportation Contract:

(x) If the other station is located on a PRR Allocated Asset and is Local to NSR, then the allocation shall be solely to NSR;

(y) If the other station is located on an NYC Allocated Asset and is Local to CSXT, then the allocation shall be solely to CSXT; and

(z) If the other station is a Specified Station, then CSXT and NSR shall divide the allocation on the Percentage Division (by revenue) annually.

(dd) Where the origin station is Off Line and the destination station is within the former CRC territory, the following shall apply as to the Existing Transportation Contract:

(x) If the destination station is located on an NYC Allocated Asset and is Local to CSXT, the allocation shall be solely to CSXT.

(y) If the destination station is located on a PRR Allocated Asset and is Local to NSR, the allocation shall be solely to NSR.

(z) If the destination Station is Dual or is located in a Shared Assets Area or in MGA, CSXT and NSR shall divide the allocation on the Percentage Division (by revenue) annually.

(ee) Where the origin station is within the former CRR territory and the destination station is Off Line, the following shall apply as to the Existing Transportation Contracts:

(x) If the origin station is located on an NYC Allocated Asset and is Local to CSXT, the allocation shall be solely to CSXT.

(y) If the origin station is located on a PRR Allocated Asset and is Local to NSR, the allocation shall be solely to NSR.

(z) If the origin station is Dual or is located in a Shared Asset Area or in MGA, CSXT and NSR shall divide the allocation on the Percentage Division (by revenue) annually.

(ff) Where the origin station and the destination station are both Off Line, CSXT and NSR shall divide the allocation on the Percentage Division.

(gg) As to any joint line Existing Transportation Contract which involves either CSXT and CRC and NSR and CRC, that Transportation Contract shall be treated, for the purposes of the above rules, as if it involved an NSR or CSXT Local origin or off-line destination (as the case may be) and only that portion of the transportation over former CRC Routes shall be governed by the foregoing.

(hh) Where, as of the Closing Date, CRC has a proportional rate Existing Transportation Contract which provides a through rate in combination with a separate proportional rate CSXT or NSR transportation contract, the separate CSXT or NSR transportation contract shall be unaffected and only the CRC portion of the transportation shall be governed by the foregoing.

(iv) There shall be a presumption that responsibility for the performance of contracts shall follow the allocations referred to above and that presumption, except in extraordinary cases, shall control in all cases except those provided for in Sections 2.2(c)(iii)(C)(cc)(z), 2.2(c)(iii)(C)(dd)(z), and 2.2(c)(iii)(C)(ee)(z). Exceptions in those cases just mentioned shall be made to promote the use of efficient routes, high-quality service and consistency of service to customers, and in that connection there shall be a presumption against dividing a contract between a single destination and a single origin between the two carriers.

(v) In the case of a single Existing Transportation Contract which covers multiple origin and destination pairs, allocation of revenue shall be on the basis of each pair but CSXT and NSR shall cooperate as necessary to assure that the shippers under such Existing Transportation Contracts receive the benefits (e.g., volume pricing, refunds, etc.) to which they are entitled thereunder, notwithstanding any division of responsibility in providing the transportation.

(vi) Nothing in this Section 2.2(c) shall limit any right of the parties to provide service to or enter into transportation contracts with shippers with Existing Transportation Contracts.

(d) All Contracts granting any unrelated Person the right to bury fiber optic cable longitudinally along Assets shall be designated as Retained Assets (if any Assets in respect of which such rights are given are Allocated Assets, NYC or PRR, as the case may be, will license or otherwise grant rights to CRC or its Affiliates to maintain the subject matter of the Contracts granting such rights), except where such rights relate only to either NYC Allocated Assets or PRR Allocated Assets, in which case such Contracts shall be designated in the same manner as such Allocated Assets; provided that NYC and PRR shall, to the extent permitted under such Contracts that are designated as Retained Assets, be given equal access to CRC's or its Affiliate's rights to use capacity on such fiber optic cable and shall participate equally in any other benefits of such Contracts.

(e) Promptly after the date hereof, CSXT and NSR each shall appoint up to five members of a committee (the "Contracts Team"). The Contracts Team shall meet and not later than January 1, 1998 shall negotiate an equitable designation of all Contracts (other than Transportation Contracts and Contracts otherwise allocated or designated under the terms hereof) based on the following guidelines:

(i) Contracts that relate predominantly to either NYC Allocated Assets, PRR Allocated Assets or Retained Assets will be designated in the same manner as such Assets.

(ii) Contracts (A) that benefit CRC as a whole (such as unfilled system purchase and supply Contracts), (B) that relate predominantly to Retained Assets (such as certain intermodal terminal Contracts) or (C) that the Contract Team cannot designate for whatever reason, shall be Retained Assets and CRC shall, to the extent permitted under the relevant Contract, subcontract its duties, obligations and rights under such Contract to NYC or PRR by value in proportion to CSX's and NSC's respective Percentage in accordance with the procedure set forth in Section 8.5(b).

(f) Promptly after the date hereof, NSR and CSXT each shall appoint up to five members of a committee (the "Communications Team"). The Communications Team shall meet and not later than January 1, 1998 shall negotiate an equitable designation of all radio licenses held or owned by CRR, CRC or their respective Affiliates ("Radio Licenses") based on the following guidelines:

(i) In general, Radio Licenses will be designated as PRR Allocated Assets or NYC Allocated Assets depending on the designation of the Allocated Assets to which the Radio Licenses most relate. The designation of Radio Licenses will be made in such manner as to facilitate and permit continued operations on the PRR Allocated Assets and the NYC Allocated Assets substantially as conducted before the Closing Date.

(ii) Base Radio Licenses shall be designated and reissued on their present frequencies to PRR or NYC, depending on whether the Allocated Assets on or near which the base radio operates are NYC Allocated Assets or PRR Allocated Assets. If the base radio is used for train operations on a line that includes both PRR Allocated Assets and NYC Allocated Assets, the Radio License shall be allocated in the same manner as the Allocated Assets on which the base radio is located and the party allocated such Radio License shall grant to the other party the right to operate a base station and other needed radio equipment on that frequency.

(iii) Mobile Radio Licenses (such as those relating to engine radios and end-of-train-devices) will be designated as NYC Allocated Assets or PRR Allocated Assets giving effect to the relative operating needs and existing systems of each of NYC and/or CSXT, on the one hand, and PRR and/or NSR on the other hand.

(iv) Radio Licenses for which the Communications Team can not agree upon the designation as PRR Allocated Assets or NYC Allocated Assets prior to the Closing Date or that are required for CRC operations under the Shared Assets Agreements will be Retained Assets and held by CRR for the benefit of both NYC and PRR.

(g) In connection with its negotiations under Section 2.2(f), the Communications Team also shall not later than January 1, 1998 negotiate an equitable designation in accordance with CSX's and NSC's respective Percentage of all Unallocated Assets that are signal and communications equipment or facilities and leased communications services. This will include all signal and communications equipment and facilities and leased services that are (i) used by CRC system-wide, (ii) used in conjunction with the operation of both a Route included in NYC Allocated Assets and a Route included in PRR Allocated Assets (such as a microwave

tower), or (iii) of a character that precludes such Assets from being logically segregated and designated by Route. In making its designation, the Communications Team shall consider, among other things, Asset value and each party's relative ability to maintain current operations and compatibility with existing equipment. Items for which the Communications Team cannot agree upon the designation as PRR Allocated Assets or NYC Allocated Assets prior to the Closing Date or that are required for CRC operations under the Shared Assets Agreements will be Retained Assets and held for the benefit of both NYC and PRR, although it is the intention of the parties that such signal and communications equipment or facilities and leased communications equipment (other than items required for CRC operations under the Shared Assets Agreements) be designated to the extent possible as Allocated Assets.

(h) System stockpiles of inventory, material and supplies of CRR, CRC or their respective Affiliates, regardless of location (other than such Assets designated as PRR Allocated Assets pursuant to Section 2.7) are Pooled Assets that shall be Retained Assets at the Closing Date unless otherwise designated hereunder. Promptly after the date hereof, CSXT and NSR each shall appoint up to four members of a committee (the "Inventory Team"). In addition to its functions pursuant to Section 2.7, the Inventory Team shall not later than January 1, 1998 determine whether and to what extent system stockpiles of inventory, material and supplies of CRR, CRC or their respective Affiliates (i) shall be designated as NYC Allocated Assets or PRR Allocated Assets (such designation to be in proportion to CSX's and NSC's respective Percentage) or (ii) shall be Retained Assets as to which NYC and CSXT, on the one hand, and PRR and NSR, on the other hand, shall have access to in accordance with the procedure to be determined by the Inventory Team pursuant to this Section 2.2(h). In making its identification and designation, the Inventory Team shall specify that (i) inventory, materials and supplies acquired for the purpose of fulfilling third-party Contracts shall be designated in the same manner as and be applied to fulfill such Contracts and (ii) inventory, materials and supplies held for maintenance of facilities that are included in Allocated Assets shall be designated in the same manner as such Allocated Assets. System stockpiles or portions thereof that are not specifically designated by the Inventory Team shall be Retained Assets. The Inventory Team shall determine an appropriate procedure for NYC and CSXT, on the one hand, and PRR and NSR, on the other hand, to have access to all system stockpiles of inventory, material and supplies that are Retained Assets by value in proportion to CSX's and NSC's respective Percentage.

(i) Unless otherwise agreed upon by CSX and NSC prior to the Closing, all computer software and associated data and engineering CADD systems owned or used by CRR, CRC or their respective Affiliates which may be copied and used by both NYC and

PRR without the permission of, or payment to, any Person shall be designated in the same manner as the hardware on which it is stored; provided that PRR shall have the right to copy and to receive a non-exclusive license of such computer software, rights, data, licenses and systems that are designated as NYC Allocated Assets and NYC shall have the right to copy and to receive a non-exclusive license of such computer software, rights, data, licenses and systems that are designated as PRR Allocated Assets. Unless otherwise agreed upon by CSX and NSC prior to the Closing, all computer software and associated data and engineering CADD systems owned or used by CRR, CRC or their respective Affiliates which may not be copied or used (or which may not be copied or used without the permission of or payment to any Person) by both NYC and PRR shall be Retained Assets, provided that CRR, CRC and their respective Affiliates shall use their reasonable commercial efforts to assign, license or otherwise make available on an equal basis to each of CSX, NSC or their designees, upon request, the nonexclusive use of all or any portion of such software, data, licenses and systems. Notwithstanding the foregoing, no party shall be required to maintain any item of software on computer equipment included in Allocated Assets, or be required to make license or other payments for such software, for a period longer than 12 months.

(j) To the extent not otherwise agreed upon by CSX and NSC prior to the Closing Date, all Pooled Assets shall be Retained Assets available for the benefit of both CSXT and NYC, on the one hand, and NSR and PRR, on the other hand in accordance with CSX's and NSC's respective Percentage. If CSX and NSC agree prior to the Closing Date that specified Pooled Assets (or groups of Pooled Assets) should be allocated to NYC or PRR, such specified Pooled Assets shall, at the Closing, be designated as NYC Allocated Assets or PRR Allocated Assets, as the case may be.

Section 2.3. System Support Operations; Dispatching. (a) The parties recognize that each SSO Facility has been used by CRR and CRC to provide a support function benefitting the CRC rail system as a whole (e.g., system-wide crew management or signal repair support functions). It is expected that each of CSXT and NYC, on the one hand, and NSR and PRR, on the other hand, may require the use or benefit of or access to the functions and support provided by the SSO Facilities for a period of time after the Closing Date. Accordingly, the SSO Facilities shall be included in Retained Assets and will continue to be owned by CRR, CRC or its Affiliates. Until a party terminates its use of an SSO Facility as provided below, (i) the costs of operating such SSO Facility shall be included in Corporate Level Liabilities and (ii) such SSO Facility shall be operated for the benefit of both CSXT and NYC, on the one hand, and NSR and PRR, on the other hand, based on their operating and administrative needs.

(b) Each of CSXT and NYC, on the one hand, and NSR and PRR, on the other hand, shall have the right, upon six months' prior written notice, to notify the other that it no longer needs the use of or access to all or any specified portion of the functions performed at a particular SSO Facility. If the party receiving such notice notifies the other party within thirty days of receipt of such notice that it no longer needs the use of or access to all or the same specified portion of the functions performed at a particular SSO Facility, then the effective date of the notice sent by the receiving party shall be deemed to be the same as that of the notice which it received from the notifying party. If the notice relates to less than the entire SSO Facility, it shall state with specificity the particular function(s) and/or Continuing CRC Management position(s) covered by the notice. Notices may be given at any time before or after the Closing Date and in each case shall specify an effective date which shall be a date on or after the Closing Date that is not less than six months after the date such notice is given. From and after the effective date of a notice, all costs associated and incurred after the effective date of such notice with the SSO Facility (or portion thereof) and Continuing CRC Management positions identified in the notice shall cease to be Corporate Level Liabilities and will be allocated entirely to and be the responsibility of the party continuing to use the functions performed at the SSO Facility or portion thereof. Costs associated with an SSO Facility (or portion thereof) or the Continuing CRC Management employees performing work at that SSO Facility which are not terminated by such notice but continue to be incurred for the benefit of both parties will continue to be Corporate Level Liabilities. Notwithstanding the foregoing, Separation Costs associated with Continuing CRC Management employees after the Control Date shall be allocated and paid as provided in Article VI.

(c) In the case of an SSO Facility as to which both CSXT and NYC, on the one hand, and NSR and PRR, on the other hand, have discontinued use of the entire SSO Facility by each giving six-month termination notices that have become effective, CSX and NSC will cause CRC and its Affiliates to take such action as may be appropriate to discontinue the use of or provide for the disposition of such SSO Facility (which may include a disposition to NYC or PRR), and costs associated with such SSO Facility between the effective date of the second notice and such discontinuance or disposition shall be Corporate Level Liabilities and the cash proceeds, if any, of such discontinuance or disposition shall, subject to Section 4.4, be for the benefit of CRC.

(d) The full costs of maintaining and operating SSO Facilities shall include all direct and indirect costs (excluding return on investment and system overheads), compensation and benefits, purchased services, insurance, facility costs and

computer processing costs. CSX and NSC shall establish appropriate accounting systems and controls designed to capture and track such costs.

(e) To facilitate the division of dispatching functions currently performed for the five CRC operating divisions, NSC and CSX agree that the territorial boundaries of the operating divisions will be changed and dispatching functions will be assigned and transferred as follows:

(i) Dearborn division: The Dearborn division office building will be included in PRR Allocated Assets. All dispatching functions at such facility will be assigned to PRR and NSR except (A) those for dispatching the Cleveland East, Cleveland terminal and other Dearborn division segments included in the NYC Allocated Assets, which functions will be assigned and transferred to NYC and CSXT, and (B) those for dispatching of the Detroit Shared Assets Area which functions will be assigned and transferred to CRC and will be relocated to a neutral site.

(ii) Indianapolis division: The Indianapolis division office building will be included in NYC Allocated Assets. All dispatching functions at such facility will be assigned to NYC and CSXT except those for dispatching the Marion branch, the Cincinnati line, the West Virginia secondary and other Indianapolis division segments included in the PRR Allocated Assets, which functions will be assigned and transferred to PRR and NSR.

(iii) Pittsburgh division: The Pittsburgh division office building will be included in PRR Allocated Assets. All dispatching functions at such facility will be assigned to PRR and NSR except those for dispatching Pittsburgh division segments included in the NYC Allocated Assets, which functions will be assigned and transferred to NYC and CSXT.

(iv) Philadelphia division (Mt. Laurel, NJ): The Philadelphia division office building will be included in the Retained Assets. All dispatching functions at such facility will be assigned to PRR and NSR except (A) those for dispatching the Trenton line, the River line, the Popes Creek secondary, the Herbert secondary, the Landover line and other Philadelphia division segments included in the NYC Allocated Assets, which functions will be assigned and transferred to NYC and CSXT, and (B) those for dispatching the North Jersey Shared Assets Area and the South Jersey/Philadelphia

Shared Assets Area and segments included in the Retained Assets, which functions will be assigned to CRC.

(v) Albany division: The Albany division office building will be included in the NYC Allocated Assets. All dispatching functions will be assigned to NYC and CSXT except those for dispatching the Southern tier, including the Corning secondary, the New Jersey transit line, the Buffalo line and other Albany division segments included in the PRR Allocated Assets, which functions will be assigned and transferred to PRR and NSR.

The parties intend that the dispatching desks, equipment and similar property associated with a dispatching function will, to the extent practicable, follow the assignment of that function to the party designated pursuant to clauses (i) through (v) above, to enable such party to perform dispatching necessary in connection with the Assets allocated to or used by such party. In addition, the parties recognize that interim dispatching services may be required to be provided to each other for the above Routes during a brief interim period (which shall be no longer than reasonably necessary) and that the parties may charge reasonable fees for such services.

Section 2.4. Transition Period Accommodation. (a) To the extent that (i) the CRR headquarters office building in Philadelphia, PA or (ii) the CRR information technology center in Philadelphia, PA (both of which are NYC Allocated Assets) were used by CRR or CRC prior to the Closing Date for the benefit of the CRR and CRC system as a whole, CSX will (or will cause CSXT or NYC to) furnish and make available for the benefit of NSC or its Affiliates access to and use of such NYC Allocated Assets (including, without limitation, office and other space, equipment, computer systems, and data and other information) as are necessary or convenient in order to reasonably accommodate the needs of NSC, NSR and PRR for the services and functions performed at such facilities for a transition period not to exceed (A) twenty-four months following the Closing Date in respect of the CRR headquarters office building in Philadelphia, PA and (B) six months following the Closing Date (extendable for an additional six months at NSC's option) in respect of the CRR information technology center in Philadelphia, PA. CSX may accommodate such needs of NSC, NSR and PRR for such services and functions using premises in Philadelphia, PA other than the premises referred to in clauses (i) and (ii) of this Section 2.4(a); provided that NSC consents to such arrangement, such consent not to be unreasonably delayed or withheld. CSX, CSXT or NYC, as the case may be, shall furnish and make available to NSC, NSR or PRR such NYC Allocated Assets at those facilities as may be reasonably requested by NSC, NSR or PRR; provided that the nature and scope of the use of such NYC Allocated Assets shall not be great-

er than the nature and scope of the use of such NYC Allocated Assets for the benefit of the CRR and CRC system prior to the Closing Date. CSX may charge NSC, NSR or PRR, as the case may be, charges calculated at fair market value by CSX and NSC for such use of such NYC Allocated Assets.

(b) To the extent that (i) the CRC car shop at Hollidaysburg, PA or (ii) the CRC locomotive shop at Altoona, PA (both of which are PRR Allocated Assets) were used by CRR or CRC prior to the Closing Date for the benefit of the CRR and CRC system as a whole, NSC will (or will cause NSR or PRR to) reasonably accommodate the needs of CSX, CSXT or NYC for the services and functions performed at such facilities for a transition period not to exceed twenty-four months following the Closing Date. NSC may accommodate such needs of CSX, CSXT and NYC for such services and functions using premises other than the premises referred to in clauses (i) and (ii) of this Section 2.4(b); provided that CSX consents to such arrangement, such consent not to be unreasonably delayed or withheld. NSC, NSR or PRR, as the case may be, shall furnish and make available to CSX, CSXT or NYC such services and functions at those facilities as may be reasonably requested by CSX, CSXT or NYC; provided that the nature and scope of such services and functions shall not be greater than those which were provided in respect of the NYC Allocated Assets by those facilities prior to the Closing Date. NSC may charge CSX, CSXT or NYC, as the case may be, charges calculated at fair market value by CSX and NSC for such services and functions.

(c) In complying with Section 2.4(a) and Section 2.4(b), (i) the accommodating party will provide or make available the Assets or the services, functions and systems of, and data and information from, the specified facilities to the extent it can reasonably do so and (ii) if the accommodating party so requests, the party accommodated will use its reasonable commercial efforts to discontinue its need for such Assets or services, functions, information, systems and data at the earliest time practicable following, but not later than twenty-four months after, the Closing Date (or earlier time as provided in Section 2.4(a) in respect of the information technology center in Philadelphia, PA). Nothing herein shall preclude a party from agreeing to make available the Assets or services, functions and systems of and information and data from, its facilities to the using party after such maximum periods provided for in Sections 2.4(a) and 2.4(b), but it shall not be required to do so.

(d) CSX will (or will cause CSXT or NYC to) make available to CRR, CRC and their respective Affiliates the CRR headquarters office building and the CRR information technology center in Philadelphia, PA (both of which are NYC Allocated Assets) for use by those employees identified in clause (b) of the definition of "Continuing CRC Management" in Section 1.1. Unless otherwise agreed to by CSX and NSC, CRR, CRC and their

respective Affiliates shall have the right to use those facilities for such Continuing CRC Management employees to perform such general, administrative and technical services and functions for an interim period not to exceed (i) twenty-four months following the Closing Date in respect of the CRR headquarters office building in Philadelphia, PA and (B) six months following the Closing Date (extendable for an additional six months at NSC's option) in respect of the CRR information technology center in Philadelphia, PA. CSX may move such facilities to new premises or may move the Continuing CRC Management using the facilities to new premises; provided that NSC consents to such arrangement, such consent not to be unreasonably withheld and; provided further that CSX and NSC agree on the new fair market value of such facilities which will be Corporate Level Liabilities pursuant to this Section 2.4(d). Until a party terminates its use of the support functions and services of any such Continuing CRC Management employee as provided below, the costs of employing such employee and the fair market value of related facilities shall be Corporate Level Liabilities and such employee's services will be available for the benefit of both CSXT and NYC, on the one hand, and NSR and PRR, on the other hand, based on the operating and administrative needs of each.

(e) Each of CSX and NSC and their respective Affiliates shall have the right, upon six months' prior written notice, to notify the other party that the notifying party no longer needs the support functions and services provided by any one or more of the Continuing CRC Management employees referred to in Section 2.4(d). The notice shall state with specificity the particular Continuing CRC Management position(s) covered by the notice. If the party receiving such notice notifies the other party within thirty days of receipt of such notice that it no longer needs the support functions and services provided by the same (or more) continuing CRC Management employees as are included in the first notice, then the effective date of such second notice shall be deemed to be the same as that of the first notice. Notices may be given at any time before or after the Closing Date and in each case shall specify an effective date on or after the Closing Date, but not less than six months after the date such notice is given. From and after the effective date of such a notice, all costs associated with the Continuing CRC Management positions identified in the notice shall cease to be Corporate Level Liabilities but shall be allocated entirely to and be the responsibility of the party continuing to use the functions and services provided by such Continuing CRC Management positions; provided that in the case of Continuing CRC Management positions as to which both parties have given termination notices that have become effective, all costs associated with such Continuing CRC Management positions after the date the second termination notice becomes effective shall be Corporate Level Liabilities. Notwithstanding the foregoing, Separation Costs associated with all Continuing CRC Management employees after the

Closing Date shall be allocated and paid as otherwise provided in Article VI.

Section 2.5. Trackage, Haulage, Shared Asset and Other Operating Agreements. On the Closing Date and upon the terms and subject to the conditions set forth in this Agreement, each of CRC, CSXT and NSR shall execute and deliver, and the parties shall cause their respective Affiliates and NYC and PRR to execute and deliver, the following agreements to which it is a party:

(a) The Trackage Rights Agreements: A Trackage Rights Agreement covering each of the Routes listed in Item 1 of Schedule 4 and containing the terms and provisions applicable to such Route as set forth in Item 1 of Schedule 4 will be executed by the parties designated in such Item 1.

(b) The CSXT/NSR Haulage Agreements: A CSXT/NSR Haulage Agreement covering each of the Routes listed in Item 2 of Schedule 4 and containing the terms and provisions applicable to such Route as set forth in Item 2 of Schedule 4 will be executed by the parties designated in such Item 2.

(c) The Shared Assets Agreements.

(d) The Other Operating Agreements (in respect of Other Operating Agreements for which the relevant Exhibit hereto sets forth all or some of the terms of an agreement rather than the form of agreement, the parties shall use their best efforts to agree to the form of such Other Operating Agreements prior to the Closing Date).

Section 2.6. Equipment. The parties intend that all Equipment will be allocated between NYC and PRR (either as Allocated Assets or as Retained Assets which are subject to the NYC Equipment Agreement or the PRR Equipment Agreement) by series and condition such that NYC and PRR each receives Equipment by value in proportion to CSX's and NSC's respective Percentage. Disputes concerning such allocation shall be subject to binding arbitration under Section 11.12. After the Equipment has been allocated, the parties may agree in their sole discretion to changes in the allocation giving consideration to other factors. In furtherance of the foregoing sentence, the parties will appoint representatives to various teams to consider appropriate adjustments to allocations of Equipment as described below:

(a) Locomotive Equipment. Promptly after the date hereof, CSXT and NSR shall each appoint up to three members of a committee (the "Locomotive Team"). The Locomotive Team shall meet not later than January 1, 1998, to consider an adjustment to the allocation of locomotive Equipment (including appurtenances

and assigned or related equipment such as locomotive radios) to NYC and PRR, taking into consideration the following guidelines:

(i) The Locomotive Team shall agree upon parameters to be considered in any adjustment to the allocation of locomotive Equipment to NYC and PRR, including CRC's book value, actual numbers of locomotives, horsepower, tractive effort, powered axles, ownership and encumbrances, age and condition.

(ii) The CSXT appointees and the NSR appointees on the Locomotive Team shall separately develop and present to each other proposals for any adjustments to the allocation of locomotive Equipment to NYC and PRR.

(iii) In its negotiations, the Locomotive Team may consider CRC yard service, minimizing maintenance costs, enhancing reliability, and meeting service needs. The Locomotive Team may consider trades of CSXT and NSR locomotives to avoid the division of small groups of locomotive Equipment and to minimize the number of different models each would have as a result of the allocation.

(iv) If agreement is not reached prior to March 31, 1998, the Locomotive Team will submit a list of disputed issues for resolution to the chief operating officers of CSXT and NSR.

(b) Rolling Stock Equipment. Promptly after the date hereof, CSXT and NSR each shall appoint up to four members of a committee (the "Rolling Stock Team"). The Rolling Stock Team shall meet not later than January 1, 1998 to consider an adjustment to the allocation of rolling stock Equipment (including cabooses and non-revenue rolling stock but excluding Work Equipment) to NYC and PRR, taking into consideration the following guidelines:

(i) Consideration may be given to class and builder's lot, series within a given AAR car type and AAR Depreciated Value. Consideration may be given to splitting between NYC and PRR so as to minimize ongoing maintenance and repair cost, facilitate the assignment of car reporting marks, permit customary and efficient handling, movement and interchange of rolling stock in compliance with the AAR Car Service Rules and other applicable industry requirements.

(ii) All rolling stock Equipment that CSXT and NSR agree is either (A) obsolete or (B) damaged beyond economical repair necessary to return the same to service, may be grouped in a separate category and allocated between NYC and PRR in accordance with CSX's and NSC's respective Percentage (based on AAR Depreciated Value).

(iii) Consideration will be given to traffic and service requirements on the Routes comprising the Allocated Assets based on the most current traffic information (including current and anticipated traffic density, customer needs and transportation requirements).

(iv) Head-of-train-devices and end-of-train-devices may be allocated between NYC and PRR based on current transportation needs and train starts in respect of the NYC Allocated Assets and PRR Allocated Assets, as the case may be.

(v) If agreement is not reached prior to March 31, 1998, the Rolling Stock Team will submit a list of disputed issues to the chief operating officers of CSXT and NSR.

(c) Work Equipment. Promptly after the date hereof, NSR and CSXT each shall appoint up to three members of a committee (the "Work Equipment Team"). The Work Equipment Team shall, not later than January 1, 1998, meet to consider an adjustment to the allocation of all Work Equipment that is part of the Unallocated Assets. The Work Equipment Team may allocate such Work Equipment to NYC and PRR by value in proportion to CSX's and NSC's respective Percentage based on category of equipment, then model, then age and then condition. If agreement is not reached prior to March 31, 1998, the Work Equipment Team will submit a list of disputed issues to the chief operating officers of CSXT and NSR.

(d) Assignment. CSXT and NSR recognize that it may be desirable to cause CRC to assign and transfer ownership of certain of the allocated Equipment to NYC and PRR as part of the NYC Allocated Assets or the PRR Allocated Assets, respectively, to the extent such transfer is consistent with existing leases and financing agreements relating to such Equipment. If CSXT and NSR agree, Indebtedness related to Equipment may also be assigned to and assumed by NYC and PRR as part of the NYC Allocated Liabilities and the PRR Allocated Liabilities, respectively.

(e) Lease of Equipment. Equipment that is allocated to NYC and PRR as provided in this Section 2.6 will be made available to NYC and PRR as follows: (i) Equipment that is included in the Retained Assets shall be leased by CRC or its Affiliates to NYC or PRR, as the case may be, pursuant to the NYC Equipment Agreement or the PRR Equipment Agreement and will thereupon be leased or otherwise made available by NYC to CSXT and by PRR to NSR pursuant to the CSXT Equipment Agreement or the NSR Equipment Agreement, respectively; and (ii) Equipment that CSXT and NSR agree shall be assigned and transferred by CRC or its Affiliates to NYC or PRR, as the case may be, will be included in the NYC Allocated Assets or the PRR Allocated Assets, respectively, and will be leased or otherwise made available by

NYC to CSXT and PRR to NSR pursuant to the CSXT Equipment Agreement or the NSR Equipment Agreement, respectively. Liabilities arising from the ownership, operation and maintenance of Equipment shall be borne by the parties as provided for in the relevant Equipment Agreements. If the foregoing arrangements are impracticable in respect of any Equipment due to the requirements of any Contracts relating to such Equipment, the parties will negotiate other arrangements to achieve substantially the same effect.

(f) Equitable Adjustment. The parties recognize that the allocation of Equipment in general and the allocation of Equipment that is collateral with respect to Indebtedness may not reflect precisely CSX's and NSC's respective Percentage and that an equitable adjustment may be required with respect to Corporate Level Liabilities or otherwise to assure that each of NYC and PRR receives the benefits and bears the costs of Equipment as nearly as practicable in proportion to CSX's and NSC's respective Percentage. The Locomotive Team, the Rolling Stock Team and the Work Equipment Team, assisted as necessary by CSX and NSC accounting personnel, shall specify an appropriate adjustment mechanism which may include, but need not include or be limited to, trades between CSXT and NSR of locomotive Equipment, rolling stock Equipment and/or Work Equipment.

Section 2.7. Inventory at Altoona and Hollidaysburg. (a) As soon as practicable before the Closing Date, the Inventory Team shall determine the Base Inventory. "Base Inventory" (i) will consist of and mean all rolling-stock-related and locomotive-related inventory and supplies (including rolling-stock-related and locomotive-related system stockpiles) of CRR, CRC or their respective Affiliates located at the Altoona and Hollidaysburg shops as of a date at least thirty days prior to the anticipated Closing Date to be agreed by the Inventory Team, and (ii) will exclude (A) all obsolete or damaged material and supplies and (B) all inventory acquired for the purpose of fulfilling third-party Contracts which inventory will follow and be applied to fulfillment of such Contracts. The Inventory Team will code and group the items of inventory, materials and supplies included in the Base Inventory as "new," "reconditioned," "re-usable," and the like, and will value the groups based on CRC's material costs or other mutually agreeable methodology (excluding additives and overheads). The sum of the values of the groups will be the value of the Base Inventory.

(b) Rolling-stock-related and locomotive-related inventory and supplies (including rolling-stock-related and locomotive-related system stockpiles) of CRR, CRC and their respective Affiliates located at the Altoona and Hollidaysburg shops as of the Closing Date will be included in the PRR Allocated Assets. To the extent that, after the Closing Date, any work is performed at the request and for the account of CSXT or

NYC at the Altoona shop or the Hollidaysburg shop pursuant to Section 2.4(b), CSXT and NYC will not be charged for inventory and supplies used in such work up to an amount of inventory and supplies equal to 42% of the total value of the Base Inventory, but only to the extent that such work requires material and supplies of the types included in the Base Inventory. Notwithstanding the foregoing, NSR or PRR will separately charge CSXT or NYC for the fair market value of work performed for the account of CSXT or NYC.

Section 2.8. Allocated and Retained Liabilities. The parties agree that on and as of the Closing Date (x) NYC shall assume and agree to pay, perform and discharge as and when due all of the NYC Allocated Liabilities, (y) PRR shall assume and agree to pay, perform and discharge as and when due all of the PRR Allocated Liabilities, and (z) CRC and its Affiliates shall retain and pay, perform and discharge as and when due all of the Retained Liabilities. In furtherance of the foregoing, the parties agree that, in addition to Employee Related Liabilities that are designated as Allocated Liabilities or Retained Liabilities under Article VI, the Allocated Liabilities and the Retained Liabilities shall consist of the following:

(a) All Liabilities of CRR, CRC or their Affiliates, other than Environmental Liabilities (which are expressly allocated pursuant to Section 2.8(b)), Corporate Level Liabilities (which are expressly allocated pursuant to Section 2.8(f)), Employee Related Liabilities (which are expressly allocated pursuant to Article VI), Liabilities referred to in Section 2.9 or Liabilities expressly allocated to any Person pursuant to any of the Ancillary Agreements, including Liabilities associated with the handling and disposition of Actions, that (i) arise on or after the Closing Date and relate predominantly to NYC Allocated Assets shall be NYC Allocated Liabilities, and (ii) arise on or after the Closing Date and that relate predominantly to PRR Allocated Assets shall be PRR Allocated Liabilities.

(b) Environmental Liabilities (other than Environmental Liabilities expressly allocated to any Person pursuant to any of the Ancillary Agreements) shall be designated as follows: (i) Environmental Liabilities that relate predominantly to NYC Allocated Assets shall be NYC Allocated Liabilities; (ii) Environmental Liabilities that relate predominantly to PRR Allocated Assets shall be PRR Allocated Liabilities; and (iii) Environmental Liabilities that do not relate predominantly to Allocated Assets shall be Corporate Level Liabilities; provided that, in the case of Environmental Liabilities allocated to either NYC or PRR pursuant to clause (i) or (ii) above, NYC or PRR, as the case may be, will be reimbursed by CRC as amounts are expended by NYC or PRR, as the case may be, in respect of an Environmental Liability to the extent of the amount of the reserve existing in respect of such Environmental Liability as of April 8, 1997, re-

duced by any payments made and charged against such reserve prior to the Closing Date, except that NYC or PRR, as the case may be, will repay the amounts under this Section 2.8(b) to CRC to the extent that they receive the proceeds of any insurance recoveries in respect of an Allocated Liability which exceed such Allocated Liability net of such payments made.

(c) All Liabilities (other than Liabilities expressly allocated to any Person pursuant to any of the Ancillary Agreements) associated with the handling and disposition of FELA Claims made on or after the Control Date shall be NYC Allocated Liabilities, PRR Allocated Liabilities or Corporate Level Liabilities based upon the final allocation under this Article II of the Asset where the incident or incidents giving rise to the FELA Claim occurred, or, if the FELA Claim arises from an incident or incidents occurring at more than one location, based upon the final allocation under this Article II of the Asset most significantly involved.

(d) Except as provided in Section 2.8(a), Section 2.8(b) or Section 2.8(c), all Liabilities associated with the handling and disposition of Actions arising from incidents which occur in part prior to the Closing Date and in part on or after the Closing Date shall be allocated as follows:

(i) that portion of the Liability which is fairly attributable to incidents occurring prior to the Closing Date shall be Corporate Level Liabilities; and

(ii) that portion of the Liability which is fairly attributable to incidents occurring on or after to the Closing Date shall be NYC Allocated Liabilities, PRR Allocated Liabilities or Corporate Level Liabilities based upon the final allocation under this Article II of the Asset where the incident or incidents giving rise to the Action occurred, or, if the Action arises from an incident or incidents occurring at multiple locations, based upon the final allocation under this Article II of the Asset most significantly involved.

(e) Except as provided in Section 2.9(b) or Section 2.9(c), all Liabilities incurred after April 8, 1997 relating to the Merger Agreement, including without limitation Liabilities for CRR Shares, if any, that are put pursuant to the Pennsylvania Control Transaction Law, shall be Retained Liabilities.

(f) Except as provided in Sections 2.8(b) through (e), all Liabilities that arise prior to the Closing Date and all Corporate Level Liabilities shall be Retained Liabilities.

Section 2.9. Other Liabilities. (a) Each of CSX and NSC shall bear its own Transaction Expenses.

(b) CSX shall bear and pay all of CSX's, CRR's, the Surviving Corporation's and their respective Affiliates' Liabilities to current or former CRR shareholders with respect to the handling (which CSX shall control) and disposition (which CSX shall control) of claims pending on April 8, 1997 in shareholder Actions pending on April 8, 1997 (other than Actions brought by NSC or its Affiliates) together with all related litigation costs (which shall not include CRR legal fees incurred prior to April 8, 1997).

(c) CSX's, Green's, CRR's and the Surviving Corporation's, on the one hand, and NSC's and AAC's on the other hand, Liability with respect to the handling (which shall be controlled by the liability bearing party) and disposition (which shall be controlled by the liability bearing party) of disclosure-based claims based on disclosures made prior to April 8, 1997 brought by current or former CRR shareholders in connection with the Merger Agreement, the Amended Second Offer (as defined in the April 8 Agreement) or the transactions contemplated thereby based on the accuracy or completeness of information supplied by such party, together with all related litigation costs (which shall not include CRR legal fees incurred prior to April 8, 1997), shall be borne solely by CSX or NSC, respectively.

Section 2.10. Interline Accounts and Allocation.
(a) The parties acknowledge that interline railroads often allocate certain assets and liabilities arising from interline activities between and among themselves on the basis of AAR or industry agreements and rules, including, without limitation, AAR rules for the allocation of freight revenues and freight loss and damage claims. If any Asset or Liability which is allocated under this Agreement to NYC or PRR would, in the usual course of business under applicable AAR or industry agreement, rule or practice, be allocated between or among participating interline railroads, then the subsequent allocation of that Asset or Liability between or among NYC, PRR and/or any railroad subsidiary of either CSX or NSC under that agreement, rule or practice shall not in any manner be affected by this Agreement and the parties shall accept and be governed by that subsequent reallocation under the applicable AAR or industry agreement, rule or practice, notwithstanding any provision of this Agreement which may be construed or interpreted to the contrary, including, without limitation, the provisions of Section 2.2 and Section 2.8. The parties shall also accept and be governed by any provision of any AAR or industry agreement, rule or practice applicable to processes and procedures for dealing with the circumstances underlying any such subsequent reallocation (including without limitation the investigation and processing of third party claims), notwithstanding any provision of this Agreement which may be construed or interpreted to the contrary,

including, without limitation, the provisions of Section 8.14 and Section 10.2.

(b) If any dispute, controversy or claim arises with regard to the subsequent reallocation of any portion of any asset or liability allocated under Section 2.10(a), and the pertinent AAR or industry agreement, rule or practice provides for arbitration, then the arbitration provisions of that agreement, rule or practice shall, as to that subsequent reallocation, supersede any provisions of this Agreement which may be construed or interpreted to the contrary, including, without limitation, the arbitration provisions of Section 11.12.

Section 2.11. Insurance Proceeds. Except as otherwise provided in this Agreement, the proceeds of any insurance recoveries from insurance carried by CRR, CRC or their respective Affiliates on or prior to the Closing Date covering Assets, Retained Liabilities or Allocated Liabilities, which are received on or after the Closing Date, shall accrue to the benefit of and be held by or paid over to CRC, NYC or PRR in proportion to the obligation each bears under this Agreement for the particular Liabilities to which the insurance recoveries are applicable.

ARTICLE III

CLOSING AND CLOSING DATE

Section 3.1. Closing. Subject to the terms and conditions of this Agreement, the closing of the transactions contemplated in Article II and Article VI (the "Closing") shall take place at a place to be mutually agreed by CSX and NSC on the third business day following the date on which all of the conditions set forth in Article IX shall have been satisfied or waived, or at such other time, date and place as the parties shall agree upon (the "Closing Date").

Section 3.2. Pre-Closing Actions. Prior to the Closing, CRR shall cause CRC to establish NYC and PRR as wholly owned Subsidiaries of CRC and shall cause CRC and NYC to enter into the NYC LLC Agreement and shall cause CRC and PRR to enter into the PRR LLC Agreement.

Section 3.3. Closing Deliveries. At the Closing:

(a) CSX and CSXT shall deliver or cause to be delivered to NSC the following documents:

(i) an executed counterpart of the CSXT Equipment Agreement;

(ii) an executed counterpart of the CSXT Operating Agreement;

(iii) an executed counterpart of each of the Trackage Rights Agreements to which CSXT or its Affiliates is to be a party;

(iv) an executed counterpart of each of the CSXT/NSR Haulage Agreements to which CSXT or its Affiliates is to be a party;

(v) an executed counterpart of each of the Shared Assets Agreements and Other Operating Agreements to which CSXT or its Affiliates is to be a party; and

(vi) such other and further certificates, assurances and documents otherwise necessary for the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements.

(b) NSC and NSR shall deliver or cause to be delivered to CSX the following documents:

(i) an executed counterpart of the NSR Equipment Agreement;

(ii) an executed counterpart of the NSR Operating Agreement;

(iii) an executed counterpart of each of the Trackage Rights Agreements to which NSR or its Affiliates is to be a party;

(iv) an executed counterpart of each of the CSXT/NSR Haulage Agreements to which NSR or its Affiliates is to be a party;

(v) an executed counterpart of each of the Shared Assets Agreements and Other Operating Agreements to which NSR or its Affiliates is to be a party; and

(vi) such other and further certificates, assurances and documents otherwise necessary for the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements.

(c) CRR Parent, CRR and CRC (for itself and, if applicable, as CRR's successor entity) shall deliver or cause to be delivered to each of CSX and NSC:

(i) the NYC Equipment Agreement executed by CRC and NYC;

(ii) a counterpart of the CSXT Equipment Agreement executed by NYC;

(iii) the PRR Equipment Agreement executed by CRC and PRR;

(iv) a counterpart of the NSR Equipment Agreement executed by PRR;

(v) a counterpart of the CSXT Operating Agreement executed by NYC;

(vi) a counterpart of the NSR Operating Agreement executed by PRR;

(vii) an executed counterpart of each of the Trackage Rights Agreements, the CSXT/NSC Haulage Agreements, the Shared Assets Agreements and the Other Operating Agreements to which CRC or its Affiliates is a party;

(viii) the Tax Allocation Agreement executed by Green, CRR, CRC, CRR Industries, PRR and NYC;

(ix) the NYC LLC Agreement executed by CRC;

(x) the PRR LLC Agreement executed by CRC;

(xi) a Capital Contribution, Assignment and Assumption Agreement executed by CRC and NYC to effectuate the transfer of the NYC Allocated Assets and the NYC Allocated Liabilities to NYC;

(xii) a Capital Contribution, Assignment and Assumption Agreement executed by CRC and PRR to effectuate the transfer of the PRR Allocated Assets and the PRR Allocated Liabilities to PRR; and

(xiii) such other and further certificates, assurances and documents otherwise necessary for the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements.

ARTICLE IV
CRR PARENT, CRR AND CRC GOVERNANCE AND FUNDING

Section 4.1. Pre-Control Date Matters. (a) Unless expressly permitted in another agreement between CSX and NSC, neither CSX nor NSC will, without the prior agreement of the other, agree to any modifications of the terms and conditions of, or give any consent or waiver under, the Merger Agreement, including without limitation under Section 4.1 of the Merger Agree-

ment. Without limiting the foregoing, neither CSX nor NSC will, without the other's prior consent, agree to any determinations with respect to, direct CRR to take any action with respect to, or object to or prohibit any action with respect to CRR's employee stock ownership plan, pension plan, stock employee compensation trust or any other CRR benefit plan, program, arrangement or other contract, or any trust or other funding arrangement that is intended to be used in whole or in part to provide or fund benefits under any CRR or CRC benefit plans, programs, arrangements or contracts. In addition, CSX will consult and agree with NSC prior to providing any notices to CRR under the Merger Agreement and shall promptly provide NSC with copies of all written notices provided by CSX to CRR or received by CSX from CRR under the Merger Agreement.

(b) Prior to the Control Date CRR shall be governed in accordance with the terms of the Amended and Restated Voting Trust Agreement.

Section 4.2. Post-Control Date CRC Governance. CRR Parent shall vote all of the shares in the capital stock of CRC and all of the parties shall take all other necessary or desirable action within their respective control to effectuate the following:

(a) Following the Control Date, the business and affairs of CRC shall be managed under the direction of the CRC Board consisting of six persons divided into two classes of three directors. Three directors shall be designated by CSX (the "CSX Directors") and three directors shall be designated by NSC (the "NSC Directors").

(b) Approval of the CRC Board shall be required for all Major Decisions of CRC. The power of the CRC Board to approve such actions and decisions shall be exclusive to the CRC Board, and no officer may take any such action or make any such decision without the approval of the CRC Board. Any action or decision of the CRC Board, whether at a meeting of the CRC Board or by written consent, may only be taken if approved by a majority of CSX Directors and a majority of NSC Directors.

(c) The CSX Directors may appoint by majority vote one Co-Chairman (the "CSX Co-Chairman") and the NSC Directors may appoint by majority vote one Co-Chairman (the "NSC Co-Chairman"). The Co-Chairmen shall preside at all meetings of the CRC Board and shall have and perform such other duties as may be assigned to them by the CRC Board.

(d) If the office of any CSX Director becomes vacant, the remaining CSX Directors by a majority vote may appoint any qualified individual to fill such vacancy, and such individual shall hold office for the unexpired term and until his or her

successor shall be duly chosen. If the office of any CSX Director becomes vacant and there are no remaining CSX Directors, CSX may appoint any qualified individuals to fill the CSX Directors vacancies by a writing to such effect. If the office of any NSC Director becomes vacant, the remaining NSC Directors by a majority vote may appoint any qualified individual to fill such vacancy, and such individual shall hold office for the unexpired term and until his or her successor shall be duly chosen. If the office of any NSC Director becomes vacant and there are no remaining NSC Directors, NSC may appoint any qualified individuals to fill the NSC Directors vacancies by a writing to such effect.

(e) Any CSX Director may be removed either for or without cause at any time, but only by CSX in a writing to such effect. Any NSC Director may be removed either for or without cause at any time, but only by NSC in a writing to such effect.

(f) In addition to the two Co-Chairmen of the CRC Board, the officers of CRC may include a chief executive officer, one or more vice presidents, a treasurer and a secretary, all of whom shall be elected by and shall serve at the direction of the CRC Board.

(g) The parties agree to take all necessary action such that each of CSX and NSC shall have rights identical to those set forth in paragraphs (a) through (f) above with respect to the Boards of Directors and management of CRR and each of its Affiliates in addition to CRC other than NYC and PRR.

Section 4.3. Post-Closing Date CRC Funding. (a) From and after the Closing Date, CSX and NSC shall ensure that CRR, CRC and their Affiliates have sufficient cash to satisfy the Retained Liabilities as they become due and any operating and other expenses incurred by CRR, CRC and their Affiliates in the conduct of their business consistent with this Agreement and the Ancillary Agreements after giving effect to any Distributions received or to be received from NYC and PRR. In furtherance of the foregoing sentence, following receipt by CRR Parent of written notice from CRC of a CRC Board decision that CRC requires such cash, CRR Parent shall provide such cash to CRC by capital contribution, loan or advance to be made on the next business day following the expiration of 30 days after receipt of such notice, unless a later date is determined by the CRC Board or another date is agreed in writing by CRC and CRR Parent.

(b) It is the intent of the parties that the economic burden of the Corporate Level Liabilities will be borne, directly or indirectly, by CSX or NSC in accordance with their respective Percentage.

Section 4.4. Post-Control Date CRC and Other Distributions. Following the Control Date, subject to any legal and

contractual restrictions, the CRC Board shall cause CRC to make a Distribution to CRR Parent as soon as is practical and in any event within 45 days after each fiscal quarter of all cash received by CRC from operations and any dividends, interest or other cash Distributions from any Person in which CRC has an interest which is in excess of 120% of the amount of cash reasonably contemplated by the CRC Board as being necessary for the cash payment of CRC's operating expenses (net of receipts), debt service, contingencies, budgeted capital expenditures and working capital requirements (all of which shall take into account cash on hand and future expected cash surpluses and cash requirements). Notwithstanding the foregoing, no Distribution shall be made which would render CRC insolvent or which is prohibited by the terms of any Indebtedness of CRC or its Affiliates.

Section 4.5. Operating Fees, Interest Rentals and Base Rent. The parties anticipate that as of the Closing Date, the sum of the following amounts will total seven hundred and fifty million dollars: (i) Interest Rentals payable under the Shared Assets Agreements, (ii) Operating Fees payable under the CSXT Operating Agreement and the NSR Operating Agreement and (iii) Base Rent payable under the CSXT Equipment Agreement and the NSR Equipment Agreement. The parties acknowledge that as of a Valuation Date, (i) the Interest Rentals, Operating Fees and Base Rent shall be determined as set forth in the CSXT Operating Agreement, the NSR Operating Agreement, the CSXT Equipment Agreement, the NSR Equipment Agreement and the Shared Assets Agreements and (ii) the allocation between CSXT and NSR of the Operating Fees and Base Rent payable under the CSXT Operating Agreement, the NSR Operating Agreement, the CSXT Equipment Agreement and the NSR Equipment Agreement shall reflect the then relative Fair Market Rental Values of the NYC Allocated Assets, the PRR Allocated Assets, the CSXT Equipment and the NSR Equipment as of the most recent Valuation Date (which allocation, in the case of a Valuation Date that is also the Closing Date, shall be a 58% allocation to NSR and a 42% allocation to CSXT).

ARTICLE V

NYC and PRR GOVERNANCE AND CONDUCT

Section 5.1. NYC Governance. From and after the Control Date, CSX shall have exclusive authority to direct the appointment of the officers and directors of NYC who shall in their discretion, but subject to the provisions of this Agreement, direct the operation of NYC. Without limiting the foregoing but subject to Section 5.3, CRC, in its capacity as the sole member of NYC, shall follow CSX's directions with respect to the management and operation of NYC to the extent that such directions are not inconsistent with the terms of this Agreement, the NYC LLC Agreement or any applicable laws and do not involve the transfer,

sale, conveyance, distribution, pledge, hypothecation, encumbrance or assignment of such membership interest (other than in connection with a Restructuring).

Section 5.2. PRR Governance. From and after the Control Date, NSC shall have exclusive authority to direct the appointment of the officers and directors of PRR, who shall in their discretion, but subject to the provisions of this Agreement, direct the operation of PRR. Without limiting the foregoing but subject to Section 5.3, CRC, in its capacity as the sole member of PRR, shall follow NSC's directions with respect to the management and operation of PRR to the extent that such directions are not inconsistent with the terms of this Agreement, the PRR LLC Agreement or any applicable laws and do not involve the transfer, sale, conveyance, distribution, pledge, hypothecation, encumbrance or assignment of such membership interest (other than in connection with a Restructuring).

Section 5.3. NYC and PRR Actions. Notwithstanding anything to the contrary contained in Section 5.1 or Section 5.2, unless it receives the prior written consent of CSX and NSC to the contrary, CRC, as the sole member of each of NYC and PRR, shall cause NYC and PRR respectively to enforce, to the fullest extent permitted by law or Contract, their rights under the Ancillary Agreements, including any right to receive payments or any indemnities thereunder.

Section 5.4. NYC and PRR Distributions. The parties agree that, from and after the Control Date, other than Distributions made by NYC and PRR contemporaneously and in proportion to the respective Percentage of CSX and NSC, NYC and PRR shall not be required, without the consent of CSX or NSC, respectively, to make any Distributions to CRC or its Affiliates.

Section 5.5. Actions. CRC shall exercise its ownership interest in NYC and PRR, respectively, and all of the parties shall take all other necessary or desirable action within their respective control, in order to effectuate the provisions of this Article V.

ARTICLE VI

EMPLOYEE MATTERS

Section 6.1. Employees of CRR and CRC. (a) On the Closing Date, or as soon thereafter as any applicable labor agreements, statutes, regulations and STB conditions, and implementing agreements thereunder, may permit or require, each of CSX, NSC, NYC or PRR or their respective Affiliates shall make employment available to CRR and CRC agreement employees pursuant to the requirements and procedures under the said applicable

labor agreements, statutes, regulations, conditions and implementing agreements.

(b) Prior to the Closing Date, each of CSX and NSC and their respective Affiliates shall comply with the Staffing Process Guidelines dated June 1, 1997 as adopted by CSX and NSC.

(c) Not later than thirty days prior to the Closing Date, CSX and NSC jointly shall determine the location, functions to be performed by, resources and positions required by, and methodology for cost determination for Continuing CRC Management. Each function shall be defined in terms of a description of the function, the number of positions required to perform the function and general descriptions of the nature of each function, including whether it is intended to be performed on an interim or on-going basis. CSX and NSC jointly may enter into one or more agency agreements by which CSX or NSC or their respective Affiliates may perform any Continuing CRC Management functions.

(d) To the extent implementing agreements are required by STB-imposed conditions in order to effect the transactions contemplated by Article II and Article VI, each party agrees to use its commercially reasonable efforts to obtain implementing agreements reasonably determined by the parties to be necessary to effect such transactions. Where necessary to effect the transactions contemplated by Article II and Article VI, the parties will jointly negotiate (and if no agreement is reached will jointly arbitrate to reach an agreement) an implementing agreement to which they will be parties with the employee representative(s) of the appropriate craft or class of employees of each carrier. Notwithstanding the foregoing, no party shall be required by this Section 6.1(d) to agree to implementing agreements which it, in its reasonable judgment, determines to be contrary to its business interests.

Section 6.2. Employee Related Liabilities. Employee Related Liabilities shall be designated as follows:

(a) Separation Costs subsequent to the Control Date associated with agreement employees at CRC's or its Affiliates' shops in Altoona and Hollidaysburg shall be the responsibility of NSR. Separation Costs subsequent to the Control Date associated with agreement employees at CRC's or its Affiliates' headquarters in Philadelphia, technology center in Philadelphia, and customer service center in Pittsburgh (notwithstanding its joint use as a SSO Facility) will be the responsibility of CSXT.

(b) The on-going employee expenses related to Continuing CRC Management after the Control Date shall be Corporate Level Liabilities; provided that (i) each of CSX and NSC shall have the right pursuant to Section 2.3 to discontinue use of a Continuing CRC Management function or a position related to a SSO

Facility and (ii) each of CSX and NSC shall have the right pursuant to Section 2.4 to discontinue use of a function performed by, or a position occupied by, an employee identified pursuant to clause (b) of the definition of Continuing CRC Management. Notwithstanding the foregoing, Separation Costs associated with Continuing CRC Management employees after the Closing Date shall be allocated as otherwise provided in this Agreement.

(c) In each instance subsequent to the Control Date and subject to the provisions of Section 6.2(a) above, (i) Separation Costs associated with CRC agreement employees working jobs at or in respect of NYC Allocated Assets will be the sole responsibility of CSXT, (ii) Separation Costs associated with CRC agreement employees working jobs at or in respect of PRR Allocated Assets will be the sole responsibility of NSR, (iii) for each CRC agreement employee working a job at or in respect of Retained Assets, Separation Costs will be a Corporate Level Liability, and (iv) Separation Costs associated with CRC or CRR agreement employees working jobs at or in respect of two or more such properties (i.e., NYC Allocated Assets, PRR Allocated Assets and Retained Assets) will be treated as the responsibility of CSXT, NSR, or as a Corporate Level Liability, depending upon the Asset at or in respect of which the employee predominantly works.

(d) Subject to Sections 6.2(a) and (e), if an employee of CRR, CRC or their respective Affiliates on the Control Date who is subject to any protective conditions imposed by the STB pursuant to the transactions contemplated by this Agreement or the Ancillary Agreements cannot obtain employment with CRC, PRR, NYC, CSX, NSC or their respective Affiliates after the Control Date, then the Separation Costs in respect of such employee shall be included among Corporate Level Liabilities, NYC Allocated Liabilities or PRR Allocated Liabilities on the basis of whether the employee performed the preponderance of his or her service in the six months preceding the first day of the month in which the Control Date occurred at or in respect of a Retained Asset, an NYC Allocated Asset or a PRR Allocated Asset. The Separation Costs of employees as to whom no reasonable determination can be made shall be Corporate Level Liabilities, but shall be assigned on an alternating basis to NYC and PRR for the purpose of administering the claims.

(e) If an employee of CRC, CSX, NSC, PRR, NYC or their respective Affiliates who is subject to any protective conditions imposed by the STB pursuant to the transactions contemplated by this Agreement or the Ancillary Agreements moves his or her employment from one of such parties to another of such parties on or after the Control Date (including any employee in respect of whom the Separation Costs have already been allocated to one of CRC, PRR, NYC, CSX, NSC or their respective Affiliates), responsibility for such employee's Separation Costs arising thereafter

shall be assumed by the new employer; provided that any relocation costs shall be the responsibility of the first employer.

(f) Separation Costs associated with employees who were employed by CSX or NSC or their Affiliates on the day preceding the Control Date will be the sole responsibility of such employer.

(g) Separation Costs associated with employees who are, as of the Control Date, non-agreement employees of CRR or CRC (including payments to be made by CSX, CRR or the Surviving Corporation under the Merger Agreement) shall be Corporate Level Liabilities. Compensation and other expenses after the Control Date associated with those non-agreement CRC employees who are not designated as Continuing CRC Management and who are not employed by either CSX or NSC, or their respective Affiliates, shall be Corporate Level Liabilities until such time as such employees are no longer employed by CRC.

(h) Compensation and other expenses (excluding Separation Costs) for agreement employees (other than Continuing CRC Management) working jobs at or in respect of NYC Allocated Assets shall be the sole responsibility of CSXT. Compensation and other expenses (excluding Separation Costs) for agreement employees (other than Continuing CRC Management) working jobs at or in respect of PRR Allocated Assets shall be the sole responsibility of NSR.

(i) Notwithstanding anything in this Section 6.2 to the contrary, Separation Costs (other than payments made pursuant to the CRR Stay Bonus Program) under CRR or CRC plans and agreements (including the Third Amendment) for a CRC non-agreement employee who becomes employed after the Control Date by CSX or its Affiliates or NSC or its Affiliates, which Separation Costs arise subsequent to the date of such employment, will be borne by the employing party.

Section 6.3. Non-Agreement Employee Benefit Plans. (a) The employee benefit plans, programs and policies which currently are provided to the non-agreement employees of CRR, CRC or their respective Affiliates will continue to be provided to the non-agreement employees of CRC and its Affiliates and to non-agreement Continuing CRC Management on and after the Control Date, unless it is determined jointly by CSX and NSC that such benefits shall be changed; provided that CSX and NSC shall not make any changes in such plans, programs or policies that contravene Attachment A to the CRR Disclosure Schedule delivered in connection with the Third Amendment. The costs associated with such plans, programs and policies shall be Corporate Level Liabilities, except that Separation Costs shall be allocated and paid as otherwise provided herein. CSX and NSC jointly may enter into one or more agency agreements with CRR, CRC or their respec-

tive Affiliates for CSX or NSC to provide any of such benefits, programs or policies.

(b) Any employee benefit plans, programs and policies for the employees of NYC and its Subsidiaries shall be the sole responsibility of NYC and included in the NYC Allocated Liabilities. Any employee benefit plans, programs and policies for the employees of PRR and its Subsidiaries shall be the sole responsibility of PRR and included in the PRR Allocated Liabilities. However, notwithstanding the foregoing, NYC, PRR and CRC shall provide to each other any information that is necessary to determine whether any benefit plan is or continues to be tax qualified, and in the event that NYC, PRR or CRC reasonably determines that the benefit plans of NYC, PRR and CRC, when considered together, may cause one or more benefit plans to lose or fail to obtain their tax qualification, NYC, PRR and CRC shall agree to appropriate changes to prevent such loss of tax qualification.

(c) CSX, NSC and CRC agree to take any actions permitted by law that are necessary or appropriate to determine the amount of excess assets in CRC benefit plans and to allow allocation to CSX and NSC or their respective Affiliates in proportion to their respective Percentage; provided that no such transfer shall reduce the assets remaining in any CRC defined benefit plans to a level that is less than 100% of the Liabilities for benefits on a termination basis as reasonably calculated by Price Waterhouse employing usual and customary methodology and assumptions and; provided further that no such transfer shall reduce the assets remaining in any other CRC benefit plan to a level that is less than 100% of the Liabilities for those other CRC benefit plans as reasonably calculated by Price Waterhouse. CSX, NSC and CRC shall reach an agreement as to the transfer of accrued benefits and related assets with respect to employees that are transferred.

(d) Any Liabilities incurred prior to the Closing Date by CRR, CRC or any of their respective Affiliates with respect to any employee benefit plan, program, policy or arrangement, other than to the extent a Liability is funded under a CRC benefit plan, shall be Corporate Level Liabilities.

Section 6.4 Residual Liability. The allocation of liabilities associated with the employees of CRR, CRC or any of their respective Affiliates hereunder is intended merely to assign primary responsibility for such liabilities among the parties. Nothing in the Agreement shall be interpreted or construed as a restriction or limitation of the duties and responsibilities of CRR, CRC, their respective Affiliates and CSX with respect to employee-related liabilities as set forth in the Merger Agreement and Attachment A to the CRR Disclosure Schedule delivered in connection with the Third Amendment.

ARTICLE VII

REPRESENTATIONS AND WARRANTIES

Section 7.1. CSX. CSX represents and warrants to NSC, CRR and CRR Parent as of the date hereof and as of the Closing Date as follows:

(a) Organization and Good Standing. CSX is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Virginia.

(b) Authority. CSX has full corporate power and authority to execute and deliver this Agreement and the Ancillary Agreements and to consummate the transactions contemplated hereby and thereby. All corporate acts and other corporate proceedings required to be taken by or on the part of CSX to authorize CSX to execute, deliver and authorize the performance of this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby have been duly and properly taken.

(c) Enforceability. This Agreement has been and each of the Ancillary Agreements will be duly executed and delivered by CSX and, when duly executed and delivered by NSC and (to the extent such agreement is not being entered into as of the date hereof) CSX, will constitute the legal, valid and binding obligation of CSX enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization and other laws of general application relating to or affecting enforcement of creditors' rights and except that the availability of equitable remedies, including specific performance, is subject to the discretion of the court before which any proceeding therefor may be brought.

(d) No Violation. The execution and delivery by CSX of this Agreement and the Ancillary Agreements will not violate in any material respect any law, or in any material respect conflict with, result in any breach of, constitute a default (or any event which with notice or lapse of time or both would become a default) under the Articles of Incorporation or Bylaws of CSX or any material Contract to which CSX is a party or by which it or its property or assets is bound.

(e) No Approvals. Except for required approvals by the STB and filings required under the Securities Exchange Act of 1934, as amended (the "Required Approvals"), no declaration, filing or registration with, or notice to, or authorization, consent or approval of, any Governmental Entity is necessary for the consummation by CSX of the transactions contemplated hereby or by the Ancillary Agreements, other than such filings, registrations, authorizations, consents or approvals which, if not obtained or

made, will not, in the aggregate, materially adversely affect the ability of CSX to consummate the transactions contemplated hereby or by the Ancillary Agreements.

Section 7.2. NSC. NSC represents and warrants to CSX, CRR and CRR Parent as of the date hereof and as of the Closing Date as follows:

(a) Organization and Good Standing. NSC is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Virginia.

(b) Authority. NSC has full corporate power and authority to execute and deliver this Agreement and the Ancillary Agreements and to consummate the transactions contemplated hereby and thereby. All corporate acts and other corporate proceedings required to be taken by or on the part of NSC to authorize NSC to execute, deliver and authorize the performance of this Agreement and the Ancillary Agreements and the transactions contemplated hereby and thereby have been duly and properly taken.

(c) Enforceability. This Agreement has been and each of the Ancillary Agreements will be duly executed and delivered by NSC and, when duly executed and delivered by CSX and (to the extent such agreement is not being entered into as of the date hereof) NSC, will constitute the legal, valid and binding obligation of NSC enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization and other laws of general application relating to or affecting the enforcement of creditors' rights and except that the availability of equitable remedies, including specific performance, is subject to the discretion of the court before which any proceeding therefor may be brought.

(d) No Violation. The execution and delivery by NSC of this Agreement and the Ancillary Agreements will not violate in any material respect any law, or in any material respect conflict with, result in any breach of, constitute a default (or any event which with notice or lapse of time or both would become a default) under the Articles of Incorporation or Bylaws of NSC or any material Contract to which NSC is a party or by which it or its property or assets is bound.

(e) No Approvals. Except for the Required Approvals, no declaration, filing or registration with, or notice to, or authorization, consent or approval of, any Governmental Entity is necessary for the consummation by NSC of the transactions contemplated hereby or by the Ancillary Agreements, other than such filings, registrations, authorizations, consents or approvals which, if not obtained or made, will not, in the aggregate, materially adversely affect the ability of NSC to consummate the transactions contemplated hereby or by the Ancillary Agreements.

ARTICLE VIII

COVENANTS

Section 8.1. Conduct of Business. Except as provided for in this Agreement or as otherwise consented to by CSX and NSC in writing, between the Control Date and the Closing Date, the parties will use reasonable commercial efforts to cause the Assets to be operated by CRR, CRC and their respective Affiliates in the ordinary course consistent with past practice and in compliance in all material respects with all applicable laws and regulations and will use their reasonable commercial efforts to preserve intact the Assets, use reasonable efforts to keep available the services of CRR's, CRC's and their respective Affiliates' current officers and other key employees as a group and preserve CRR's, CRC's and their respective Affiliates' relationships with those Persons having business dealings with CRR, CRC and their respective Affiliates to the end that their goodwill and ongoing businesses shall be unimpaired at the Closing Date. Without limiting the foregoing, between the Control Date and the Closing Date, the parties will use reasonable commercial efforts to ensure that CRR, CRC and their respective Affiliates continue their maintenance and improvement of Assets in the ordinary course in accordance with past practice without discriminating between Assets on the basis of whether they are or will be NYC Allocated Assets, PRR Allocated Assets or Retained Assets.

Section 8.2. Best Efforts. Subject to the terms and conditions of this Agreement, each party agrees to use best efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things reasonably necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement and the Ancillary Agreements. No party shall knowingly take any action in contravention of, or which is inconsistent with, the transactions contemplated by this Agreement.

Section 8.3. Further Assurances; Consents. (a) From time to time after the Closing Date, each of the parties will execute and deliver such further instruments and will take such other actions as CSX, on the one hand, or NSC, on the other hand, may reasonably request in order to effectuate the purposes of this Agreement and the Ancillary Agreements and to carry out the terms hereof and thereof. To the extent that any consent or concurrence is required under this Agreement by any party or its Affiliates, such consent or concurrence shall not be unreasonably withheld.

(b) If any of the Allocated Assets cannot be transferred as contemplated by this Agreement (other than Contracts which are dealt with in Section 8.5), the parties will cooperate

to make the Allocated Asset available through whatever alternative arrangements will best carry out the purpose and accomplish the intent of this Agreement, except that this requirement shall not apply to Allocated Assets which cannot be transferred because of regulatory constraints.

Section 8.4. STB Approval. (a) The parties will as expeditiously as possible seek STB approval necessary for the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements. The parties will use their reasonable best efforts to obtain such approvals, and no party will take any position (at the STB or with any other Governmental Entity or elsewhere) inconsistent with this Agreement and the Ancillary Agreements.

(b) Each of CSX and NSC shall (i) coordinate and cooperate with one another to prepare and present to the STB, as soon as practicable, all applications, petitions, notices, filings and other presentations in connection with seeking all STB approvals, exemptions or other authorizations necessary to consummate the transactions contemplated by this Agreement and by the Ancillary Agreements, using, to the extent practicable, joint legal counsel and expert witnesses, (ii) prosecute such applications, petitions, notices, filings and other presentations with diligence, (iii) diligently oppose any objections to, appeals from or petitions to reconsider or reopen any such STB approval, (iv) take all such further action as in their judgment may facilitate obtaining a final order or orders of the STB approving the transactions contemplated by this Agreement and the Ancillary Agreements and (v) bear the burden, without adjustment in the percentage or other consideration, of any STB imposed condition it accepts.

(c) Each of CSX and NSC shall coordinate and consult with one another with respect to all settlements involving the STB approval process. The parties further agree that, (i) any settlement or agreement pertaining to the Shared Assets Areas and the Shared Assets Agreements will require the joint approval of CSX and NSC; (ii) none of CRR, CRC nor CSX shall make any settlement or agreement with respect to any PRR Allocated Asset without NSC's prior written consent; (iii) none of CRR, CRC nor NSC shall make any settlement or agreement with respect to any NYC Allocated Asset without CSX's prior written consent and (iv) nothing contained herein shall require joint action for either CSX or NSC to enter into any settlement or Transportation Contract with any shipper or receiver of freight. CSX and NSC may act in their sole discretion in respect of the matters set forth in this Section 8.4(c).

(d) If the STB, as a condition to its approval of the transactions contemplated by this Agreement and the Ancillary Agreements, imposes a non-standard condition which would mate-

rially reduce the benefits to either CSX or NSC from the transactions contemplated by this Agreement and the Ancillary Agreements, then the materially affected party may in its sole discretion (i) accept such condition and proceed with the transactions contemplated by this Agreement and the Ancillary Agreements, or (ii) appeal such condition to the courts and postpone the Closing Date for up to thirty months (and its election under this Section 8.4(d)) until final action on its appeal, and (iii) if such appeal is unsuccessful, reject the condition and proceed in accordance with the terms of the Amended and Restated Voting Trust Agreement.

Section 8.5. Other Approvals. (a) The parties shall as expeditiously as possible use their reasonable best efforts to obtain any consent, authorization, order or approval of, or any exemption by, any Governmental Entity (other than the STB which is covered by Section 8.4) or private Person required to be obtained or made by the parties or their respective Affiliates to effectuate the purposes of this Agreement or the Ancillary Agreements and the transactions contemplated herein and therein, which actions shall include, without limitation, furnishing all information required under or in connection with approvals of or filings with any such Governmental Entity or private Person. Each party shall reasonably cooperate with each other in connection with the foregoing. CRC will use reasonable commercial efforts to transfer and assign to NYC and PRR all Contracts which are to be transferred pursuant to Article II, it being understood that CRC shall not seek any consents of any third party unless requested to do so by NYC, in the case of a Contract that is a NYC Allocated Asset, or PRR, in the case of a Contract that is a PRR Allocated Asset, and in no event shall CRC be obligated to make payments to third parties in order to obtain such consents.

(b) All Contracts and rights which are Allocated Assets and are not transferred pursuant to Section 8.5(a) shall be handled in accordance with the following procedure: (i) CRC or its Affiliates shall continue to be bound thereby and to hold the rights thereunder and (ii) NYC, in the case of a Contract that is a NYC Allocated Asset, and PRR, in the case of a Contract that is a PRR Allocated Asset, shall pay, perform and discharge fully all of the obligations of CRC or its Affiliates thereunder from and after the Closing Date. CRC or its Affiliates shall, without further consideration therefor, pay, assign and remit promptly to NYC or PRR, as appropriate, all monies, rights and other consideration received in respect of such performance. CRC or its Affiliates shall exercise or exploit the rights and options under all such Contracts only as reasonably directed by NYC, in the case of a Contract that is a NYC Allocated Asset, and PRR, in the case of a Contract that is a PRR Allocated Asset, and at NYC's or PRR's expense.

Section 8.6. [Intentionally Omitted.]

Section 8.7. Risk of Loss; Forced Disposal. (a) In the event of any loss or damage to or destruction of, prior to the Closing, any or all of the Allocated Assets by fire or other casualty, the title to and other rights associated with such Allocated Assets shall nevertheless pass to NYC or PRR as provided for herein without any liability or obligation on the part of any of the parties or their respective Affiliates as a result of such loss, damage or destruction and without any adjustment of the Percentage; provided, however, that at the Closing, CRC shall transfer to NYC or PRR, as the case may be, CRC's or its Affiliates' rights to any proceeds of any casualty insurance policies covering such damage or destruction plus the net proceeds, if any, actually collected by CRC or its Affiliates under the provisions of the casualty insurance policies, if any, covering such loss, damage or destruction.

(b) If any of the Allocated Assets are disposed of by CRR, CRC or their respective Affiliates because of conditions imposed by the STB prior to the Closing, in lieu of the transfer of such Allocated Assets, CRR, CRC or their respective Affiliates shall deliver to NYC or PRR, as the case may be, the benefit of any net after-tax consideration attributable to any such Allocated Assets received by CRR, CRC or their respective Affiliates pursuant to such disposition.

Section 8.8. Public Statements; Public Filings. Any written news releases prior to the Closing and any other disclosure required to be filed prior to the Closing with any Governmental Entity (other than routine information and filings with the Securities and Exchange Commission) pertaining to this Agreement, the Ancillary Agreements or the transactions contemplated hereby or thereby will be subject to prior review by both CSX and NSC prior to release.

Section 8.9. Restructuring of CRC. (a) It is the parties' intent that, at some time after the Closing Date, CRC will transfer PRR or the assets and liabilities of PRR to NSC, transfer NYC or the assets and liabilities of NYC to CSX or otherwise separate PRR (for the benefit of NSC) and NYC (for the benefit of CSX) from CRC in the most efficient manner for U.S. federal income tax purposes (the transaction separating PRR from CRC for the benefit of NSC hereinafter referred to as the "PRR Restructuring", and the transaction separating NYC from CRC for the benefit of CSX hereinafter referred to as the "NYC Restructuring"). A Restructuring shall not be consummated unless (i) CRC obtains a private letter ruling from the Internal Revenue Service (the "Service") substantially to the effect that such Restructuring qualifies as a tax-free transaction (except with respect to gain or income required to be recognized with respect to intercompany items or excess loss accounts pursuant to regulations under Section 1502 of the Code or with respect to gain or

income recognized in the Restructuring under Section 356 or Section 361 of the Code as the result of the receipt of "other property or money" within the meaning of such sections, provided that the amount of such gain or income recognized by CRR or its Affiliates is not substantial) under the Code (the "Ruling"), or the parties otherwise agree to proceed with such Restructuring on the basis of an opinion of tax counsel generally to the same effect, (ii) any required approval of the STB is obtained, (iii) Tax indemnities mutually satisfactory to CSX and NSC have been agreed to and (iv) the conveyance of the CRR Parent interests is structured in a way to ensure to the mutual satisfaction of CSX and NSC that after a Restructuring, NSC (in the case of the PRR Restructuring) and CSX (in the case of the NYC Restructuring) continue to hold their respective Percentage of the equity and 50 percent of the vote with respect to the Retained Assets and the Retained Liabilities and NSC (in the case of the PRR Restructuring) has no continuing interest whatsoever in NYC and CSX (in the case of the NYC Restructuring) has no continuing interest whatsoever in PRR. In addition, a PRR Restructuring shall not be consummated if, based upon the written opinion of outside tax counsel to CSX, such Restructuring would more likely than not impair the ability to consummate a subsequent NYC Restructuring, and a NYC Restructuring shall not be consummated if, based upon the written opinion of outside tax counsel to NSC, such Restructuring would more likely than not impair the ability to consummate a subsequent PRR Restructuring. The parties agree that the application referred to in Section 8.4(b) shall not seek the authority to effect any transaction referred to in this Section 8.5.

(b) CRC shall seek a Ruling at the request of either CSX or NSC or both of them. If CRC seeks a Ruling at the request of either CSX or NSC or both of them, after consultation with the party or parties requesting the Ruling, CRC shall prepare the Ruling request and any supplements or materials relating thereto that are required to be submitted to the Service in connection with the Ruling request (each, an "IRS Submission"). Each IRS Submission shall be true and correct in all material respects, and all material facts relating to the requested Ruling shall be disclosed to the Service. CRC shall provide CSX and NSC with a reasonable opportunity to review and comment on each IRS Submission prior to the filing of such IRS Submission with the Service, and no IRS Submission shall be filed with the Service unless the party or parties requesting the Ruling have agreed in writing as to the contents of such IRS Submission prior to such filing. CRC shall provide CSX and NSC with copies of each IRS Submission as filed with the Service. Neither CRC nor its Affiliates or representatives shall conduct any communications with the Service concerning the Ruling request, including meetings or conferences with personnel from the Service, whether in person, telephonically or otherwise, without notifying CSX and NSC and giving CSX and NSC the opportunity to participate. CRC shall provide CSX

and NSC with copies of any correspondence between CRC and the Service with respect to the Ruling request.

(c) If the requirements of clauses (i), (ii), (iii) and (iv) of the second sentence of Section 8.9(a) are satisfied and no opinion meeting the requirements of the third sentence of Section 8.9(a) is delivered with respect to a Restructuring, NSC (in the case of the PRR Restructuring) and CSX (in the case of the NYC Restructuring) shall have the right, consistent with the Ruling (or opinion of counsel, if applicable), to exchange some or all of its interests in CRR Parent for PRR (in the case of the PRR Restructuring) and NYC (in the case of the NYC Restructuring). At the request of PRR (in the case of a PRR Restructuring) or NYC (in the case of a NYC Restructuring) CRR Parent, CRR, CRC and their respective Affiliates shall take all action necessary or convenient in the reasonable opinion of PRR (in the case of a PRR Restructuring) or NYC (in the case of a NYC Restructuring) to effect a Restructuring that is permitted under Section 8.9(a).

Section 8.10. Provision of Corporate Records. As soon as practicable after the Closing Date CRC shall (a) deliver to or to the order of NYC all NYC Books and Records in the possession of CRC or its Affiliates and (b) deliver to or to the order of PRR all PRR Books and Records in the possession of CRC or its Affiliates; provided that Books and Records that relate to and are necessary for the operation of both the NYC Allocated Assets and the PRR Allocated Assets will be duplicated and included in both the NYC Books and Records and the PRR Books and Records; and provided further that copies of Books and Records necessary or useful to the operation of Shared Assets Areas, Continuing CRC Management, SSO Facilities and other Retained Assets shall be maintained at CRC. Such NYC Books and Records and PRR Books and Records shall be the property of NYC and PRR, respectively, but shall be retained and made available readily to CRC for review and duplication, subject to the limitations set forth in Section 8.11, until the earlier of notice from CRC that such records are no longer needed by CRC and the seventh anniversary of the Closing Date, but in all events until the tax year to which the Books and Records pertain is closed or settled with the Service and/or state tax authorities, unless a longer retention period is otherwise required by law.

Section 8.11. Access to Information. From and after the Closing Date, the parties shall afford (and CSX and NSC shall cause NYC and PRR to afford) each other and each other's authorized accountants, counsel and other designated representatives reasonable access and duplicating rights (with copying costs to be borne by the requesting party) during normal business hours and at such other times as may be agreed upon to all books and records and documents, communications, items and matters, including computer programs and data within each other's knowledge, possession or control relating to the Assets, the Allocated Li-

abilities, the Retained Liabilities or the conduct of CRC's and its Affiliates' businesses, insofar as such access is reasonably required by a party or NYC or PRR and is consistent with applicable law (and shall use reasonable efforts to cause persons or firms possessing relevant items or information to give similar access). Items or information may be requested under this Section 8.11 only for the following purposes: audit, accounting, legal proceedings, litigation, tax preparation, transition planning and implementation planning purposes, as well as for purposes of fulfilling disclosure and reporting obligations. Information shall be provided pursuant to this Section 8.11 in accordance with reasonable procedures established by the parties in order to ensure compliance with the provisions of Section 8.13 and 8.14.

Section 8.12. Production of Witnesses and Individuals. From and after the Closing Date, CRR Parent, CRC, NYC, PRR, CSX and NSC shall use reasonable efforts to make available to each other, upon written request, their respective officers, directors, employees and agents for fact finding, consultation and interviews and as witnesses to the extent that any such person may reasonably be required in connection with any Action in which the requesting party may from time to time be involved relating to the transactions contemplated by this Agreement and the Ancillary Agreements, the Assets, the Allocated Liabilities, the Retained Liabilities or the conduct of CRC's and its Affiliates' business. Except as otherwise agreed between the parties, the parties agree to reimburse each other for reasonable documented out-of-pocket expenses (but not labor charges, salary payments or overheads) incurred by the other in connection with providing individuals and witnesses pursuant to this Section 8.12.

Section 8.13. Confidentiality. The parties shall hold (and CSX and NSC shall cause NYC and PRR to hold), and shall cause their respective officers, employees, agents, consultants and advisors to hold, in strict confidence, unless compelled to disclose by judicial or administrative process or, in the opinion of its independent legal counsel, by other requirements of law, all information furnished it by another party, NYC or PRR or their respective representatives pursuant to this Agreement or the Ancillary Agreements (except to the extent that such information can be shown to have been (i) available to such Person on a non-confidential basis prior to its disclosure by the other Person, (ii) in the public domain through no fault of such Person or (iii) later lawfully acquired from other sources by the Person to which it was furnished), and no Person shall release or disclose such information to any other person, except its auditors, attorneys, financial advisors, bankers and other consultants and advisors who shall be bound by the provisions of this Section 8.13. In the event that a subpoena, discovery or other request that arguably calls for production or disclosure of such confidential information is received, the Person receiving such

request must promptly notify in writing the Person whose information has been requested. The Person receiving such request shall provide the Person whose confidential information has been requested, a reasonable opportunity to review such information and to assert any rights it may have with respect to the potential disclosure of such confidential information. Each party shall be deemed to have satisfied its obligation to hold confidential information concerning or supplied by the other parties, NYC or PRR if it exercises the same care as it takes to preserve confidentiality for its own similar information.

Section 8.14. Privileged Matters. (a) The parties agree that from and after the Control Date CRC and its Affiliates will maintain, preserve and assert all privileges, including, without limitation, privileges arising under or relating to the attorney-client relationship (which shall include, without limitation, the attorney-client and work product privileges) that relate directly or indirectly to the Assets, the Allocated Liabilities or the Retained Liabilities or CRC's and its Affiliates' business for any period prior to the Closing Date ("Privileges"). CRC shall not waive any Privilege that could be asserted under applicable law without the prior written consent of CSX and NSC. The rights and obligations created by this Section 8.14 shall apply to all information as to which, but for the transactions contemplated by this Agreement and the Ancillary Agreements, CRC would have been entitled to assert or did assert the protection of a Privilege ("Privileged Information"), including but not limited to (i) any and all information generated prior to the Closing Date but which, after the Closing, is in the possession of CSX, NSC, NYC or PRR (ii) all communications subject to a Privilege occurring prior to the Closing Date between counsel for CRC and any person who, at the time of the communication, was an employee of CRC, regardless of whether such employee is or becomes an employee of CSX, NSC, NYC or PRR and (iii) all information generated, received or arising after the Closing that refers or relates to Privileged Information generated, received or arising prior to the Closing.

(b) From and after the Control Date, upon receipt by CRC or any of its Affiliates of any subpoena, discovery or other request that arguably calls for the production or disclosure of Privileged Information or if CRC or any of its Affiliates obtains knowledge that any current or former employee of CRC or any of its Affiliates has received any subpoena, discovery or other request which arguably calls for the production or disclosure of Privileged Information, CRC shall promptly notify in writing CSX, NSC, NYC and PRR of the existence of the request and shall provide CSX and NSC a reasonable opportunity to review the information and to assert any rights it may have under this Section 8.14 or otherwise to prevent the production or disclosure of Privileged Information. CRC will not produce or disclose any information arguably covered by a Privilege under this Section

8.13 unless (i) CSX and NSC have both provided their written consent to such production or disclosure or (ii) a court of competent jurisdiction has entered a final, nonappealable order finding that the information is not entitled to protection under any applicable privilege.

(c) If there is a reasonable likelihood that the waiver by CRC of any Privilege could expose CSX, NSC, NYC or PRR to Liability or could prejudice the other party's position in pending or threatened litigation, otherwise adversely affect CSX, NSC, NYC or PRR, CRC will promptly notify in writing CSX and NSC prior to such waiver, and, at CSX's and NSC's request, CRC will assert or preserve the Privilege, as applicable, if CRC's interests will not be adversely affected by its assertion or preservation of the Privilege.

Section 8.15. Administration of Actions. After the Closing Date, (a) NYC shall have exclusive authority and control over the investigation, prosecution, defense and appeal of all Actions relating primarily to NYC, the NYC Allocated Assets, the NYC Allocated Liabilities or a Retained Liability (except for Retained Liabilities for which the monetary claim is more than $500,000 or injunctive relief is sought) which arose at the location of a NYC Allocated Asset, or with which a NYC Allocated Asset is most significantly involved (each, an "NYC Action"), and may settle or compromise, or consent to the entry of any judgment with respect to, any such NYC Action without the consent of CRC, NSC or PRR and (b) PRR shall have exclusive authority and control over the investigation, prosecution, defense and appeal of all Actions relating primarily to PRR, the PRR Allocated Assets, the PRR Allocated Liabilities, or a Retained Liability (except for Retained Liabilities for which the monetary claim is more than $500,000 or injunctive relief is sought), which arose at the location of a PRR Allocated Asset or with which a PRR Allocated Asset is most significantly involved (each a "PRR Action"), and may settle or compromise, or consent to the entry of any judgment with respect to, any such PRR Action without the consent of CRC, CSX or NYC; provided that neither NYC or PRR may settle or compromise, or consent to the entry of any judgment with respect to, any such Action without the prior written consent of the other if such settlement, compromise or consent to such judgment (i) includes any form of injunctive relief binding upon such other party or CRC or (ii) does not include as an unconditional term thereof the giving by the claimant or plaintiff to such other party or CRC and any Affiliates of CRC subject to such Action of a full and final release from all liability in respect to such claim or litigation. After the Closing Date with respect to an Action not covered under clauses (a) or (b) of the foregoing sentence (including Actions relating to Corporate Level Liabilities), the handling, administration and disposition of such Actions shall be the joint responsibility of CSX and NSC and the costs thereof shall be Corporate Level Liabilities. In

assigning joint responsibility for the administration, handling and disposition of Actions to CSX and NSC, hereunder it is not the parties' intent that CSX and NSC will actually administer, handle and dispose of such Actions jointly, but rather that CSX and NSR will agree on the most practical and efficient arrangements with the objective of eliminating unnecessary duplication of effort and minimizing overall costs. The costs and expenses of the administration and handling of such Actions shall be Corporate Level Liabilities; provided that the salaries of, expenses incurred by and overheads associated with full-time employees of CSX or NSC while engaged in investigating or handling such Actions shall be the responsibility of the employing party and shall not be Corporate Level Liabilities.

Section 8.16. Administration of FELA Claims. (a) The administration, handling and disposition of FELA Claims (whenever made) that are Corporate Level Liabilities shall be (i) the responsibility of the party controlling the Allocated Asset where the incident or incidents giving rise to the FELA Claim occurred, or (ii) the responsibility of the party controlling the Allocated Asset most significantly involved if the FELA Claim arises from an incident or incidents occurring at multiple locations on Allocated Assets, or (iii) the joint responsibility of CSX and NSC if the FELA Claim arises from an incident or incidents occurring at unknown locations or a location not otherwise covered by clauses (i) or (ii) of this sentence. In assigning joint responsibility for the administration, handling and disposition of FELA Claims to CSX and NSC under the foregoing clause (iii), it is not the parties' intent that CSX and NSC will actually administer, handle and dispose of such actions jointly, but rather that CSX and NSR will agree on the most practical and efficient arrangements with the objective of eliminating unnecessary duplication of effort and minimizing overall costs. The costs and expenses of the administration, handling and disposition of (A) FELA Claims made prior to the Closing Date and (B) all other FELA Claims that are Corporate Level Liabilities, shall be Corporate Level Liabilities and shall be borne by CSX and NSC in proportion to their respective Percentages; provided that the salaries of, expenses incurred by and overheads associated with full-time employees of CSX or NSC while engaged in investigating or handling such FELA Claims shall be the responsibility of the employing party and shall not be Corporate Level Liabilities; provided, further that the party responsible for the administration of FELA Claims which are Retained Liabilities shall, before agreeing to any single settlement of a FELA Claim or group of related FELA Claims, involving a payment of more than $1 million, obtain the written consent of the other party. Failure of either party to respond to such a request for consent within fourteen days of receipt of such request shall be deemed to constitute consent.

(b) The administration, handling and disposition of FELA Claims (and the costs and expenses thereof) that are made on or after the Control Date and that are NYC Allocated Liabilities pursuant to Section 2.8(c) hereof shall be the responsibility of CSX. The administration, handling and disposition of FELA Claims (and the costs and expenses thereof) that are made on or after the Control Date and that are PRR Allocated Liabilities pursuant to Section 2.8(c) hereof shall be the responsibility of NSC.

Section 8.17. Tax Matters. (a) From the date hereof until the Closing Date, CRR and Green (i) shall timely and duly file, or cause to be timely and duly filed, all Tax Returns of CRR, CRC and their respective Affiliates required to be filed on or prior to the Closing Date and (ii) other than Taxes being contested in good faith, shall timely pay, or cause to be timely paid, all Taxes required to be paid by CRR, CRC or their respective Affiliates. From the Control Date until the Closing Date, CRR and Green, with respect to each of CRR, CRC and their respective Affiliates, shall not settle or compromise any Tax Liability, agree to any adjustment to any Tax attribute, change any method of accounting or make any election with respect to Taxes without first obtaining the prior written consent of CSX and NSC. CRR and its Subsidiaries agree to be included in a consolidated federal income tax return of Green.

(b) From and after the Closing Date, the Tax Allocation Agreement shall govern the rights and obligations of Green, CRR, CRC, CRR Industries, PRR and NYC with respect to Tax matters involving the operations of CRC, PRR and NYC.

Section 8.18. Committees. Within 90 days following the execution of this Agreement, two committees shall be established by CSX and NSC: the "Buffalo Committee" and the "Vickers Committee". Both committees shall consist of representatives appointed by CSX and representatives appointed by NSC. The Buffalo Committee will examine the CP-Draw drawbridge and interlocking in Buffalo, New York and will investigate ways of minimizing or eliminating conflict between CSX and NSC traffic flows through the area after the Closing Date. The Vickers Committee will examine the Vickers crossing in Toledo, Ohio and will investigate ways of minimizing or eliminating conflict between CSX and NSC traffic flows through the area after the Closing Date. Within 90 days of appointment, each such committee will prepare a report detailing options for solving the traffic conflict problems, along with cost estimates for each such option.

Section 8.19. Chicago Gateway Access. CSXT and NSR will preserve and enhance the independent competitive capability of each to move traffic to and through the Chicago Gateway (as defined in Schedule 3) by adhering to the requirements of Schedule 3.

Section 8.20. Car Hire and Car Service. The parties recognize that industry rules, including the AAR Car Service Rules, may pose problems with respect to the payment and collection of car hire in connection with Equipment that is included in Retained Assets and that is used or operated with the Allocated Assets and with the Shared Assets Areas. The parties shall use their reasonable best efforts and take all actions, including seeking changes in industry rules, as may be necessary or appropriate to allow each party, in the most favorable manner possible, to collect car hire on the Equipment allocated to it pursuant to Section 2.6 hereof and to pay the car hire due for cars used or operated with Allocated Assets and with the Shared Assets Areas.

ARTICLE IX

CONDITIONS PRECEDENT TO THE CLOSING

Section 9.1. Conditions Precedent to Obligations. The respective obligations of CSX, NSC, CRR Parent, CRR and CRC to effect the transactions contemplated by Article II shall be subject to the fulfillment or mutual waiver at or prior to the Closing Date of the following conditions:

(a) No preliminary or permanent injunction or other order or decree issued by a court of competent jurisdiction or any other legal restraint or prohibition which prevents the consummation of the transactions contemplated by this Agreement or the Ancillary Agreements shall be in effect and no statute, rule or regulation shall have been enacted by any Governmental Entity prohibiting the consummation of the transactions contemplated by this Agreement or the Ancillary Agreements.

(b) The STB shall have issued a decision (which decision shall not have been stayed or enjoined) that constitutes a final order approving, exempting or otherwise authorizing, as of such date, consummation of the transactions contemplated by this Agreement and the Ancillary Agreements as may require such authorization and neither party shall have exercised a right to postpone pursuant to Section 8.4(c).

(c) Each of CSX and NSC shall have reasonably determined that it has obtained sufficient labor implementing agreements so as to be authorized by law to effect the transactions contemplated by Article II and Article VI.

ARTICLE X

INDEMNIFICATION

Section 10.1. Indemnification. (a) Subject to the provisions of this Article X, CRR Parent and CRR jointly and severally shall indemnify, defend and hold harmless the other parties and any director, officer, employee or agent of any of them from and against any and all Damages asserted against, relating to, imposed upon or incurred by any such Person, directly or indirectly, by reason of or resulting from:

(i) the breach or nonperformance of any agreement of CRR Parent, CRR, CRC or any of their respective Affiliates (other than NYC and PRR) contained in or made pursuant to this Agreement or any of the Ancillary Agreements; and

(ii) any Retained Liability.

(b) Subject to the provisions of this Article X, CSX and CSXT jointly and severally shall indemnify, defend and hold harmless the other parties and any director, officer, employee or agent of any of them from and against any and all Damages asserted against, relating to, imposed upon or incurred by any such Person, directly or indirectly, by reason of or resulting from:

(i) the untruth or inaccuracy of any representation or warranty of CSX, CSXT or their respective Affiliates contained in or made pursuant to this Agreement or any of the Ancillary Agreements; and

(ii) the breach or non-performance of any agreement of CSX, CSXT or their respective Affiliates contained in or made pursuant to this Agreement or any of the Ancillary Agreements.

(c) Subject to the provisions of this Article X, NSC and NSR jointly and severally shall indemnify, defend and hold harmless the other parties and any director, officer, employee or agent of any of them from and against any and all Damages asserted against, relating to, imposed upon or incurred by any such Person, directly or indirectly, by reason of or resulting from:

(i) the untruth or inaccuracy of any representation or warranty of NSC, NSR or their respective Affiliates contained in or made pursuant to this Agreement or any of the Ancillary Agreements; and

(ii) the breach or non-performance of any agreement of NSC, NSR or their respective Affiliates contained in or made pursuant to this Agreement or any of the Ancillary Agreements.

Section 10.2. Indemnification Procedures. (a) If any Action shall be threatened or instituted or any claim or demand shall be asserted against any Indemnified Party in respect of

which indemnification may be sought under the provisions of this Agreement, the Indemnified Party shall promptly cause written notice of the assertion of any such claim, demand or Action of which it has knowledge to be forwarded to the Indemnifying Party. Such notice shall contain a reference to the provisions hereof or of such other agreement, instrument or certificate delivered pursuant hereto, in respect of which such claim is being made. The Indemnified Party's failure to give the Indemnifying Party prompt notice shall not preclude the Indemnified Party from obtaining indemnification from the Indemnifying Party under this Article X unless the Indemnified Party's failure has materially prejudiced the Indemnifying Party's ability to defend the claim, demand or Action.

(b) If the Indemnified Party seeks indemnification from the Indemnifying Party as a result of a claim or demand being made by a third party (a "Third Party Claim"), the Indemnifying Party shall have the right to promptly assume the control of the defense of any Action with respect to such Third Party Claim, including, at its own expense, employment by it of counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party may, in its sole discretion and at its own expense, employ counsel to represent it in the defense of the Third Party Claim, and in such event counsel for the Indemnifying Party shall cooperate with counsel for the Indemnified Party in such defense, provided that the Indemnifying Party shall direct and control the defense of such Third Party Claim or proceeding. The Indemnifying Party shall not consent to the entry of any judgment, except with the written consent of the Indemnified Party, and shall not enter into any settlement of such Third Party Claim without the written consent of the Indemnified Party which does not include as an unconditional term thereof the release of the Indemnified Party from all Liability in respect of such Third Party Claim.

Section 10.3. Remedies. (a) Each party acknowledges and agrees that the other parties would be irreparably damaged in the event any of the provisions of this Agreement were not performed by it in accordance with their specific terms or were otherwise breached. It is accordingly agreed that each party shall be entitled to an injunction or injunctions to prevent breaches of such provisions and to specifically enforce such provisions, in addition to any other remedy to which such party may be entitled, at law or in equity.

(b) In no event shall any party be liable to the other parties for any consequential, indirect, incidental, punitive or other similar damages including but not limited to lost profits for any breach or default, or any act or omission arising out of or in any way relating to, this Agreement, the Assets, the Retained Liabilities, the Allocated Liabilities, the Ancillary Agreements, the transactions contemplated herein or therein or any matter or theory concerning or relating to any of the forego-

ing, under any form or theory of action whatsoever whether in contract, tort or otherwise.

ARTICLE XI

MISCELLANEOUS

Section 11.1. Amendment. This Agreement may be amended by the parties at any time by an instrument in writing signed on behalf of each party.

Section 11.2. Extension; Waiver. At any time prior to the Closing Date the parties may (a) extend the time for the performance of any of the obligations or other acts of the other parties, (b) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto and (c) waive compliance with any of the agreements or conditions contained herein. Any agreement on the part of a party hereto to any such extension or waiver shall be valid if set forth in an instrument in writing signed on behalf of such party.

Section 11.3. Notices. All notices and other communications hereunder shall be in writing and shall be deemed given on the date delivered if delivered personally (including by reputable overnight courier), on the date transmitted if sent by telecopy (which is confirmed) or on the date received if mailed by registered or certified mail (return receipt requested) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(a) If to CSX, CSXT or CRR Parent, to:

CSX Corporation
One James Center
901 East Cary Street
Richmond, Virginia 23219
Telecopy number: 804-783-1380
Attention: Mark G. Aron, Esq.
and Peter J. Shudtz, Esq.

CSX Transportation
500 Water Street
Jacksonville, Florida 32202
Telecopy number: 904-366-5436
Attention: P. Michael Giftos, Esq.

with a copy to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Telecopy number: 212-403-2000
Attention: Pamela S. Seymon, Esq.

(b) If to NSC, NSR or CRR Parent, to:

Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510
Telecopy number: 757-629-2750
Attention: James C. Bishop, Jr., Esq.

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
919 Third Avenue
New York, New York 10022
Telecopy number: 212-735-2000
Attention: Randall H. Doud, Esq.

(c) If to CRR or CRC, to:

Conrail Inc.
2001 Market Street
Philadelphia, PA 19103
Telecopy number: 215-209-4068
Attention: General Counsel

All notices regarding matters requiring handling within thirty days will be given by overnight mail or confirmed telecopy.

Section 11.4. Interpretation. When a reference is made in this Agreement to Sections, such reference shall be to a Section of this Agreement unless otherwise indicated. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 11.5. Entire Agreement. This Agreement (including the Exhibits and Schedules hereto and the Ancillary Agreements and other documents and instruments referred to herein) and the Merger Agreement, collectively, constitute the entire agreement and supersede all other prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof, except the April 8 Agreement to the extent the April 8 Agreement covers matters not addressed or amended hereby and the CRR Holdings LLC Agreement;

provided that it is the intent of the parties hereto that this Agreement shall be an effectuation of the April 8 Agreement consistent with the terms of the April 8 Agreement and that the provisions of this Agreement should be interpreted to give effect to the April 8 Agreement; and provided further that in the event of any inconsistency between the terms of this Agreement and the April 8 Agreement this Agreement shall prevail; and provided further that CSX and NSC agree that the fourth paragraph of Item III of Exhibit A to the April 8 Agreement (at page two thereof) in respect of Lake Erie coal dock capacity is rescinded and no longer in effect.

Section 11.6. Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each party and their respective successors and assigns and is not intended to confer upon any other Person any rights or remedies, except for the rights of an Indemnified Party as contemplated by Article X.

Section 11.7. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of New York, regardless of the laws that might otherwise govern under applicable principles of conflicts of law thereof; provided, however, that the laws of the respective jurisdictions of incorporation of each of the parties shall govern the relative rights, obligations, powers, duties and other internal affairs of such party and its board of directors.

Section 11.8. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement.

Section 11.9. Assignment. (a) Except as provided in Section 11.9(b), neither this Agreement (including the documents and instruments referred to herein) nor any of the rights, interests or obligations hereunder, shall be assigned by any party, including by operation of law, without the prior written consent of the other parties which may be withheld at the sole discretion of the relevant party.

(b) Any party without the consent of the other parties may assign all or any part of its rights and obligations under this Agreement to (i) any of its controlled Subsidiaries or (ii) any successor in the event of a merger, consolidation, sale of all or substantially all its assets, liquidation or dissolution, if such assignee executes and delivers to the other parties hereto an agreement reasonably satisfactory in form and substance to such other party under which such assignee, which is reasonably satisfactory to the other party, assumes and agrees to perform and discharge all the obligations and liabilities of the assigning party; provided that any such assignment shall not re-

lieve the assigning party from the performance and discharge of such obligations and liabilities.

(c) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted assignees.

Section 11.10. Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void, unenforceable or against its regulatory policy, such provision is to be intended to be ineffective only to the most limited extent possible in such context and the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 11.11. Lack of Control; Effect on CRR and its Controlled Subsidiaries. (a) None of CSX, CSXT, NSC or NSR shall be liable for failing to take any action which they are required to take under this Agreement if the time when CSX, CSXT, NSC or NSR is required to take such action occurs prior to the Control Date and such action requires the assistance or cooperation of CRR or its Board of Directors, which assistance is requested but not provided; provided, however, that CSX and NSC shall use their best efforts to obtain such assistance or cooperation and, after the Control Date, will be required to take such action if, as and when required by this Agreement.

(b) Notwithstanding anything to the contrary contained in this Agreement (which term for purposes of this Section 11.11(b) shall include the Exhibits and Schedules hereto and the Ancillary Agreements and other documents and instruments referred to herein), except as expressly set forth in Section 3.2, neither CRR nor any of its controlled Subsidiaries shall be bound by the terms of this Agreement (other than Section 8.17) or subject to any Liabilities or obligations hereunder (other than under Section 8.17) at any time prior to the Control Date. CRR and CSX shall continue to be bound by those terms of the Merger Agreement that by their terms survive beyond June 2, 1997, including, without limitation, Attachment A to the CRR Disclosure Schedule delivered in connection with the Third Amendment; provided that in the event of any inconsistency between the terms of this Agreement and the terms of such Attachment A, the terms of such Attachment A shall prevail.

Section 11.12. Dispute Resolution. Any dispute, controversy or claim (or any failure by the parties to agree on a matter as to which this Agreement expressly or implicitly contemplates subsequent agreement by the parties, except for matters left to the sole discretion of a party) arising out of or relating to this Agreement, or the breach, termination or validity

hereof, shall be finally settled through binding arbitration by a sole, disinterested arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitrator shall be jointly selected by the parties but, if the parties do not agree on an arbitrator within thirty days after demand for arbitration is made by a party, they shall request that the arbitrator be designated by the American Arbitration Association. The award of the arbitrator shall be final and conclusive upon the parties. Each party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation and any costs and expenses of the arbitrator shall be borne equally by the parties. The arbitrator shall have the power to require the performance of acts found to be required by this Agreement and to require the cessation or nonperformance of acts found to be prohibited by this Agreement. The arbitrator shall not have the power to award consequential or punitive damages. The arbitrator's award shall be binding and conclusive upon the parties to the fullest extent permitted by law. Judgement upon the award rendered may be entered in any court having jurisdiction thereof, which court may order appropriate relief at law or equity. All proceedings relating to any such arbitration, and all testimony, written submissions and award of the arbitrator therein, shall be private and confidential as among the parties, and shall not be disclosed to any other Person, except as required by law and except as reasonably necessary to prosecute or defend any judicial action to enforce, vacate or modify such arbitration award.

Section 11.13. CRC Status. The parties intend that after the Closing Date CRC and its Affiliates shall be a rail carrier that performs transportation services for the account of CSXT or NSR, as the case may be, or as agent or subcontractor of CSXT or NSR, as the case may be.

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

CSX CORPORATION

By: _____
Name:
Title:

CSX TRANSPORTATION, INC. (for itself and on behalf of its controlled Subsidiaries)

By: _____
Name:
Title:

NORFOLK SOUTHERN CORPORATION

By: _____
Name:
Title:

NORFOLK SOUTHERN RAILWAY COMPANY (for itself and behalf of its controlled Subsidiaries)

By: _____
Name:
Title:

CONRAIL INC. (for itself and on behalf of its controlled Subsidiaries)

By: _____
Name:
Title:

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

CSX CORPORATION

By: _____
Name:
Title:

CSX TRANSPORTATION, INC. (for itself and on behalf of its controlled Subsidiaries)

By: A.R. Carpenter
Name: A. R. Carpenter
Title: President and CEO

NORFOLK SOUTHERN CORPORATION

By: _____
Name:
Title:

NORFOLK SOUTHERN RAILWAY COMPANY (for itself and behalf of its controlled Subsidiaries)

By: _____
Name:
Title:

CONRAIL INC. (for itself and on behalf of its controlled Subsidiaries)

By: _____
Name:
Title:

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

CSX CORPORATION

By:_____
Name:
Title:

CSX TRANSPORTATION, INC. (for itself and on behalf of its controlled Subsidiaries)

By:_____
Name:
Title:

NORFOLK SOUTHERN CORPORATION

By:_____
Name:
Title:

NORFOLK SOUTHERN RAILWAY COMPANY (for itself and behalf of its controlled Subsidiaries)

By:_____
Name:
Title:

CONRAIL INC. (for itself and on behalf of its controlled Subsidiaries)

By:_____
Name:
Title:

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

CSX CORPORATION

By:_____
Name:
Title:

CSX TRANSPORTATION, INC. (for itself and on behalf of its controlled Subsidiaries)

By:_____
Name:
Title:

NORFOLK SOUTHERN CORPORATION

By:_____
Name:
Title:

NORFOLK SOUTHERN RAILWAY COMPANY (for itself and behalf of its controlled Subsidiaries)

By:_____
Name:
Title:

CONRAIL INC. (for itself and on behalf of its controlled Subsidiaries)

By:_____
Name:
Title:

CONSOLIDATED RAIL CORPORATION

By:_____
Name:
Title:

CRR HOLDINGS LLC

By:_____
Name:
Title:

CONSOLIDATED RAIL CORPORATION

By:_____
Name:
Title:

CRR HOLDINGS LLC

By:_____
Name:
Title:

SCHEDULE 1

ASSETS

Attached to and incorporated in this Schedule 1 are the following attachments:

(i) Attachment I, which is the line segment allocation list identifying each Route owned, operated or used by CRC and its Affiliates and indicating as to each Route whether it is included in the NYC Allocated Assets, the PRR Allocated Assets or the Retained Assets; and

(ii) Attachment II, which is a system map showing all Routes comprising the CRC rail system and indicating by color coding the Routes which are to be NYC Allocated Assets, PRR Allocated Assets and Retained Assets, respectively; Attachment II is intended to show graphically the Routes described in Attachment I.

ITEM 1 - NYC ALLOCATED ASSETS

The "NYC Allocated Assets" shall include all of CRR's, CRC's and their respective Affiliates' right, title and interest in and to the following Assets:

(A) **Routes and Assets Related to Routes.** All Routes identified as NYC Allocated Assets in Attachment I and Attachment II (i.e., those lines colored in red and/or orange on Attachment II, except for those lines already owned by CSXT or its Affiliates), together with the following Assets that are related to such Routes (except as otherwise expressly provided in this Schedule 1 or the Ancillary Agreements):

(1) the track structure (rails, ties, other track material, grading, bridges, tunnels, culverts, etc.);

(2) the underlying right-of-way, operating and non-operating, regardless of its width, and associated structures and fixtures;

(3) except in the areas where the parties' respective Routes are approximately equidistant from the Asset in question (where in each case other arrangements are made pursuant to one or more Ancillary Agreements), appurtenant yards, sidings, switch tracks and repair or other maintenance facilities;

(4) real estate (whether or not used for operating purposes) adjacent or in proximity to the Routes included in the NYC Allocated Assets, or underlying, adjacent or in proximity to those structures or facilities described in the preceding clauses (2) and (3) and the following clause (5);

(5) signal, communications and computer facilities and equipment on the right-of-way and (to the extent used to operate the Routes included in the NYC Allocated Assets) off the right-of-way;

(6) tools and supplies located on and along, and automobiles, hi-rail cars and trucks assigned to, the Routes included in the NYC Allocated Assets, including repair materials and local repair equipment, except system stockpiles of inventory, material and supplies and Work Equipment;

(7) Contracts (other than Transportation Contracts) relating to a Route included in NYC Allocated Assets, including without limitation trackage and other operating rights, public and private grade crossing agreements, side track and industrial track agreements, pipeline and wireline agreements, building and yard maintenance agreements, leases, licenses, reversions, longitudinal easements and other occupancy agreements, and the rents, security deposits and profits arising therefrom or in connection therewith;

(8) muniments of title, all original valuation maps, land schedules, track charts, surveys, bridge and other drawings, bridge inspection reports, environmental reports, permits, signal and communications plans, other engineering documentation, deeds (including such originals of acquisition or out-conveyances as may be in CRC's possession), current billing records (including billing addresses and, if in a computer format, the data and the programs), real estate work files, property tax records (and any computer database for such records), and all other Books and Records relating to a Route included in NYC Allocated Assets;

(9) mineral rights or easements of any sort held by CRR, CRC or their respective Affiliates located on, over, across and/or in the real estate or property heretofore described in this paragraph (A); and

(10) royalties or other payments in respect of real estate or other Assets heretofore described in this paragraph (A).

(B) **Philadelphia Offices.** The CRC headquarters office building located at Philadelphia, PA, and the CRC information technology center building located at Philadelphia, PA and all FF&E located at such facilities.

(C) **Yards and Yard Access.** The following CRC yards, land and yard access tracks:

(1) Seneca Yard (Buffalo, NY) (subject to access and use by NSR pursuant to Ancillary Agreement);

(2) 59th Street ("Panhandle") Yard site (Chicago, IL);

(3) Collinwood Yard (Cleveland, OH);

(4) Former "local yard" and intermodal terminal at Buckeye (Columbus, OH);

(5) Buckeye Yard Lead track from the north limit of "CP Buckeye" to "CP Darby" (Columbus, OH);

(6) West track between "CP 138" and "CP 136" (Columbus, OH);

(7) Portion of Piqua Yard (Fort Wayne, IN) to be agreed upon between NSR and CSXT;

(8) Hawthorne Yard (Indianapolis, IN) (subject to access and use by NSR pursuant to Ancillary Agreement);

(9) North Bergen intermodal terminal (New Jersey);

(10) South Kearny intermodal terminal including APL leased areas; however, NSR to have access to the APL leased terminal and NSR to have the right to serve APL and any successor lessee to APL using such leased premises;

(11) Greenwich Yard (Philadelphia), but excluding yard tracks and areas used to support the movement of local freight (including port traffic, but excluding intermodal) and to support the movement of rail traffic to and from the ore pier, which tracks and areas will be included in Retained Assets;

(12) Track from CP Field to Pier 122 (Greenwich Yard area, Philadelphia);

(13) Stanley Yard (Toledo, OH);

(14) Elizabeth Yard (Trumbull Street Yard), but subject to use of and access to two tracks by NSR to support E-Rail Intermodal Facility as provided in Ancillary Agreements; and

(15) Manville Yard (subject to use by CRC, CSX and NSR pursuant to Ancillary Agreements).

(D) **Miscellaneous Property**. The following Assets:

(1) Developable property west of CRC's Chemical Coast Secondary in northern New Jersey in the vicinity of the current CRC Elizabethport Yard (Trumbull St. Yard);

(2) Indianapolis Division headquarters building, offices and land; and

(3) Albany Division headquarters building, offices and land.

(E) **Stock Ownership and Other Interests**. The following interests:

(1) 50% of the issued and outstanding capital stock in Lakefront Dock & Railroad Terminal Company;

(2) 100% of the issued and outstanding capital stock in St. Lawrence & Adirondack Railway;

(3) 50% of the issued and outstanding capital stock in Albany Port Railroad Corp.; and

(4) 10.125% of the issued and outstanding capital stock in TTX Company.[1]

---

[1] CRC's 21.807% stock interest (3,500 shares) in TTX Company is allocated as follows:

	CSXT/NYC		NSR/PRR	
Current	9.345%	(1,500 shares-CSXT)	7.788%	(1,250 shares-NSR)
CRC Splits	10.125%	(1,625 shares-NYC)	11.682%	(1,875 shares-PRR)
Combined	19.470%	(3,125 shares)	19.470%	(3,125 shares)

ITEM 2 - PRR ALLOCATED ASSETS

The "PRR Allocated Assets" shall include all of CRR's, CRC's and their respective Affiliates' right, title and interest in and to the following Assets:

(A) **Routes and Assets Related to Routes.** All Routes identified as PRR Allocated Assets in Attachment I and Attachment II (i.e., those lines colored in green-and/or yellow on Attachment II, except for those lines already owned by NSR or its Affiliates), together with the following Assets that are related to such Routes (except as otherwise expressly provided in this Schedule 1 or the Ancillary Agreements):

(1) the track structure (rails, ties, other track material, grading, bridges, tunnels, culverts, etc.);

(2) the underlying right-of-way, operating and non-operating, regardless of its width, and associated structures and fixtures;

(3) except in the areas where the parties' respective Routes are approximately equidistant from the Asset in question (where in each case other arrangements are made pursuant to one or more Ancillary Agreements), appurtenant yards, sidings, switch tracks and repair or other maintenance facilities;

(4) real estate (whether or not used for operating purposes) adjacent or in proximity to the Routes included in the PRR Allocated Assets, or underlying, adjacent or in proximity to those structures or facilities described in the preceding clauses (2) and (3) and the following clause (5);

(5) signal, communications and computer facilities and equipment on the right-of-way and (to the extent used to operate the Routes included in the PRR Allocated Assets) off the right-of-way;

(6) tools and supplies located on and along, and automobiles, hi-rail cars and trucks assigned to, the Routes included in the PRR Allocated Assets, including repair materials and local repair equipment, except system stockpiles of inventory, material and supplies and Work Equipment;

(7) Contracts (other than Transportation Contracts) relating to a Route included in PRR Allocated

Assets, including without limitation trackage and other operating rights, public and private grade crossing agreements, side track and industrial track agreements, pipeline and wireline agreements, building and yard maintenance agreements, leases, licenses, reversions, longitudinal easements and other occupancy agreements, and the rents, security deposits and profits arising therefrom or in connection therewith;

(8) muniments of title, all original valuation maps, land schedules, track charts, surveys, bridge and other drawings, bridge inspection reports, environmental reports, permits, signal and communications plans, other engineering documentation, deeds (including such originals of acquisition or out-conveyances as may be in CRC's possession), current billing records (including billing addresses and, if in a computer format, the data and the programs), real estate work files, property tax records (and any computer database for such records), and all other Books and Records relating to a Route included in PRR Allocated Assets;

(9) mineral rights or easements of any sort held by CRR, CRC or their respective Affiliates located on, over, across and/or in the real estate or property heretofore described in this paragraph (A); and

(10) royalties or other payments in respect of real estate or other Assets heretofore described in this paragraph (A).

(B) **Altoona and Hollidaysburg Shops.** The CRC car and locomotive repair shops located at Altoona, PA and Hollidaysburg, PA and all rolling-stock-related and locomotive-related inventory and supplies (including rolling-stock-related and locomotive-related system stockpiles) located at such facilities (subject to provisions of Section 2.7 of the Agreement) and all FF&E located on or at such facilities.

(C) **Yards and Yard Access.** The following CRC yards, land and yard access tracks:

(1) Ashtabula Harbor facilities (subject to access and use by CSX pursuant to Ancillary Agreements);

(2) Rockport Yard (Cleveland, OH);

(3) Buckeye Hump Yard (Columbus, OH);

(4) East track between "CP 138" and "CP 136" (Columbus, OH);

(5) the right of way east of and parallel to the single track portion of the Columbus Line immediately north of "CP 136" (the current end of double track), and the Clintonville Siding east of the single track portion;

(6) portion of Piqua Yard (Fort Wayne, IN) used by or for Triple Crown Services Company, together with portion of Piqua Yard to be agreed upon between NSR and CSXT;

(7) Croxton Yard (New Jersey);

(8) E-Rail intermodal facility (New Jersey);

(9) Morrisville intermodal facility;

(10) Airline Jct. Yard (Toledo, OH); and

(11) Stanley E Yard (Toledo, OH).

(D) **Miscellaneous Property.** The following CRC assets and properties:

(1) Developable property east of CRC's Chemical Coast Secondary in the vicinity of the E-Rail intermodal facility (northern New Jersey);

(2) real estate comprising a portion of the right-of-way (east of the current single track) between PRR's Clintonville Siding and the north end of the double track at CP 136 on which NSR may construct new track;

(3) real estate comprising a portion of the right-of-way on which the Buckeye Yard lead track is located to enable NSR to construct a parallel track to the Buckeye Yard lead track (Buckeye Yard, Columbus, OH) (constructions to be governed by an Ancillary Agreement);

(4) Pittsburgh Division headquarters building, offices and land;

(5) Dearborn Division headquarters building, offices and land; and

(6) All undeveloped property that is part of, adjacent to or in the vicinity of Lincoln Yard (Detroit, MI).

(7) All real estate, trackage, track material and other Assets comprising CRC's abandoned Danville Secondary, together with all other Assets lying on, adjacent to or in the vicinity of the CRC right-of-way between Schneider and Danville, IL, including without limitation all Assets comprising such Danville Secondary thereon or adjacent thereto necessary for construction of connections at Schneider and Danville (excluding any NYC Allocated Assets). (If NSR elects to restore the line between Schneider and Danville, CSXT shall have the option to share in the costs of the line restoration on a reasonable basis that is mutually agreeable and, if CSXT elects so to share in such restoration costs, CSXT shall be granted overhead trackage rights on such line on a fair basis taking into consideration the cost paid by CSXT for such restoration.)

(E) **Stock Ownership and Other Interests.** The following interests:

(1) 16.67% of the issued and outstanding capital stock in The Belt Railway Company of Chicago;

(2) 25.64% of the issued and outstanding capital stock in Peoria and Pekin Union Railway Company;

(3) 100% of the issued and outstanding capital stock in TCV, Inc. (which owns a 50% partnership interest in Triple Crown Services Company); and

(4) 11.682% of the issued and outstanding capital stock in TTX Company.

ITEM 3 - RETAINED ASSETS

The "Retained Assets" shall include all of CRR's, CRC's and their respective Affiliates' right, title and interest in and to the following Assets:

(A) **Routes and Assets Related to Routes.** Routes within the Shared Asset Areas identified as Retained Assets in Attachment I and Attachment II (i.e., those lines colored in blue on Attachment II), together with the following Assets within the Shared Asset Areas that are related to such Routes (except as

otherwise expressly provided in this Schedule 1 or the Ancillary Agreements):

(1) the track structure (rails, ties, other track material, grading, bridges, tunnels, culverts, etc.);

(2) the underlying right-of-way, operating and non-operating, regardless of its width, and associated structures and fixtures;

(3) appurtenant yards, sidings, switch tracks and repair or other maintenance facilities (including but not limited to Oak Island Yard, auto terminals at Doremus Avenue, Greenville and Ridgefield Heights);

(4) real estate (whether or not used for operating purposes) adjacent or in proximity to the Routes included in the Retained Assets, or underlying, adjacent or in proximity to those structures or facilities described in the preceding clauses (2) and (3) and the following clause (5);

(5) signal, communications and computer facilities and equipment on the right-of-way and (to the extent used to operate the Routes included in Retained Assets) off the right-of-way;

(6) tools and supplies located on and along, and automobiles, hi-rail cars and trucks assigned to, the Routes included in the Retained Assets, including repair materials and local repair equipment, except system stockpiles of inventory, material and supplies and Work Equipment;

(7) Contracts (other than Transportation Contracts) relating to a Route included in Retained Assets, including without limitation trackage and other operating rights, public and private grade crossing agreements, side track and industrial track agreements, pipeline and wireline agreements, building and yard maintenance agreements, leases, licenses, reversions, longitudinal easements and other occupancy agreements, and the rents, security deposits and profits arising therefrom or in connection therewith;

(8) muniments of title, all original valuation maps, land schedules, track charts, surveys, bridge and other drawings, bridge inspection reports,

environmental reports, permits, signal and communications plans, other engineering documentation, deeds (including such originals of acquisition or out-conveyances as may be in CRC's possession), current billing records (including billing addresses and, if in a computer format, the data and the programs), real estate work files, property tax records (and any computer database for such records), and all other Books and Records relating to a Route included in Retained Assets;

(9) mineral rights or easements of any sort held by CRR, CRC or any of their respective Affiliates located on, over, across and/or in the real estate or property heretofore described in this paragraph (A); and

(10) royalties or other payments in respect of real estate or other Assets heretofore described in this paragraph (A).

(B) The "Retained Assets" shall include the SSO Facilities which shall be as follows:

(1) the building and offices, together with underlying land, of the Philadelphia Division headquarters located at Mt. Laurel, NJ within the Philadelphia/South Jersey Shared Assets Area;

(2) the Customer Service Center building and offices, together with underlying land, located at Pittsburgh, PA;

(3) use of the office space in the Dearborn Division headquarters building (the building and land are included in the PRR Allocated Assets) currently used for the crew management facility until the crew management facility is discontinued;

(4) the system maintenance-of-way equipment center building located adjacent to Canton Yard in Canton, OH on land included in the PRR Allocated Assets;

(5) the signal repair center building located within Buckeye Yard at Columbus, OH on land included in the PRR Allocated Assets;

(6) the offices of the system freight claims facility located at Buffalo, NY on land included in the NYC Allocated Assets;

(7) the offices of the system non-revenue billing facility and land located at Bethlehem, PA;

(8) the system rail welding plant building located at Lucknow (Harrisburg, PA) on land at Harrisburg Yard that is included in the PRR Allocated Assets;

(9) use of the offices located at Conway Yard, Pittsburgh, PA (the building and land are included in the PRR Allocated Assets), for the system road foreman/engineer training center until such center is discontinued; and

(10) the police operations center offices and land at Mt. Laurel, NJ.

(C) 51% of the issued and outstanding capital stock in Indiana Harbor Belt Railroad Co. (subject to provisions of Ancillary Agreement referred to in Schedule 4, Item 4(E)(1)).

ITEM 4 - POOLED ASSETS

The "Pooled Assets" shall include the following Assets of CRR, CRC and their respective Affiliates:

(A) Non-Operating property and improvements not in proximity to an Allocated Asset or a Retained Asset.

(B) Employee benefit plans and Assets of such plans.

(C) System stockpiles of inventory, materials and supplies regardless of location (other than those at Hollidaysburg and Altoona shops which shall be subject to Section 2.7 of the Agreement).

(D) The following interests:

(1) 100% of the issued and outstanding capital stock in Merchants Despatch Trans. Corp.;

(2) 100% of the issued and outstanding capital stock in CRC Properties, Inc.; and

(3) 100% of the issued and outstanding capital stock in CRR Investments, Inc.

However, if any of the Assets of the entities identified in clauses (D)(1) through (3) above are part of the Routes included in the NYC Allocated Assets (Item 1(A) above) or the PRR Allocated Assets (Item 2(A) above), then the Assets of such entity will be designated as and included in the NYC

Allocated Assets or the PRR Allocated Assets, as the case may be; provided that if such assets are valued at greater than $1 million, then there shall be an equitable adjustment by way of a cash payment from NYC or PRR, as the case may be, to the other equal to the CSX's or NSC's respective Percentage, as the case may be, applied against the value of such Assets or failing such payment, by way of including CRC cash equal to the value of such Assets in the NYC Allocated Assets or the PRR Allocated Assets as the case may be.

(E) The following interests:

(1) 100% of the issued and outstanding capital stock in CRR Industries, Inc.;

(2) 100% of the issued and outstanding capital stock in Conrail Direct, Inc.;

(3) 100% of the issued and outstanding capital stock in CG Projects, Inc.;

(4) 100% of the issued and outstanding capital stock in PennCentral Comm. Co.;

(5) 100% of the issued and outstanding capital stock in General American Ins. Co.; and

(6) 19.136% of the issued and outstanding capital stock in Amtech Logistics Corp.

(F) CRC's rights and interests in and with respect to the following:

(1) Locomotive Management Services Partnership (a partnership with General Electric relating to use of locomotives); and

(2) EMP (bilateral agreements relating to use of containers by CRC, NSR and UP).

The parties intend that CRC's rights and interests with respect to LMS and EMP will be shared based on their respective Percentage, that both CSXT and NSR will participate therein and that, in the case of EMP, CSX will participate as a partner.

NOTE: Notwithstanding any provision of this Schedule, to the extent an item herein describes an Ancillary Agreement between the parties the form of which is set forth as an Exhibit to this Agreement, such description shall be for purposes of identification only, and the terms of such Ancillary Agreement shall control.

Conrail Line Allocation

Attachment I

All CRC lines are not listed herein. Lines listed include main line routes, primary branch lines and other lines which may need clarification. Lines pertain to allocated CRC ownership or where identified (TR) to assumed present CRC freight rights. Customer access is attributed to the acquiror of the line on which the customer is located, unless otherwise identified in the Transaction Agreement. Lines not specifically listed are to be acquired by the owner/acquirer of the CRC route/line to which they connect. In the case that a line not listed connects to a line allocated to PRR and to a line allocated to NYC, allocation will be determined at a later date.

Primary Route And Extension Acquisitions	Segmt	From		To		
NYC ALLOCATED ASSETS						
NY/NJ to Cleveland - Water Level Route & Extensions						
	1	South End N. Bergen Yd	NJ	Selkirk/Albany Term.	NY	
	1	Poughkeepsie	NY	New York City	NY	TR
	1	Poughkeepsie	NY	New York City	NY	
	1	New York City	NY	White Plains	NY	TR
	1	Selkirk/Albany Term.	NY			
	1	Selkirk	NY	Poughkeepsie	NY	
	2	Selkirk/Albany Term.	NY	Syracuse	NY	
	3	Syracuse	NY	Buffalo	NY	
	3	Lyons Yard	NY			
	4	Buffalo	NY	Ashtabula	OH	
	5	Ashtabula	OH	Cleveland Terminal	OH	
	5	Portion of Kinsman Conn.	OH			
	5	Portion of 44 I.T	OH			
	5	All of 45 I.T.(including Dock 22, 24, & 26 Lds)	OH			
	5	Old Line Lead(Cleveland)	OH			
	40	Boston	MA	Selkirk/Albany Term.	NY	
	41	Syracuse	NY	Adirondack Jct.	PQ	
	41	Adirondack Jct.	PQ	Montreal (St. Luc)	PQ	TR
	41	Woodard	NY	Oswego	NY	
	41	Syracuse	NY	Hawk	NY	
	41	Hawk	NY	Port of Oswego	NY	TR
	43	Frontier Yard	NY			
	43	Belt Line Branch	NY			
	42	Buffalo Terminal	NY	Niagra Falls/Lockport	NY	
	42	Lockport	NY	West Somerset	NY	TR
	94	Syracuse	NY	NYSW/FL Connections	NY	
	165	Boston Terminal	MA			
	165	Selkirk/Boston Line	MA	MA Branch Lines	MA	
	165	Selkirk/Boston Line	MA	MA Branch Lines	MA	TR
	1	West 30th St. I.T.	NY			
	1	Fremont Secondary	NY			
	166	New York City	NY	Connecticut Branch Lines		TR
	166	Connecticut Branch Lines				
	166	Connecticut Branch Lines (including Amtrak)				TR
	3	Churchville	NY	Wayneport	NY	
	3	Mortimer	NY	Avon	NY	

Conrail Line Allocation

Primary Route And Extension Acquisitions	Segmt	From		To		
	3	Rochester Branch	NY			
Crestline to Chicago -Pennsylvania Route & Extensions						
	17	Crestline	OH	Dunkirk	OH	
	17	Bucyrus Yard Track and Connector	OH			
	18	Dunkirk	OH	Fort Wayne	IN	
	18	Decatur Sec. & Hunt I.T.	IN			
From NS via CR	19	Fort Wayne	IN	Warsaw	IN	
From NS via CR	20	Warsaw	IN	Chicago Terminal (Clarke Jct.)	IN	
	18	Adams	IN	Decatur	IN	
Berea to E. St. Louis Route & Extensions						
	21	Cleveland Terminal	OH	Crestline	OH	
	122	Crestline	OH	Galion	OH	
	22	Galion	OH	Ridgeway	OH	
	23	Ridgeway	OH	Indianapolis	IN	
	24	Indianapolis	IN	Terre Haute	IN	
	25	Terre Haute	IN	Effingham	IL	
	26	Effingham	IL	St. Elmo	IL	
	27	St. Elmo	IL	E. St. Louis	IL	
	27	Anderson	IN	Emporia	IN	
	55	Columbus(CP138)	OH	Galion	OH	
	55	Columbus(Hocking)	OH	Columbus(CP138)	OH	
	55	Neil I.T.	OH			
	83	Terre Haute	IN	Danville	IL	
	151	Danville	IL	Olin	IN	
	80	Pekin R.T	IL			
	100	Indianapolis Terminal	IN			
	99	Indianapolis	IN	Rock Island	IN	
	100	Indianapolis	IN	Crawfordsville/Bringhurst	IN	
	154	Indianapolis	IN	Shelbyville	IN	
	105	HN Cabin	IL	Valley Jct.	IL	
	106	St. Elmo	IL	Salem	IL	TR
	98	Terre Haute	IN	Beehunter	IN	TR
	28	Muncie(Walnut Street)	IN	New Castle R.T.	IN	TR
	28	New Castle RT	IN			
	28	Muncie I.T.	IN			
Columbus to Toledo Route & Extensions						
	53	Mounds Connector	OH			
	53	Western Branch	OH			
	53	Buckeye Yard Lead	OH			
	53	Columbus	OH	Ridgeway	OH	
	52	Ridgeway	OH	Blanchard	OH	
	51	Blanchard	OH	Toledo Terminal	OH	
	51	Toledo Terminal (Caruthers Sec. and I.T.)	OH	Woodville	OH	

Conrail Line Allocation

Primary Route And Extension Acquisitions	Segmt	From		To		
	51	Toledo Terminal	OH	Stonyridge	OH	
	51	Main Freight Tk. & Wye	OH			
	51	Stanley Yard and Interlocking	OH			
	51	Eastern R.T.	OH			
	51	Lakefront Docks Lead Tracks	OH			
Bowie to Woodzell, MD						
	90	Bowie	MD	Morgantown	MD	
	90	Brandywine	MD	Chalk Point	MD	
NY/NJ to Philadelphia (West Trenton Line)						
	182	Manville Yard & Lead	NJ			
	182	Drill Track Lead	NJ			
	182	Philadelphia/Greenwich Yd.	PA	North NJ Terminal	NJ	
	182	Park Jct.	PA	Belmont	PA	
	182	Phil	PA	CP-Field/CP-Gray	PA	
	182	Eastwick	PA	Vicinity of CP-Field/CP-Gray	PA	
Washington, DC to Landover, MD						
	33	Washington Terminal	DC			TR
	33	Washington (RO)	DC	Landover	MD	
Quakertown Branch						
	130	Philadelphia Terminal	PA	Quakertown	PA	TR
Chicago Area						
	192	Porter	IN	Ivanhoe	IN	
	190	Panhandle Stub		South of 49th Street	IL	
	190	Ivanhoe	IN	Westernmost point of CR Ownership	IN	
Monongahela						
	113	Monongahela RR	PA/WV			Subject to joint use agreement

Conrail Line Allocation

Primary Route And Extension Acquisitions	Segmt	From		To		

PRR Allocated Assets

NJ Terminal to Crestline - Pennsylvania Route & Extensions

	10	North NJ Terminal	NJ	Somerville	NJ	
	10	Somerville	NJ	Allentown	PA	
	10	Little Falls	NJ	Dover	NJ	TR
	10	Orange	NJ	Denville	NJ	TR
	10	Dover	NJ	Rockport	NJ	TR
	10	Rockport	NJ	Phillipsburg	NJ	
	10	Phillipsburg	PA	E. Stroudsburg	PA	
	10	Allentown Terminal	PA			
	186	Orange	NJ	North Jersey Terminal	NJ	TR
	170	North Jersey Terminal	NJ	Little Falls	NJ	TR
	182	Bound Brook	NJ	Ludlow	NJ	TR
	11	Allentown	PA	Reading	PA	
	12	Reading	PA	Harrisburg	PA	
	12	Harrisburg Terminal	PA			
	13	Harrisburg	PA	Pittsburgh	PA	
	13	Creekside	PA	Homer City	PA	TR
	13	Conemaugh Line		via Saltsburg	PA	
	13	Pittsburgh	PA	W. Brownsville	PA	
	113	Monongahela RR	PA/ WV			
	13	Central City	PA	South Fork	PA	
	13	Pittsburgh Terminal	PA			
	13	Monongahela	PA	Marianna	PA	
	14	Pittsburgh Terminal	PA			
	14	Pittsburgh	PA	Salem	OH	
	14	Salem	OH	Alliance	OH	
	14	Beaver Falls	PA	Wampum	PA	
	15	Alliance	OH	Cleveland Terminal	OH	
	120	Mantua	OH	Cleveland Terminal	OH	
	120	Portion of Kinsman Conn.	OH			
	120	Portion of 44 I.T. (including Dock 20 Ld.)	OH			
	16	Alliance	OH	Crestline	OH	
	114	Alliance	OH	Omal	OH	
	114	Rochester	PA	Yellow Creek	OH	
	114	E. Steubenville	WV	Weirton	WV	
	114	Steubenville Branches, Bridge			OH	
	114	Pittsburgh Branches	PA			
	45	Ashtabula	OH	Youngstown	OH	
	162	Ashtabula Harbor	OH	Ashtabula	OH	
	46	Niles	OH	Latimer	OH	
	46	Alliance	OH	Youngstown	OH	
	46	Gem I.T. - Lordstown	OH			
	48	Youngstown	OH	Rochester	PA	
	87	Allentown	PA	Hazelton	PA	
		CP Harris	PA	Cloe	PA	TR
		Cloe	PA	Shelocta	PA	
		Tyrone	PA	Lock Haven	PA	TR

Conrail Line Allocation

Primary Route And Extension Acquisitions	Segmt	From		To		
Cleveland to Chicago - Water Level Route						
	6	Cleveland Terminal	OH	Toledo Terminal	OH	
	6	Elyria	OH	Lorain	OH	
	159	Toledo Terminal	OH	Sylvania	OH	
	7	Toledo Terminal	OH	Goshen	IN	
	107	Elkhart	IN	Goshen	IN	
	8	Elkhart	IN	Porter	IN	
Philadelphia to Washington (NEC) Route & Extensions						
	31	Philadelphia Terminal	PA	Perryville	MD	TR
	31	Wilmington Terminal	DE			
	32	Perryville	MD	Baltimore	MD	TR
	32	Baltimore Terminal	MD			
	32	Claremont R.T.	MD			
	32	Loneys Lane Lead	MD			
	32	Grays Yard	MD			TR
	33	Balt. BayView	MD	Landover	MD	TR
	33	Baltimore Terminal	MD			
	33	Baltimore	MD	Cockeysville	MD	
	33	Landover	MD	Union Station	DC	TR
	34	Pocomoke	MD	New Castle Jct	DE	TR
	34	Harrington	DE	Frankford/Indian River	DE	
	131	Newark	DE	Porter	DE	TR
Michigan Operations (Excluding Joint Detroit Area)						
	50	Toledo Terminal	OH	Detroit Terminal	MI	
	60	Detroit Terminal	MI	Jackson	MI	
	61	Jackson	MI	Kalamazoo	MI	
	62	Kalamazoo	MI	Elkhart	IN	
	70	Jackson	MI	Lansing	MI	
	71	Kalamazoo	MI	Grand Rapids	MI	
	71	Kalamazoo I.T.	MI			
	71	Comstock I.T.	MI			
	156	Kalamazoo	MI	Porter	IN	TR
Eastern PA Lines & Extensions						
	37	Philadelphia Terminal	PA	Reading	PA	
	37	Reading Terminal				
	37	Thorndale	PA	Woodbourne	PA	
	37	Portion of Stoney Creek Branch	PA			
	37	West Falls Yard	PA			
	37	Venice I.T.	PA			
	136	Leola/Chesterbrook PA Lines			PA	
	137	Philadelphia PA Terminal		Lancaster	PA	TR
	111	Lancaster	PA	Royalton	PA	TR
	112	Lancaster	PA	Lititz/Columbia	PA	

Conrail Line Allocation

Primary Route And Extension Acquisitions	Segmt	From		To		
Indiana Lines & Extensions						
	84	Anderson	IN	Warsaw	IN	
	85	Warsaw	IN	Goshen	IN	
	163	Marion	IN	Red Key	IN	
	101	Layfayette I.T.	IN			
Buffalo to NY/NJ Terminal Route & Extensions						
	44	NJ/NY Jct.	NJ	Suffern	NY	TR
	44	Suffern	NY	Port Jervis	NY	
	44	Port Jervis	NY	Binghamton	NY	
	44	Binghamton	NY	Waverly	NY	
	44	NJ/NY Jct.	NJ	Spring Valley	NY	TR
	44	Paterson Jct.	NJ	Ridgewood	NJ	TR
	38	Waverly	NY	Buffalo	NY	
	88	Waverly	NY	Mehoopany	PA	
	89	Sayre	PA	Ludlowville	NY	
	93	Lyons	NY	Himrods Jct	NY	
	95	Corning	NY	Himrods Jct	NY	
	171	North Jersey Terminal	NJ	Paterson Jct	NJ	TR
	171	Paterson Jct.	NJ	North Newark	NJ	
	171	NJ/NY Jct.	NJ	North Jersey Terminal	NJ	TR
Buffalo to Harrisburg and South						
	35	Perryville	MD	Harrisburg	PA	
	35	Carlisle	PA	Harrisburg	PA	
	35	Wago	PA	York (area)	PA	
	35	Harrisburg	PA	Shocks	PA	
	36	Williamsport	MD	Harrisburg	PA	
	39	Harrisburg	PA	Buffalo	NY	
	39	Watsontown	PA	Strawberry Ridge	PA	
	4	Ebenezer Jct.	NY	Lackawanna	NY	
	91	Hornell	NY	Corry	PA	
	91	Corry	PA	Erie	PA	TR
	91	Youngstown	OH	Oil City	PA	
Cincinnati, OH to Columbus, OH to Charleston, WV						
	54	Columbus	OH	Cincinnati	OH	
	54	Cincinnati Terminal	OH			
	56	Columbus Terminal	OH	Truro	OH	
	57	Truro	OH	Charleston	WV	
	150	Charleston	WV	Cornelia	WV	
	150	Charleston	WV	Morris Fork	WV	
Chicago South/Illinois Operations						
	193	Osborne	IN	Hartsdale	IN	
	193	Hartsdale	IN	Chicago Heights	IL	
	82	Hartsdale	IN	Schneider	IN	
	81	Schneider	IN	Hennepin	IL	

Conrail Line Allocation

Primary Route And Extension Acquisitions	Segmt	From		To		
	97	Keensburg	IL	Carol	IL	
	152	Schneider	IN	Wheatfield	IN	
Chicago Market						
	194	Western Ave Operations/Loop		Cicero/Elsdon	IL	
	194	Western Ave. I.T.	IL			
	194	Old Western Ave. I.T.	IL			
	194	North Joint Tracks	IL			
	194	Elevator Lead & Tri-River Dock	IL			
	195	Chicago	IL	Porter	IN	
	196	Clarke Jct.	IN	CP501	IN	
	196	CP 509	IL	Calumet Park	IL	
	194	CR&I Branch	IL			
	194	49th Street I.T.	IL			
	194	75th Street	IL	51st Street	IL	TR
	197	Port of Indiana	IN			
	196	Bernice I.T.	IL			
	190	CP502	IN	Osborne	IN	

CRC Retained Assets - Detroit Shared Assets Area

Detroit Line	Gibraltar(MP20)	MI	CP West Detroit	MI	
Michigan Line	CP Townline	MI	CP 15th Street	MI	Part TR
North Yard Branch	CP Bay City Jct.	MI	North Yard	MI	
Sterling Secondary	North Yard	MI	Sterling Yard	MI	
Junction Yard Secondary	CP Townline	MI	River Rouge Yard	MI	
Marsh Industrial Track	River Rouge Yard	MI	Tecumsah Yard	MI	
Lincoln Industrial Track	Ecorse Jct.	MI	Carleton	MI	
Term. East Ind. Track	Mack Yard	MI	North Yard	MI	
Term. West Ind. Track	North Yard	MI	Fullerton	MI	
Highland Park Ind. Track	Fullerton	MI	West Belt Jct.	MI	
Utica Industrial Track	Sterling Yard	MI	Ford Utica Plant	MI	
Forman Wye Track	Fort St - Rougemere	MI	NS Drawbridge	MI	
Overhead Rights on CSXT	West Belt Jct.	MI	Delray	MI	TR
Local Rights on CSXT	Oak	MI	End of Track - W. Detroit	MI	TR
Rights on Delray Connecting RR					

CRC Retained Assets - South Jersey/Philadelphia Shared Assets Area

NEC (Amtrak)	Zoo	PA	Trenton	NJ	TR
Harrisburg Line (Amtrak)	Zoo	PA	Overbrook	PA	TR
Delair Branch	CP Park	PA	Pavonia Yard	NJ	
West Chester Line (SEPTA)	Arsenal	PA	Media	PA	TR
Chestnut Hill W. Line (SEPTA)	N. Philadelphia	PA	Midvale	PA	TR
Midvale Yard/Midvale I.T.		PA			
Main Line (SEPTA)	Market East	PA	Newtown Jct.	PA	TR
Chester Secondary	Eastwick	PA	Essington	PA	

Conrail Line Allocation

Primary Route And Extension Acquisitions	Segmt	From		To		
Chester Industrial Track		Essington	PA	Marcus Hook	PA	
Bordertown Secondary		Pavonia	NJ	Trenton	NJ	
Beasley's Pt. Secondary		CP Brown	NJ	Palermo	NJ	Part TR
Vineland Secondary		CP Brown	NJ	Landis	NJ	
Millville Industrial Track		Landis	NJ	Manumiskin	NJ	
Manumuskin Ind. Track		Manumuskin	NJ	WW RR Connection	NJ	
Penns Grove Secondary		Woodbury	NJ	Deepwater	NJ	
Salem Running Track		Woodbury	NJ	Swedesboro	NJ	
Pemberton Ind. Track		CP Jersey	NJ	Mt. Holly	NJ	Part TR
Grenloch Industrial Track		CP Brown	NJ	Bellmawr	NJ	
Shell Industrial Track		Shell	NJ	End of Track	NJ	
Bustleton Ind. Track		Holmes	PA	Bustleton	PA	
Morrisville Line		CP "MA"	PA	Morris	PA	
Fairless Spur		Morrisville Yard	PA	Fairless Works	PA	
Richmond Ind. Track		Nice	PA	Pt. Richmond	PA	
60th Street Ind. Track		Essington	PA	End of Track	PA	
Camden Running Track		CP Brown	NJ	Pavonia	NJ	Part TR
Philadelphia Belt Line			PA			TR
Swanson St. IT		South Philadelphia	PA			
Port of Philadelphia			PA			
Pier I22			PA			
Blue Line Connecting Track		Wayne Jct.	PA	Nice	PA	

CRC Retained Assets - North Jersey/New York Shared Assets Area

NEC (Amtrak)		Trenton	NJ	Penn Station NY	NY	TR
Raritan Valley Line (NJT)		Aldene	NJ	Bound Brook	NJ	TR
North Coast Line (NJT)		Rahway(Union)	NJ	Neptune Yard	NJ	TR
Bayonne Line (NJT)		Bayonne	NJ	Greenville	NJ	TR
Southern Secondary (NJT)		Red Bank	NJ	Glidden	NJ	TR
Freehold Secondary (NJT)		Freehold	NJ	Farmingdale	NJ	TR
Lehigh Line		CP Port Reading Jct.	NJ	Oak Island Yard	NJ	
River Line		CP Waldo	NJ	North Bergen	NJ	
Port Reading Secondary		Bound Brook	NJ	PD Port Reading	NJ	
Chemical Coast Secondary		"PN" Oak Island	NJ	Perth Amboy	NJ	
P&H Branch		Lane	NJ	Hack	NJ	
Nave - Croxton Running Tk.		Nave	NJ	CP-Croxton	NJ	
Northern Running Track		CP-Croxton	NJ	North Bergen	NJ	
Marion Running Track		Hack	NJ	CP-Croxton	NJ	
National Docks Secondary		Oak Island	NJ	Nave	NJ	
Amboy Secondary		South Amboy	NJ	Monmouth Jct. (Midway)	NJ	
Bonhamton/Raritan Ind. Tks.		Metuchen	NJ	Perth Amboy	NJ	
Linden Industrial Track		Carteret	NJ	Linden	NJ	
Perth Amboy Running Track				Center	NJ	
GSA Lead		NS Lehigh Line Conn.	NJ	CSX Trenton Line Conn.	NJ	
Reformatory Ind. Track		Carteret	NJ	Chrome Yard	NJ	
Elizabeth Ind. Track		Aldene	NJ	Elizabeth	NJ	
Hightstown Ind. Track		Jamesburg	NJ	Hightstown	NJ	
Toms River Ind. Track		Lakehurst	NJ	Ciba	NJ	
Meadows #1 Track			NJ		NJ	
Port Newark/Port Elizabeth Access			NJ		NJ	
Auto Terminal Lead		Ridgefield Heights	NJ		NJ	

Primary Route And Extension Acquisitions	Segmt	Conrail Line Allocation From		To	
Greenville Yard and Lead		Greenville	NJ		NJ

SCHEDULE 2

MAJOR DECISIONS

1. From and after the Control Date, except by resolution of the CRC Board, none of CRR, CRC or any of their respective Affiliates (other than NYC and PRR) shall (other than as is necessary or convenient in connection with a Restructuring or is expressly set forth in this Agreement or the Ancillary Agreements), in any single transaction or series of transactions, take or commit to take any of the following actions:

(a) any action which would require or cause NYC or PRR to declare, make or pay any Distributions;

(b) conduct any business other than, or engage in any transaction not substantially related to and in the ordinary course of, the business of CRC and its Affiliates (other than NYC and PRR) as contemplated under this Agreement and the Ancillary Agreements (the "Continuing CRC Business");

(c) make any loans, advances or capital contributions to, or investments in, any other Person except CRC's wholly owned Subsidiaries;

(d) acquire any business or assets, other than assets acquired in the ordinary course of the Continuing CRC Business;

(e) consolidate with or merge into any Person or otherwise engage in any business combination;

(f) issue, sell, adjust, split, combine, subdivide, reclassify, transfer, pledge, redeem or otherwise acquire any shares of its capital stock;

(g) sell, transfer, lease, sublease, license or otherwise dispose of any assets (including leasehold interests and intangible assets) not in the ordinary course of the Continuing CRC Business or in excess of $100,000 in aggregate value in any 12 month period;

(h) commit to or make any capital expenditure other than in compliance in all material respects with the capital expenditure budget adopted by the CRC Board from time to time;

(i) commence or settle any litigation for equitable relief or for an amount in excess of $100,000 in any such commencement or settlement or series of related commencements or settlements;

(j) form or participate in a joint venture or partnership outside the ordinary course of the Continuing CRC

Business or involving over $100,000 in assets or over $100,000 in revenues;

(k) enter into or amend Contracts outside the ordinary course of the Continuing CRC Business or with a notional value in excess of $100,000 or for a period in excess of 12 months; provided that in respect of Contracts that are Allocated Assets, CRC shall follow NYC's (in the case of Contracts that are NYC Allocated Assets) or PRR's (in the case of Contracts that are PRR Allocated Assets) reasonable instructions in respect of such Contracts and no CRC Board approval shall be necessary for CRC to take such actions;

(l) create liens on or encumbrances of assets outside the ordinary course of the Continuing CRC Business or with an aggregate net book value in excess of $50,000;

(m) incur, assume, pre-pay, guarantee, endorse or otherwise become liable or responsible (whether directly, contingently or otherwise) for any indebtedness for borrowed money except in the ordinary course of the Continuing CRC Business;

(n) declare, make or pay any Distributions, other than Distributions to CRC by its wholly owned Subsidiaries (other than NYC and PRR);

(o) appoint or terminate any executive management;

(p) enter into or amend any written employment agreement or contract or employee benefit plan or employee policy;

(q) appoint or replace the independent auditors of CRR, CRC and their respective Affiliates;

(r) unless required by law or a change in generally accepted accounting principles in the United States, make any material change in the accounting methods of CRR, CRC and their respective Affiliates;

(s) dissolve, liquidate or wind up CRR, CRC or their respective Affiliates or commence a voluntary proceeding seeking reorganization or similar relief;

(t) approve, enter into or perform any transactions with any director, officer or employee of CRR, CRC or their respective Affiliates, or with an Affiliate of CSX or NSC, respectively, or with any partner, family member or other person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with any such director, officer or employee;

(u) transfer, pledge, create a security interest, or otherwise part with ownership or possession, in whole or part, of its membership interest in NYC or PRR; or

(v) any other action that could be reasonably expected to have a material impact on the performance, financial condition or prospects of CRR, CRC or their respective Affiliates.

2. Except by resolution of the CRC Board, CRC shall not (other than as is necessary or convenient in connection with a Restructuring) in its capacity as the sole member of NYC and PRR, respectively, amend or restate the NYC LLC Agreement or the PRR LLC Agreement, or suffer or permit NYC or PRR, as the case may be, to take or commit to any of the following actions:

(a) declare, make or pay any Distributions;

(b) conduct any business other than, or engage in any transaction not substantially related to and in the ordinary course of, the business of NYC or PRR, as the case may be, as contemplated under the Transaction Agreement and the Ancillary Agreements or the freight transportation business generally;

(c) consolidate with or merge into any Person or otherwise engage in any business combination;

(d) issue, sell, adjust, split, combine, subdivide, reclassify, transfer, pledge, redeem or otherwise acquire any interest in NYC or PRR, as the case may be;

(e) sell, transfer, lease, sublease, license, exchange or otherwise dispose of all or substantially all of their Assets, respectively (including leasehold interests and intangible Assets);

(f) dissolve, liquidate or wind up or commence a voluntary proceeding seeking reorganization or similar relief;

(g) enter into any agreement or arrangement with respect to, or engage in, any transaction (i) between NYC or PRR, as the case may be, on the one hand, and CRC or its Affiliates, on the other hand, and (ii) between the NYC or PRR, as the case may be, on the one hand, and CSX or NSC and their respective Affiliates, on the other hand, other than such a transaction which is on arm's length terms;

(h) transfer, provide trackage or operating rights or otherwise grant the right to use any railroad line (regardless of whether the grantor's rights depend on ownership or trackage rights or a combination thereof) which is part of any Main Line within the States of New Jersey or New York, or the area within twenty-five miles of the city of Philadelphia, PA (or consent to

any such action by the "Operator" under the CSXT Operating Agreement or the NSR Operating Agreement). As used in the preceding sentence, "Main Line" means a line of railroad that has daily rail service, but does not include any branch line connecting to a Main Line and does not include the Main Line that lies east of the Hudson River and south of Selkirk, NY; or

(i) amend any material provision of the CSXT Operating Agreement, the CSXT Equipment Lease, the NSR Operating Agreement or the NSR Equipment Lease.

SCHEDULE 3

PRESERVATION OF FAIR ACCESS TO CHICAGO GATEWAY

(a) For purposes of this Schedule 3, the following terms shall have the following meanings:

(i) "Chicago Area" means the geographic area in the States of Illinois and Indiana located within a 100-mile radius of the office building presently located at One First National Plaza in Chicago, Illinois;

(ii) "Chicago Area Terminal Railroad" means any railroad, whether currently in existence or later created, whose primary business is the provision of terminal or switching services within the Chicago Area including, without limitation, the Indiana Harbor Belt Line Railroad Company, the Belt Railway Company of Chicago, the Baltimore and Ohio Chicago Terminal Railroad Company and the Elgin, Joliet and Eastern Railroad Company; and

(iii) "Chicago Gateway" means railroad lines and interchange, dispatching and other related facilities necessary to the function of carrying by railroad freight moving through the Chicago Area generally in the direction from east to west or west to east, whether by interchange between carriers in the Chicago Area or by single-line service between points east of the Chicago Area and points west of the Chicago Area and passing through the Chicago Area.

(b) If CSXT or NSR shall after the Control Date acquire, directly or indirectly, ownership, or rights to exercise effective voting control, of any voting stock in any Chicago Area Terminal Railroad (the "Interests"), the party acquiring such Interests (the "Acquiror") shall, at the request of the other party, sell or transfer to the other party, on terms and conditions substantially the same on a pro rata per Interest basis as those governing the Acquiror's acquisition of Interests, one-half of such newly acquired Interests, provided, however, that if the Interests would give the Acquiror control, not theretofore held, of a Chicago Area Terminal Railroad, the Acquiror's obligation to sell or transfer shall attach to the lesser of (A) one-half of all the Interests (not solely newly acquired Interests) it holds in that Chicago Area Terminal Railroad, or (B) such portion of all the Interests (not solely newly acquired Interests) it holds in that Chicago Area Terminal Railroad as necessary to equalize the Interests of each party. The sale or transfer price for each such Interest shall be the per Interest price paid by the Acquiror for the newly acquired Interests.

(c) Neither CSXT nor NSR shall, following the Control Date, enter into any arrangement with any Chicago Area Terminal

Railroad, or any other railroad operating in the Chicago Area related to the Chicago Gateway, under which, in connection with the grant by such Chicago Area Terminal Railroad or such other railroad of trackage rights or similar operating rights to either CSXT or NSR, such Chicago Area Terminal Railroad or other railroad shall agree not to grant trackage rights or similar operating rights to the other of CSXT or NSR, with respect to such Chicago Area Terminal Railroad or the lines of such other railroad related to the Chicago Gateway.

(d) Should CSX or CSXT enter into a transaction in which either one shall be acquired by Burlington Northern Santa Fe Corporation ("BNSF"), or in which CSX or CSXT acquires BNSF, or in which substantially all of the rail operations of CSXT and BNSF shall be otherwise combined and put under common control or be merged together in any manner, at the request of CSX and any successor thereto made no later than one year following the consummation of such transaction, NSR shall sell and transfer to CSXT or its successor, at fair value, the Streator Line from Osborne, IN to Streator, IL (being the rail line located between Osborne, IN, and Schneider, IN, and Wheatfield, IN, and Moronts, IL), including all dispatching control with respect to said line. As used in this subsection, the term "fair value" shall mean the fair market value as determined by the parties by agreement or, failing agreement, as determined by binding arbitration. Any such sale and transfer shall be subject to all requisite governmental and regulatory approvals.

(e) Any dispute concerning the interpretation or application of this Schedule 3 shall be finally settled by binding arbitration pursuant to Section 11.12 of the Transaction Agreement. In any such arbitration, the arbitrator(s) shall have the authority to direct, subject to any required governmental or regulatory approvals and in accordance with any contractual limitations on transfer or assignment contained in any agreement with third parties (except one made in contravention of this Schedule 3), CSXT, NSR or both to transfer to each other ownership or control of voting stock in any Chicago Area Terminal Railroad, or to direct the release by a party violating subsection (c) of any obligation of exclusivity made in such violation, as are necessary to carry out the purposes of this Schedule 3.

SCHEDULE 4

SCHEDULE OF TRACKAGE RIGHTS, HAULAGE, SHARED ASSET AND OTHER OPERATING AGREEMENTS

ITEM 1 - TRACKAGE RIGHTS AGREEMENTS

All Trackage Rights Agreements referred to in Items 1.A and 1.B below will be substantially in the form of the Trackage Rights Agreement attached hereto as Exhibit C-1 (in the case of those referred to in Item 1.A.) or C-2 (in the case of those referred to in Item 1.B.) and will be between the operator of the involved rail line, the owner, and the tenant road. Forms of addenda and/or assignments relating to the trackage rights referred to in Item 1.A. are included with Exhibit C-1 and forms of addenda and/or assignments relating to the trackage rights referred to in Item 1.B. are included with Exhibit C-2. Unless otherwise provided herein, a trackage rights tenant shall only have the right to enter on and exit from the trackage rights lines at points other than the endpoints where the tenant may make a connection with its existing railroad line and joint CSXT/NSR lines ("Point of Permitted Entry or Exit"). If, in the opinion of the tenant, a new or upgraded connection is required at a Point of Permitted Entry or Exit other than the endpoints, or, if in the opinion of the tenant, other upgrading, including but not limited to switches, power switches, signals, communications, etc., is required for operational efficiency, the landlord will, subject to its own operational needs, cooperate and the tenant will be responsible for funding that construction/upgrading at actual cost or a cost mutually agreed to by CSXT and NSR. Where a tenant has access to 2-to-1 points via trackage rights, the tenant may at its option access the points via haulage.

A. **NSR on CSXT:** CSXT will grant to NSR trackage rights on the following rail lines which will be owned or operated by CSXT after the Closing Date:

1. Junction - Hadley (Fort Wayne, IN): NSR rights to operate over and share with CSXT the former CRC line between Junction and Hadley (the crossing of the former Pennsylvania RR and NYC&SL west of Fort Wayne).

2. Lafayette, IN - Crawfordsville (area): assignment of overhead trackage rights on CSXT's Lafayette - Crawfordsville, IN line to serve 2-to-1 shippers at Crawfordsville, IN, and to move overhead between Lafayette and Indianapolis.

3. Crawfordsville, IN - Indianapolis (area): overhead trackage rights on CRC's Crawfordsville - Indianapolis line to serve 2-to-1 shippers, the GM metal fabrication plant and the INRD via Hawthorne Yard.

4. Indianapolis: overhead trackage rights on CRC's Crawfordsville Branch from Woods to Washington Street in Indianapolis to serve 2-to-1 shippers, the GM metal fabrication plant and the INRD via Hawthorne Yard.

5. Indianapolis: overhead trackage rights on CSXT between Washington Street and Pine in Indianapolis to serve 2-to-1 shippers, the GM metal fabrication plant and the INRD via Hawthorne Yard.

6. Buffalo (CP 437) - Niagara Falls (Suspension Bridge): overhead trackage rights on CRC's Belt Line Branch and Niagara Branch to connect with, or with trackage of Canadian carriers at Suspension Bridge.

7. Philadelphia(Park Jct.) - Anacostia Jct., MD: NSR is assigned CRC's overhead trackage rights on CSXT.

8. Landover - RO (Alexandria, VA): overhead trackage rights on CRC's Landover Line.

9. Cleveland, OH: overhead trackage rights on CRC's Short Line from Quaker to Berea, OH.

10. Cleveland, OH: overhead trackage rights on CRC's Chicago Line (allocated to CSXT) from CP 181 to Collinwood Yard for purposes of interchange with CSXT.

11. Crestline, OH - Fort Wayne (Mike), IN: overhead trackage rights on CRC's Fort Wayne Line (which is to be allocated to CSXT), with train limits as follows:
    - 8 total trains/day between Crestline and Bucyrus
    - 6 total trains/day between Bucyrus and Fort Wayne including rights to serve 2-1 customers at Upper Sandusky.

    NSR trains over the above limits are subject to negotiations between CSXT and NSR for NSR contribution to CSXT investment needed for additional capacity. NS will supervise the dispatching of the Ft. Wayne to Crestline line until CSXT haulage over CRC Chicago Line between Berea and Chicago is terminated. NS will control the Bucyrus interlocking permanently.

12. Fort Wayne(Mike), IN - Chicago(Clarke Jct., IN): overhead trackage rights on former CRC Fort Wayne Line (Ft. Wayne - Chicago, now NSR), with ten total

trains/day limit (limit does not apply in Fort Wayne terminal). NSR trains over the above limits are subject to negotiations between CSXT and NSR for NSR contribution to CSXT investment needed for additional capacity. NSR will dispatch the line until CSXT haulage over CRC Chicago Line between Berea and Chicago is terminated.

13. Porter - Gibson Interlocking, IN: overhead trackage rights on CRC's Porter Branch.

14. CP Hocking - CP 138 (Columbus, OH): overhead trackage rights on CRC Buckeye Line from "CP Hocking" to "CP 138".

15. Scioto - CP Mounds (Columbus, OH): overhead trackage rights on CRC Western Branch from Scioto to "CP Mounds," including the Mounds Connection.

16. CP Buckeye - CP Darby (Columbus, OH): overhead trackage rights on Buckeye Yard Lead from "CP Buckeye" to "CP Darby".

17. CP 138 - MP 133.5 (Columbus, OH): overhead trackage rights on the CSXT - assigned west track of the CRC Columbus Line from "CP 138" to the vicinity of Milepost 133.5 (point of new NS connection).

18. Parsons Yard - Scioto (Columbus, OH): overhead trackage rights on CSXT between the south end of Parsons Yard (connection with Watkins - Parsons transfer track) and Scioto.

19. Lima, OH - Sidney, OH: overhead trackage rights on CSXT's Toledo Subdivision to serve 2-to-1 customers at Sidney.

20. Bound Brook, NJ - Woodbourne, PA: overhead trackage rights for twelve total trains/day limit on CRC's Trenton Line for dimensional trains until Pattenburg Tunnel on CRC's Lehigh line is cleared of dimensional restrictions, not to exceed three years.

21. Piqua Yard - Mike Interlocking (Fort Wayne, IN): NSR overhead rights to operate trains for Triple Crown Services Company between Piqua Yard and Mike interlocking (Fort Wayne).

22. Muncie, IN - Indianapolis (area): overhead trackage rights on CRC's Indianapolis Line, South Anderson Cutoff and part of Dow Secondary to serve 2-to-1 ship-

pers the GM metal fabrication plant and the INRD via Hawthorne Yard.

23. Toledo Terminal: overhead rights on CSXT-controlled portion of former Toledo Terminal Railroad.

24. Erie, PA: overhead trackage rights on CRC between Downing Avenue and Wallace Street in Erie, PA, subject to restriction against NSR use of CRC Chicago line main tracks.

25. CP Short - Parma, OH: overhead trackage rights on CRC Short Line from CP Short to Parma to serve but not directly switch Parma auto plant.

26. McCook - Franklin Park, IL: overhead trackage rights granted by B&OCT.

27. Pine Junction, IN - McCook, IL: overhead trackage rights on B&OCT.

B. **CSXT on NSR:** NSR will grant to CSXT trackage rights on the following rail lines which will be owned or operated by NSR after the Closing Date:

1. CP River (West Falls), PA - Abrams, PA: overhead trackage rights on CRC's Harrisburg Line for dimensional traffic.

2. CP King (Norristown), PA - Woodbourne (CP Wood), PA: overhead trackage rights on CRC's Morrisville Line for dimensional traffic plus incidental rights on short portion of SEPTA's Norristown Line.

3. Berea, OH - CP 181 (Cleveland, OH): overhead trackage rights on CRC's existing Chicago Line.

4. CP Short - CP 190 (Cleveland, OH) and Berea, OH - Lorain and Fairlane, OH: overhead trackage rights on CRC's line allocated to NSR and rights to serve 2-to-1 Ford Motor plants at Avon Lake and Fairlane.

5. CP Hocking - Buckeye Yard: overhead trackage rights on CRC Buckeye Line from "CP Hocking" to Buckeye Yard.

6. Bannon - Scioto, OH: overhead trackage rights on CRC Western Branch from Bannon to Scioto.

7. CP 139 - Buckeye Yard: overhead trackage rights on CRC Cincinnati Line from "CP 139" to Buckeye Yard, via the Miami Lead.

8. CP 138 - MP 133.5 (Columbus, OH): overhead trackage rights on the NSR-assigned east track of the CRC Columbus Line from CP 138 to the vicinity of MP 133.5 (point of new NSR connection).

9. CP Camp - CP 139 (Columbus): overhead trackage rights on CRC Auburn Connection from "CP Camp" to "CP 139".

10. Bannon - Watkins Yard: overhead trackage rights on NSR from Bannon to the south (RR east) end of NSR Watkins Yard (connection with Watkins - Parsons transfer track).

11. Youngstown (Center St.) - Ashtabula Harbor, OH: overhead trackage rights on CRC Youngstown Line to access Ashtabula Harbor facilities and the Water Level Route.

12. Osborne, IN - Streator, IL: overhead trackage rights on CRC Kankakee Line, Kankakee Secondary and Streator Secondary for up to 8 total trains/day to connect with, or with trackage of other intersecting railroads. CSXT trains over the above limits are subject to negotiations between CSXT and NSR for CSXT contribution to investment needed for additional capacity.

13. Clarke Jct., IN - CP 501: overhead trackage rights on CRC's Fort Wayne Line between Clarke Junction, IN and CP 501.

14. Pine, IN - Rock Island Jct. (Chicago, IL): CSXT overhead trackage rights on CRC's Chicago Line (allocated to NSR).

15. CP Short - CP Belt, OH: CSXT overhead trackage rights to allow CSXT to serve but not directly switch 2-to-1 Ford Motor Company plant at CP Belt, OH.

16. Ecorse Junction - Delray (Detroit, MI): overhead trackage rights on existing NSR tracks in the Detroit area from Ecorse Junction to Delray, MI.

17. Bucyrus - Sandusky: overhead trackage rights on NSR between Bucyrus and Sandusky to serve a 2-to-1 shipper at Sandusky, OH.

18. Brighton Park - Ash Street (Chicago IL): overhead trackage rights on CRC's Western Avenue Industrial Track from crossover connection with B&OCT at Brighton Park to Ash Street (Chicago, IL).

19. CP 509 - 63rd Street (Chicago, IL): overhead trackage rights on CRC's Chicago line limited, in combination with NSR haulage of CSXT trains, to a total of 6 trains/day in each direction between the above points for trains entering or leaving NSR trackage at Clarke Junction up to a maximum of three years.

C. **CRC ASSIGNMENTS TO NSR/CSXT:** CRC will assign to NSR and CSXT existing CRC rights with respect to the Northeast Corridor as follows (see Ancillary Agreement governing assignment of CRC rights as to Northeast Corridor):

NEC RIGHTS/OPERATING DEFINITION

1. Zoo Tower - Penn Station trackage: Rights shall be shared equally by NSR and CSXT and, in the event of an operating conflict, trains will be scheduled alternately.

2. Baltimore - Zoo Tower Trackage: CSXT shall be limited to 4 trains a day.

3. Landover - Baltimore: Rights will be shared equally by NSR and CSXT and, in the event of an operating conflict, trains will be scheduled alternately.

4. Washington Union Station - Landover, MD: Rights shall be shared equally by NSR and CSXT and, in the event of an operating conflict, trains will be scheduled alternately.

NEC RIGHTS/COMMERCIAL DEFINITION

1. Philadelphia (Zoo) - New York (Penn Station): Will be part of the North Jersey Shared Assets Area and the South Jersey/Philadelphia Shared Assets Area where NSR and CSXT will have equal customer access.

2. Washington, D.C. - Philadelphia (Zoo): Will be exclusive to NSR.

3. North of New York (Penn Station): Will be exclusive to CSXT.

ITEM 2 - CSX/NSC HAULAGE AGREEMENTS

The Haulage Agreement referred to in Item 2.A.1 will be substantially in the form of the Haulage Agreement included with Exhibit D and will be between the operator of the involved rail line (and with the owner, if appropriate) and the tenant road. The assignment of the Haulage Agreement

referred to in Item 2.A.2 will be in the form included with Exhibit D.

A. NSR Haulage for CSXT on NSR Lines:

1. Berea, OH - Chicago (63rd St.): Overhead haulage for CSXT by NSR on CRC's Chicago Line for maximum of six merchandise and/or intermodal trains/day each way to the Park Manor Yard at 63rd St. in Chicago, until CRC's Ft. Wayne Line (Ft. Wayne - Chicago now NS) is upgraded, up to a maximum of 3 years.

2. Normal, IL - Lafayette, IN: Assignment to CSXT of CRC's Haulage Agreement with NSR for 2-to-1 automotive traffic only.

ITEM 3 - SHARED ASSETS AGREEMENTS

1. North Jersey Shared Assets Agreement among CRC, CSXT and NSR (attached as **Exhibit G**), covering the following matters:

   (1) North Jersey Shared Assets Area
   (2) North Jersey CSXT/NSR Trackage

2. Philadelphia\Southern Jersey Shared Assets Agreement among CRC, CSXT and NSR (attached as **Exhibit H**), covering the following matters:

   (1) Philadelphia/South Jersey Shared Assets Area
   (2) Philadelphia/South Jersey NS/CSXT Trackage

3. Detroit Area Shared Assets Agreement among CRC, CSXT and NSR (attached as **Exhibit I**), covering the following matters:

   (1) Detroit Shared Assets Area
   (2) Detroit Dispatching
   (3) NSR/CSXT trackage Rights - Detroit

ITEM 4 - OTHER OPERATING AGREEMENTS

A. **INTERLOCKING AGREEMENTS (CSXT-Controlled)** between CSXT and NSR as to which the interlocking will be controlled by CSXT:

1. Ashtabula Interlocking (crossing of the existing CRC Youngstown Line and Chicago Line at Ashtabula, OH)

2. CP-Mounds Interlocking (Columbus, OH)

3. Warsaw Interlocking (Warsaw, IN)

4. Crestline Interlocking (Crestline, OH)

B. **INTERLOCKING AGREEMENTS (NSR-Controlled)** between NSR and CSXT as to which the interlocking will be controlled by NSR:

1. Buckeye Interlocking (Columbus, OH)

2. Mike Interlocking (Fort Wayne, IN)

3. Bucyrus Interlocking (Bucyrus, OH)

C. **INTERLOCKING SEPARATION AGREEMENTS** between NSR and CSXT as to which the interlocking will be "separated" (i.e., divided so that each operator is not subject to the control of the other when making moves on the operator's own lines through a point) prior to or as soon as possible after the Closing Date:

1. CP 138 Interlocking (Columbus, OH)

2. Short Interlocking (Cleveland, OH)

3. Berea Interlocking (Berea, OH)

D. **SWITCHING AND/OR YARD ACCESS AGREEMENTS** between CSXT and NSR:

1. Ashtabula - Agreement between NSR and CSXT providing for CSXT use of and access to Ashtabula Harbor facilities owned by CRC, up to a proportion of the total ground storage, throughput and tonnage capacity of the facilities equal to the Percentage

2. Yard Access Agreement - Agreement between CSXT and NSR providing for access by NSR to yard tracks in Seneca Yard at Buffalo, NY (yard to be assigned to CSXT) sufficient for the origination and termination of trains, at the end of the existing CRC Buffalo Line to be assigned to NSR, for purposes of improved interchange with the South Buffalo RR.

3. Ford (Rockport) - Agreement between NSR and CSXT providing for NSR switching for CSXT at the Ford engine plant in Cleveland (located on NSR portion of CRC lines in Cleveland).

4. GM Parma - Agreement between CSXT and NSR providing for CSXT switching for NSR at Parma auto plant located on the CSXT Portion of CRC in Cleveland.

5. Indianapolis Switching - Agreement between CSXT and NSR relating to NSR's use of Hawthorne Yard providing that NSR will have sufficient tracks and space for the arrival, departure and make-up of trains and will have reasonable access to and from the designated tracks; also providing for CSXT switching for NSR at 2-to-1 shippers in Indianpolis, the GM metal fabrication plant, and the INRD.

6. GM Lordstown - Agreement between CSXT and NSR for switching at GM assembly plant at Lordstown, OH.

7. Lorain Switching: Agreement between CSXT and NSR providing for NSR switching for CSXT at Lorain/Avon Lake auto plant located in Lorain, OH.

8. Fairlane Switching: Agreement between CSXT and NSR providing for NSR switching for CSXT at Fairlane auto plant located in Fairlane, OH.

9. Crawfordsville Switching: Agreement between CSXT and NSR providing for CSXT switching for NSR at 2-to-1 customers located in Crawfordsville, IN.

10. Sidney Switching: Agreement between CSXT and NSR providing for CSXT switching for NSR at 2-to-1 customers located in Sidney, OH.

11. Sandusky Switching: Agreement between CSXT and NSR providing for NSR switching for CSXT at a 2-to-1 customer at Sandusky, OH.

12. Upper Sandusky Switching: Agreement between CSXT and NSR providing for CSXT switching for NSR at 2-to-1 customers at Upper Sandusky, OH.

E. **MISCELLANEOUS AGREEMENTS** between NSR and CSXT:

1. IHB Agreement: Agreement among CRC, CSXT and NSR covering matters relating to Indiana Harbor Belt.

2. Monongahela Agreement - Agreement among NSR and CSXT providing for shared access to and joint use by CSXT of NSR assigned, controlled, operated and maintained lines serving the Monongahela coal fields' current and future facilities.

3. Temporary Lease Agreement between NSR or its designee and CSXT providing interim use by CSXT of the Park Manor (63rd St., Chicago, IL) intermodal facility during the period of CSXT's interim haulage between Chicago and Berea.

4. Letter Agreement providing for NSR and CSXT construction projects:

   (a) NSR construction of connection in eastern Cleveland, OH (granting to NSR rights to construct a connection in eastern Cleveland to make direct moves between NSR's Cleveland-Buffalo Line and the CRC's existing Chicago Line, using NSR rights over existing CRC Cleveland Short Line to be assigned to CSXT)

   (b) North of the current end of double track at CP 136 (Columbus, OH), NSR will be assigned the right of way east of the single remaining track and the Clintonville Siding (which is also east of the single remaining track), with the right to connect these two segments of track, at NSR's expense, at CP 136 and the Clintonville Siding into a continuous track east of and parallel to the single remaining track. Another new connection will be constructed, at NSR expense, between the Clintonville Siding and the existing NSR Bellevue - Portsmouth main line in the vicinity of Milepost 133.5, where both the NSR and CRC rights of way are parallel and level. CSXT shall, at its option and expense, have the right to construct a connection from its assigned track (i.e., the west located track of the right of way) to the new NSR Clintonville Siding, so that both tracks can be utilized for operational flexibility between the vicinity of Milepost 133.5 to CP 138, under the control of the respective assignee of each track.

   (c) Construction of Junction - Hadley trackage (a line relocation project underway in Fort Wayne will force NSR and CSXT to share the former CRC line between Junction and Hadley (the crossing of the former Pennsylvania RR and NYC&SL west of Fort Wayne); if NSR and CSXT decide that capacity needs mandate an additional track, NSR and CSXT will equally share the cost of constructing a new track between Junction and Hadley on the north side of the existing track, and ownership of the south track will revert to NSR and

ownership of the north track will revert to CSXT).

5. Construction at Buckeye Yard - Letter Agreement providing for NSR to have the right to construct a parallel track to the Buckeye Yard lead track (at Buckeye Yard, Columbus, OH) in order to provide for the proper functioning of Buckeye Yard.

6. Construction from Field - Belmont - Letter Agreement giving NSR the right to reconstruct, own and control an additional track where practical between Belmont and CP Field.

7. Deed of Easement between CSXT and NSR providing for conveyance by CSXT to NSR of a free easement (for NSR relocation of mainline in Erie, PA area) along existing CRC right of way through Erie, PA (assigned to CSXT) to replace NSR right of way through streets in downtown Erie at its expense. NSR will have trackage rights in Erie to connect its route from Corry to its existing Buffalo - Cleveland line if such connection can be achieved without using the CR Buffalo - Cleveland line.

8. Letter agreement between NSR and CSXT providing that (i) NSR's existing Fort Wayne - to - Chicago (former CRC line) line will be transferred to CSXT as part of a like kind exchange transaction for the Streator line and (ii) if CSXT were to merge with BNSF and if CSXT requests, then NSR would transfer the Streator Line from Osborne, IN including the dispatching control, for fair value.

9. Piqua Yard (Fort Wayne) - Letter Agreement between NSR and CSXT providing for division of space in Piqua Yard and determine most efficient means of utilizing the physical plant in Fort Wayne; Triple Crown Services Company will retain its current space in Piqua Yard and the right to have NSR operate its trains between Piqua Yard and Mike interlocking.

10. E-Rail Support Tracks - Letter Agreement between CSXT and NSR providing for access by NSR to use up to two tracks located on NYC allocated property of Elizabethport Yard (Trumbell St. Yard) for support of PRR's E-Rail intermodal facility.

11. Agreement between CSXT and NSR providing for assignment of CRC rights over CSXT lines to NSR (except as otherwise provided in the Transaction Agreement) and for assignment of CRC rights over NSR lines to CSXT

(except as otherwise provided in the Transaction Agreement).

12. Letter Agreement between NSR and CSXT providing CSXT the right to construct an Eastwick connection to provide a contiguous route through Philadelphia, via CP Field and portions of CR's Harrisburg and Trenton Lines to CP River and points north.

13. Letter Agreement among CRC, NSR and CSXT providing for assignment by CRC of rights relating to the Northeast Corridor.

14. Letter Agreement between NSR and CSXT providing for (i) assignment to both NSR and CSXT of CRC's trackage rights over BNSF to access BNSF's Willow Springs Yard (Chicago), subject to approval of BNSF, and (ii) if such trackage rights are assigned, CSXT's right to construct a connection in the vicinity of Ash Street (Chicago) to enable CSXT to use these rights, if necessary.

NOTE: Notwithstanding any provision of this Schedule, to the extent an item herein describes an Ancillary Agreement between the parties the form of which is set forth as an Exhibit to this Agreement, such description shall be for purposes of identification only, and the terms of such Ancillary Agreement shall control.

CSXT and NSR will cooperate with one another for the construction of various connections and improvements of the involved carriers referred to in their respective Operating Plans.

EXHIBIT 2

$150.00

PWK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FILED

MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

AT&T COMMUNICATIONS, INC.,
900 Route 202/206 North
Bedminster, NJ 07921

Plaintiff,

v.

CONSOLIDATED RAIL CORPORATION,
Serve: Corporation Service Company
2704 Commerce Drive
Harrisburg, PA 17110

Defendant.

Civil Action No. 03-cv-4147
JURY TRIAL DEMANDED

COMPLAINT

Plaintiff AT&T Communications, Inc. ("AT&T"), for its complaint for damages, declaratory judgment, an accounting and other relief against Defendant Consolidated Rail Corporation ("Conrail"), states as follows:

NATURE OF ACTION

1. AT&T brings this action to enforce Conrail's contractual obligation to comply with the "most favored nation" covenant (the "MFN Covenant ") in a license agreement between AT&T and Conrail dated January 1, 1984 (the "License Agreement") relating to AT&T's use of Conrail's right of way for a fiber optic cable ("FOC") system.

2. AT&T has paid Conrail over $200 million in license fees in connection with the License Agreement and currently is paying Conrail more than $17 million per year in license fees.

3. The MFN Covenant requires that if a third party is given the right to use any right of way between any two points on or parallel to the AT&T Licensed Premises for installation of a FOC system, either (i) the third party shall be charged a per mile fee at least equal to the average per mile fee paid by AT&T, or (ii) AT&T's per mile fee shall be reduced to the average per mile fee charged to the third party. Conrail has breached this obligation to AT&T's detriment by entering into agreements with third parties that charge a per mile fee that is effectively less than the average per mile fee paid by AT&T without reducing AT&T's average per mile fee to the amount charged the third party licensees.

4. Conrail also has breached the MFN Covenant, and repudiated the License Agreement, by transferring to its wholly-owned subsidiaries its interests in some or all of the right of way that is subject to AT&T's license and then disclaiming any further obligation to AT&T with respect to the transferred right of way and disabling itself of the ability to perform its obligations under the MFN Covenant.

5. AT&T seeks monetary damages for Conrail's breaches of the MFN Covenant and, at AT&T's election, the right to terminate the License Agreement without further obligation to Conrail. AT&T also seeks a judgment declaring that (i) the MFN Covenant is applicable to agreements permitting third parties to use FOC on the right of way that is subject to the License Agreement, even if Conrail is not a party to the agreements, and (ii) that Conrail is liable to AT&T to the extent such agreements charge the licensees an average per mile fee that is less than the average per mile fee paid by AT&T for the same right of way. AT&T also seeks a judgment declaring that, by virtue of Conrail's breaches and repudiation, AT&T, at its election, (i) is discharged from any further obligation under the License Agreement, or alternatively (ii) is entitled to a reduction of its future license fees by the amount that those fees exceed the average per mile fee charged to any other

licensee for the right to use the same right of way covered by the MFN Covenant. Finally, AT&T seeks a judgment declaring that, in the event AT&T elects to reduce its future license fees (rather than terminating the License Agreement), Conrail is required to disclose to AT&T all future agreements allowing the installation of FOC on the right of way covered by the MFN Covenant and to submit to an accounting of the average per mile fees paid by each licensee under each agreement that it is required to disclose.

PARTIES

6. AT&T is a corporation organized and existing under the laws of Delaware, with its principal place of business at Bedminster, New Jersey. AT&T owns and operates telecommunications equipment and provides telecommunications and related services throughout the United States.

7. Defendant Conrail is a corporation organized and existing under the laws of Pennsylvania with its principal place of business at Philadelphia, Pennsylvania. Conrail owns and operates railroads and railroad properties.

JURISDICTION AND VENUE

8. This Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1332(a)(1) because the matter in controversy exceeds the sum of $75,000, exclusive of interest and costs, and the parties are citizens of different states.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because Conrail is a resident of Philadelphia, Pennsylvania and a substantial part of the events giving rise to this complaint occurred in Philadelphia.

MATERIAL BACKGROUND FACTS

A. The License Agreement

10. In the 1980s, to improve its telecommunications services offered to the public, AT&T began creating a network of fiber optic telecommunications cable throughout the United States.

11. In 1984, AT&T and Conrail entered into a License Agreement which permitted AT&T to install a FOC system on selected portions of Conrail's railroad right of way. This License Agreement was the first agreement that AT&T entered into with any railroad in connection with the development of AT&T's new fiber optic network.

12. Upon information and belief, the License Agreement was also the first agreement that Conrail entered into with any major telecommunications company relating to the development of a new fiber optic network.

13. The License Agreement permitted AT&T to use specified right of way (initially, approximately 750 miles between Harrisburg, Pennsylvania and Chicago, Illinois) owned or controlled by Conrail for the purpose of constructing, installing, maintaining, operating and repairing a FOC system.

14. The License Agreement also granted AT&T the option to license up to 2,250 miles of additional Conrail right of way for its FOC system.

15. The License Agreement required AT&T to pay Conrail a monthly per mile fee for the original right of way it licensed for its FOC system. Those fees are periodically adjusted for changes in the Consumer Price Index ("CPI"), with a stated minimum increase of no less than twelve percent (12%) over various three-year time periods. The License Agreement also sets forth a per mile fee structure for the additional right of way that AT&T licensed, with attendant CPI increases.

16. The License Agreement expressly limits AT&T's FOC system to a single fiber optic cable containing not more than 24 fibers, along with the associated electronics. AT&T was given the right to install cable consisting of 36 fibers provided that the additional fibers did not create "fiber miles in excess of the product of 10% of the right of way comprising the Licensed Premises, multiplied by 12." (The term "Licensed Premises" as used in the License Agreement covers all of the right of way licensed by AT&T.)

17. AT&T subsequently licensed additional miles and has installed a total of approximately 2,700 miles of fiber optic cable on Conrail's right of way. AT&T continues to operate its FOC system on this right of way.

18. The original term of the License Agreement, which commenced on January 1, 1984, was for 15 years ending on January 1, 1999. The License Agreement gave AT&T the option of extending the License Agreement for two additional 15-year terms. AT&T exercised the first of those options and the License Agreement is now effective until January 1, 2014.

19. AT&T has paid Conrail over $200 million in license fees in connection with the License Agreement. AT&T is currently paying Conrail more than $17 million per year in license fees and, unless the License Agreement is terminated, AT&T will continue to pay Conrail license fees through January 1, 2014.

20. In 1986, when AT&T wanted to install FOC containing more than 24 fibers, such that the additional fibers created "fiber miles in excess of the product of 10% of the right of way comprising the Licensed Premises, multiplied by 12," Conrail advised AT&T that the additional fibers would result in "the creation of a theoretical segment, for pricing purposes of 17.3 miles." Conrail required that AT&T pay license fees for these additional 17.3 miles at the highest per mile in service rate required in the License

Agreement. AT&T has been paying Conrail the highest in service license fee rate in effect on these miles since January 1986.

B. The MFN Covenant

21. Because the License Agreement was Conrail's first agreement for the use of its right of way by a major telecommunications firm for the installation of a FOC system, and it was expected that Conrail would enter into similar agreements with other firms for the right to use its right of way, AT&T bargained for a "most favored nation" obligation. Paragraph 11.2 of the License Agreement contains the MFN Covenant in which Conrail agreed that, in the event agreements were entered with third parties providing for the use of any right of way between any two points on or parallel to the AT&T Licensed Premises, the third parties would be charged a per mile fee that was at least equal to the average per mile fee paid by AT&T, or AT&T's average per mile fee would be reduced to the average per mile fee paid by the third party. Specifically, the MFN Covenant states:

> CONRAIL covenants and agrees that, in the event it enters into any agreement with a party other than [AT&T] providing for the use by such party of right of way owned or controlled by CONRAIL for the installation of a FOC system between any two points on the Licensed Premises, whether such system is to be installed on the Licensed Premises or parallel to the Licensed Premises, CONRAIL will, at its option, either (i) charge such other party a per mile fee at least equal to the average per mile fee (including adjustments thereto referred to in Paragraphs 3 and 4 hereof), between such two points which [AT&T] is obligated to pay CONRAIL pursuant to this License, or, in the alternative, (ii) reduce its average per mile fee between such two points to [AT&T] to the average per mile fee charged to such other party.

22. The purpose of the MFN Covenant was to protect AT&T against a possible competitive disadvantage in the event that the MFN ROW was licensed to others. (As used in this Complaint, the term "MFN ROW" will refer to the right of way that is covered by

the MFN Covenant, specifically, any right of way that is between any two points on the AT&T Licensed Premises, whether on or parallel to the Licensed Premises.)

23. The MFN Covenant gives AT&T "most favored" status on the MFN ROW for the full term of the License Agreement.

C. Conrail's Breaches of the MFN Covenant

24. Since the inception of the License Agreement in 1984, Conrail and its successors have entered into numerous license agreements with third parties for the installation by those parties of FOC systems on Conrail right of way. Some of those license agreements cover the MFN ROW. In connection with those agreements that cover the MFN ROW, Conrail has a duty to AT&T under the MFN Covenant to ensure that those licensees are charged a per mile fee that is at least equal to the average per mile fee AT&T pays Conrail in connection with that right of way, or to reduce AT&T's average per mile fee so that it does not exceed the average per mile fee paid by any of those licensees.

25. Conrail has entered into a number of license agreements providing for the use of the MFN ROW in which it charges licensees an average per mile license fee that is less than the average per mile fee paid by AT&T.

26. Conrail has failed or refused to reduce the fees AT&T pays under the License Agreement so that AT&T's fees do not exceed the average per mile fee paid by those licensees. As a result, AT&T has paid, and is paying, Conrail license fees that are greater than the average per mile fees paid by other licensees for the right to use the MFN ROW.

27. In 1999, as part of a corporate reorganization, Conrail formed two wholly-owned subsidiaries, New York Central Lines LLC ("NYC") and Pennsylvania Lines LLC.

Upon information and belief, Conrail has conveyed to NYC and Pennsylvania Lines all, or a substantial portion, of the right of way that is subject to the AT&T License Agreement.

28. AT&T has paid and continues to pay Conrail monthly license fees under the License Agreement for the right to use the right of way property that Conrail transferred to its wholly owned subsidiaries, NYC and Pennsylvania Lines.

29. In consideration for large annual payments based upon the value of the transferred property, NYC and Pennsylvania Lines have entered into operating agreements with third-party operating companies and assigned the right of way for the use and enjoyment of those operating companies. The operating agreements require those operating companies to obtain the written consent of NYC or Pennsylvania Lines in connection with any agreement granting a third party the right to use the assigned property, including the right of way subject to the AT&T License Agreement.

30. Upon information and belief, in its property conveyances to NYC and Pennsylvania Lines, Conrail specifically recognized that the conveyances are subject to the License Agreement.

31. Paragraph 16.5 of the License Agreement provides that the obligations under the License Agreement are binding on Conrail and its successors and assigns.

32. Upon information and belief, one or more of the third-party operating companies has entered into one or more agreements with a third party pursuant to which the third party is permitted to use the MFN ROW.

33. Conrail has asserted to AT&T that it has no control over the transferred right of way and the third-party operating companies and it does not have any authority over the terms of their license agreements.

34. AT&T has requested that Conrail provide AT&T with information about the agreements that the third-party operating companies have made with third parties pursuant to which the third parties are permitted to use the MFN ROW. AT&T made this request to allow it to determine whether these agreements also implicate the MFN Covenant. Conrail has refused to produce any information, claiming that it has no liability to AT&T for any license agreement entered into by any of the third-party operating companies and approved by one of its wholly-owned subsidiaries, NYC or Pennsylvania Lines, even if such agreements license some of the MFN ROW and even if such agreements charge the third party a per mile fee that is effectively less than the average per mile fee AT&T is charged.

COUNT I

BREACH OF CONTRACT

35. AT&T adopts and incorporates by reference as though fully set forth herein the allegations of paragraphs 1 through 34 as stated above.

36. The License Agreement constitutes a valid and binding contract under which Conrail has a continuing duty to charge AT&T an average per mile fee for its licensed right of way that is no greater than average per mile fee charged to any third party for the right to use the MFN ROW.

37. AT&T has at all times performed, and continues to perform, its obligations under the License Agreement.

38. In addition to its express duties under the MFN Covenant, Conrail has an obligation, implied by law into the License Agreement, to refrain from taking any actions that have the effect of destroying or injuring AT&T's right to receive the bargained-for

fruits of the License Agreement, including its "most favored" status under the MFN Covenant.

39. Conrail has breached its express and implied duties under the License Agreement by:

a. entering into agreements with third parties allowing the use of the MFN ROW, and charging those third parties an effective per mile license fee that is lower than the average per mile fee paid by AT&T under the License Agreement;

b. failing to disclose to AT&T that it had entered into agreements providing for the use of the MFN ROW in which it charged others an effective per mile license fee that is lower than the average per mile fee paid by AT&T under the License Agreement;

c. transferring portions of the MFN ROW to its wholly-owned subsidiaries (NYC and Pennsylvania Lines) and then disclaiming any responsibility for subsequent agreements providing for the use of the MFN ROW that may violate the MFN Covenant;

d. transferring portions of the MFN ROW to its wholly-owned subsidiaries (NYC and Pennsylvania Lines) and then divesting itself of the ability to perform its obligations under the MFN Covenant; and

e. refusing to disclose to AT&T whether agreements providing for the use of the MFN ROW (that were made after Conrail transferred the MFN ROW to its wholly-owned subsidiaries) charge third parties an effective per mile license fee that is lower than the average per mile fee paid by AT&T under the License Agreement.

40. As a result of Conrail's breaches of the License Agreement identified in Paragraphs 39(a) and (b) above, AT&T has suffered monetary damages in an as yet

unknown amount. AT&T continues and will continue to suffer harm throughout the remaining term of the License Agreement to the extent that the monthly fees it pays Conrail exceed the average per mile fees paid for the use of the MFN ROW by any other licensee.

41. Conrail's breaches of the License Agreement identified in Paragraphs 39(c) and (d) above constitute a repudiation of the License Agreement. As a result of Conrail's repudiation, AT&T is discharged from any further obligation to render performance under the License Agreement.

42. As a result of Conrail's breaches of the License Agreement identified in Paragraphs 39(c), (d) and (e) above, AT&T may have been damaged and may continue to suffer damages to the extent that one or more of the third-party operating companies may have entered into one or more agreements providing for the use of the MFN ROW in return for an average per mile license fee that is less than the average per mile fee paid by AT&T for the MFN ROW. AT&T is entitled to an accounting of the terms of the contracts involving the MFN ROW and the fees charged and paid under all such contracts in order to determine the full extent of its damages.

WHEREFORE, AT&T prays that the Court enter judgment for AT&T and against Conrail:

A. Awarding AT&T compensatory damages for Conrail's past breaches of the MFN Covenant in an amount to be proved at trial, including damages for any breaches that are identified from the accounting that is sought in Paragraph B(2)(b) below;

B. Declaring either

(1) that AT&T is discharged from any further performance of its duties and obligations under the License Agreement, or, alternatively, at AT&T's election,

(2) that (a) the amount of AT&T's monthly license fees owed Conrail on an ongoing basis through the current term of the License Agreement be reduced by the amounts that AT&T's average per mile fees exceed the average per mile fees charged to any third party for the right to use the MFN ROW; (b) Conrail must submit to an annual accounting of the terms of its contracts providing for the use of the MFN ROW and the fees charged and paid under all such contracts, (c) Conrail must disclose and provide to AT&T any future agreements in its possession, custody or control providing for the use of some of the MFN ROW, including, but not limited to, agreements entered into between third-party operating companies and others with the consent of Conrail's subsidiaries; and (d) Conrail must submit to an annual accounting of the average per mile fees charged to and paid by each of the licensees under all agreements that it is ordered to disclose pursuant to subparagraph (c) above; and

C. Granting such other and further relief as the Court deems just and proper.

COUNT II

DECLARATORY JUDGMENT UNDER 28 U.S.C. § 2201

43. AT&T adopts and incorporates by reference as though fully set forth herein the allegations of paragraphs 1 through 42 as stated above.

44. An actual controversy exists between AT&T and Conrail as to whether the MFN Covenant is applicable to, and Conrail has liability to AT&T for, agreements entered

into by the third-party operating companies that allow the use of some or all of the MFN ROW, if under such agreements the right of way user is charged an average per mile fee that is effectively less than the average per mile fee AT&T is charged under the License Agreement for the same right of way.

45. AT&T is entitled to a declaratory judgment against Conrail declaring that the MFN Covenant is applicable to any agreements providing for the use of the MFN ROW for a FOC system, even if Conrail is not a party to the agreements.

46. AT&T is entitled to a declaratory judgment against Conrail declaring that Conrail has repudiated the License Agreement as a result of Conrail's disabling itself of the ability to perform its obligations under the MFN Covenant, thereby discharging AT&T's remaining duties to render performance and permitting AT&T to elect to terminate the License Agreement.

47. In the alternative, AT&T is entitled to a declaratory judgment against Conrail declaring that

a. where any license agreement provides for the use of the MFN ROW for a FOC system in return for an average per mile license fee that is less than the average per mile fee paid by AT&T for the MFN ROW Conrail must reduce AT&T's average per mile fee to the amount charged the third party licensee;

b. Conrail is required to disclose and provide to AT&T for the remaining term of the License Agreement any future agreements in its possession, custody or control that provide for the use of the MFN ROW for a FOC system, even if Conrail is not a party to the agreements; and

c. Conrail must submit to an annual accounting of the average per mile fees charged to and paid by each of the licensees under all agreements that it is ordered to disclose.

WHEREFORE, AT&T prays that the Court enter judgment for AT&T and against Conrail:

A. Declaring that the MFN Covenant is applicable to any agreements providing for the use of the MFN ROW for a FOC system, even if Conrail is not a party to the agreement;

B. Declaring that Conrail has repudiated the License Agreement as a result of Conrail's disabling itself of the ability to perform its obligations under the MFN Covenant, thereby discharging AT&T's remaining duties to render performance and permitting AT&T to elect to terminate the License Agreement;

C. Alternatively, declaring that

(1) under the terms of the License Agreement, any license agreement that provides for the use of the MFN ROW for a FOC system in return for an average per mile license fee that is less than the average per mile fee paid by AT&T for the MFN ROW requires a reduction of AT&T's average per mile fee to the amount charged the third party licensee;

(2) under the terms of the License Agreement, Conrail must disclose and provide to AT&T for the remaining term of the License Agreement any agreements in its possession, custody or control that provide for the use of the MFN ROW for a FOC system, even if Conrail is not a party to the agreement; and

(3) Conrail must submit to an annual accounting of the average per mile fees charged to and paid by each of the licensees under all agreements that it is ordered to disclose pursuant to subparagraph (2) above; and

D. Granting such other and further relief that the Court deems just and proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), AT&T hereby demands a trial by jury.

Dated: January 10, 2003

Respectfully Submitted,

By _____

Paul W. Kisslinger (Pa. I.D. No. 68668)
Robert J. Higgins
Howard N. Feldman
Laura H. Calaluca
DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20037-1526
(202) 785-9700

Of Counsel:

B. Haven Walling, Jr.
AT&T CORPORATE CENTER
2022 Chain Bridge Road, Room 3-D
Oakton, VA 22185

Lois Lipton
AT&T LAW DIVISION
222 W. Adams Street, Suite 1500
Chicago, IL 60606

Attorneys for Plaintiff AT&T Communications, Inc.

EXHIBIT 3

Agreement Registry No. 267 666

LICENSE AGREEMENT

This License Agreement (the "License"), dated as of the 1st day of January 1984, by and between CONSOLIDATED RAIL CORPORATION, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania ("CONRAIL"), and AT&T COMMUNICATIONS, INC., a corporation organized and existing under the laws of the State of Delaware ("LICENSEE").

WHEREAS, an efficient communications system is, and has always been, essential to the safe and cost-effective operation of a railroad;

WHEREAS, CONRAIL'S communications system is, and has always been, furnished by LICENSEE;

WHEREAS, since the advent of deregulation in the rail and trucking industries, competition within and between those industries has dramatically intensified;

WHEREAS, in order to survive and prosper in the present deregulated environment, it is necessary that CONRAIL be able to use a cost-effective and efficient communications system

capable of expeditiously transmitting and receiving pricing, routing and other information necessary to rail operations;

WHEREAS, fiber optic communications ("FOC") technology appears to CONRAIL to be the most appropriate communications technology presently available which is suitable to CONRAIL'S needs for rail communications;

WHEREAS, the installation and operation by LICENSEE of FOC systems on CONRAIL right of way will enhance CONRAIL'S communications system;

WHEREAS, LICENSEE is a recognized world leader in the telecommunications industry;

WHEREAS, in furtherance of CONRAIL'S objective to have the use of, pursuant to tariff, an efficient communications system, CONRAIL desires that LICENSEE construct and operate a FOC system(s) along the railroad right of way owned or controlled by CONRAIL between Harrisburg, Pennsylvania and Chicago, Illinois, and between other locations, said FOC system(s) to be defined as a telecommunications transmission system, including fiber optic cable, repeaters, junctions, terminals, power supply access, and attendant buildings, equipment, fixtures, and appurtenances necessary and incidental to such use, all as further defined in and qualified by this License;

WHEREAS, in furtherance of CONRAIL'S objective to have the use of, pursuant to tariff, an efficient communications system, CONRAIL desires that LICENSEE acquire various options for the acquisition of other licenses with respect to other rights of way owned or controlled by CONRAIL for possible future construction and operation of additional FOC systems;

WHEREAS, CONRAIL, for the reasons set forth above, desires to have its communications, to the extent practicable, carried over said FOC systems, as such systems may be expanded from time to time, for its own communications purposes as such purposes may be expanded from time to time and LICENSEE agrees to use its best efforts to do so, pursuant to its applicable tariffs and statutes;

WHEREAS, LICENSEE desires to furnish to its customers, including Conrail, high quality, reliable telecommunications services at reasonable rates;

WHEREAS, the foregoing objective of LICENSEE will be furthered by licensing the right of way owned or controlled by Conrail between Harrisburg, Pennsylvania and Chicago, Illinois for the construction and operation of an FOC system;

WHEREAS, since LICENSEE has no experience with the construction and operation of an FOC system along a railroad

right of way, this License Agreement will allow LICENSEE to gain such experience;

WHEREAS, if such experience indicates that construction and operation of an FOC system along a railroad right of way is cost effective, LICENSEE may desire to construct and operate additional FOC systems along CONRAIL'S right of way;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the parties hereto, intending to be legally bound, agree as follows:

1. The Licensed Premises

1.1. CONRAIL, to the extent its rights, title or interest with respect to its right of way permit, hereby licenses LICENSEE, for the term and upon the conditions, covenants, and agreements hereinafter set forth, to use such portion of its right of way between Harrisburg, Pennsylvania and Chicago, Illinois, the mileposts of which are set forth in Exhibit A hereto, as is necessary for the sole purposes of construction, installation, operation, maintenance and repair by LICENSEE of a FOC system(s) consisting of one fiber optic cable containing not more than 24 fibers (subject to Paragraph 4.5 hereof), together with associated electronics, between Harrisburg, Pennsylvania and Chicago, Illinois (the "Licensed Premises"). CONRAIL and LICENSEE shall mutually

determine the specific location of the Licensed Premises and said fiber optic cable on said right of way in order to provide for optimum installation and maintenance of the cable, subject to CONRAIL'S consideration of its needs for orderly and efficient rail operations; provided, however, that said cable shall not be installed between existing tracks or within four (4) feet of the gage of the near rail, in either case without the mutual written agreement of the parties. In addition to such portion of the right of way, the Licensed Premises shall include : (i) access to property, including bridges, trestles, overpasses, tunnels and other structures, owned or controlled by CONRAIL in order to permit cable installation, operation, maintenance and repair, subject to CONRAIL'S consideration of its needs for orderly and efficient rail operations, and (ii) use of land owned or controlled by CONRAIL on or adjacent to such right of way for LICENSEE to construct or install repeater stations at locations to be mutually agreed upon in writing by CONRAIL and LICENSEE at intervals of approximately sixteen (16) to twenty (20) miles. By granting this License, CONRAIL is not conveying any real property interest in the Licensed Premises, nor any right or interest not specifically set forth herein.

1.2. The Licensed Premises shall not include any space or land along or adjacent to the right of way for the installation of any facilities or equipment for the

performance or provision by LICENSEE of communications or other activities or services other than those necessary to the operation of the FOC system. For purposes of the preceding sentence, "activities or services necessary to the operation of the FOC system" include activities involving interconnection on a temporary or emergency basis to communications facilities other than the FOC system to provide for alternate routing or restoral of communications services in cases of interruption or failure of the FOC system, as well as the ability to interconnect on a permanent basis, subject to this License, with any communications facility necessary to extend communications carried over the FOC system.

1.3. By granting this License, CONRAIL is not conveying, and this License does not convey, to LICENSEE any right to use electrical power purchased by or available to CONRAIL. LICENSEE shall be solely responsible for securing, purchasing, separately metering, and paying for all electrical power used to construct, operate, maintain, and repair any FOC system, including the repeater stations, whether such electrical power is used for normal operation of said system or for emergency purposes. Where practicable, CONRAIL will permit LICENSEE, at LICENSEE'S cost, to connect with AC power leads on CONRAIL'S right of way to provide power to the repeater stations.

2. Term of License

2.1. The License shall commence at 12:01 a.m. on January 1, 1984, and shall terminate at 12:01 a.m. on January 1, 1999 ("Initial Term"), unless extended pursuant to Paragraph 2.2 hereof.

2.2. LICENSEE shall have the option to extend this License for two (2) terms of fifteen (15) years each, the first of which extensions shall terminate at 12:01 a.m. on January 1, 2014 (the "First Extended Term") and the second of which extensions shall terminate at 12:01 a.m. on January 1, 2029 (the "Second Extended Term"); provided, however, that the Second Extended Term shall be available to LICENSEE only if LICENSEE is not in default on December 31, 2012 under any of the provisions of this License. Said options shall be exercisable by LICENSEE'S giving written notice of extension to CONRAIL by December 31, 1997 and December 31, 2012, respectively, and the license granted shall be on the same terms and conditions as set forth herein.

3. License Charges

3.1. LICENSEE shall pay CONRAIL a license fee of (i) $333.34 per mile by the first business day of February 1984, (ii) $166.67 per mile by the first business day of each month thereafter during 1984 and 1985, and (iii) $250.00 per

mile by the first business day of the earlier of (a) the first month after commencement of operation of any activated portion of a FOC system on the Licensed Premises referred to in Paragraph 1.1 hereof, or (b) January 1986, and each month thereafter during the Initial Term for use of the right of way referred to in Paragraph 1.1 hereof (which, for purposes of calculation of license fees pursuant to this License shall be deemed to be 750 miles), said license fee to be adjusted pursuant to Paragraph 3.2 hereof.

3.2. On January 1, 1987 and every three years thereafter on January 1 of each third year during the Initial Term the $250.00 per mile monthly license fees referred to in Paragraphs 3.1 and 4.2 hereof shall be increased by the same percentage as the percentage increase in the Consumer Price Index for All Urban Consumers, All Items, United States, Base 1967 = 100, issued by the Bureau of Labor Statistics of the United States Department of Labor ("CPI-U"), for the immediately preceding three-year period; provided, however, that in no event shall any such increase be less than twelve percent (12%) or more than eighteen percent (18%). If the governmental body issuing the CPI-U ceases to use the 1967 average of 100 as the basis for calculation, the CPI-U shall be adjusted to the figure that would have been arrived at had the manner of so calculating the CPI-U not been so changed. If the CPI-U (or a successor or a substitute index) ceases to be published, or ceases to be generally recognized as an

index of inflation, the parties hereto shall select and substitute an index which is mutually acceptable, published by a governmental or other disinterested body with appropriate reconciliation of the base of the substituted index with the base of the CPI-U.

3.3. As an additional license fee, LICENSEE agrees and covenants to pay all taxes, excluding income taxes, but including assessments, use and occupancy taxes, charges for public utilities, excises, and levies (collectively, "Taxes") that are levied on LICENSEE'S property on the Licensed Premises or that arise out of the construction, maintenance, or operation of any FOC system on the Licensed Premises, including without limitation any Taxes, or any increases in Taxes, imposed on CONRAIL by virtue of the construction, maintenance or operation of any FOC system. CONRAIL shall promptly provide reasonable notice and documentation to LICENSEE with regard to any proposed or actual assessment of Taxes of which CONRAIL has actual notice, or any increases in Taxes, imposed or to be imposed on CONRAIL of which CONRAIL has actual notice and for which LICENSEE is responsible for payment pursuant to the terms of this Section 3.3. If LICENSEE determines that such Taxes or increase in taxes is unreasonable or excessive, CONRAIL shall appeal such imposition at the written request and expense of LICENSEE.

4. Options of LICENSEE

4.1. CONRAIL hereby grants to LICENSEE an option to acquire a license for up to 2,250 additional miles (including the 250 miles referred to in Paragraph 4.2 hereof) of right of way owned or controlled by CONRAIL, in addition to the license of right of way referred to in Paragraph 1.1 hereof, subject to the provisions of Paragraphs 4.1.a through 4.1.d hereof, such option to expire on December 31, 1985. LICENSEE shall select the right of way to be included in said option pursuant to Paragraphs 4.1.a and 4.1.b hereof. LICENSEE hereby agrees to pay CONRAIL $375,000 by February 1, 1984 and $187,500 by the first business day of each month thereafter to and including December 1986 for such option, unless (i) LICENSEE fails to exercise either its option under Paragraph 4.3 hereof or Paragraph 4.3 hereof, in which event such payments shall cease with the December 1985 payment, or (ii) LICENSEE exercises its option under 4.2 hereof but not under 4.3 hereof, in which event LICENSEE shall pay to CONRAIL on the first business day of each month during 1986 an amount equal to $83.33 for each mile of right of way as to which LICENSEE has exercised its option under 4.2 hereof.

4.1.a. If CONRAIL, before September 1, 1984, receives an offer from another party for use by such other party of right of way owned or controlled by CONRAIL for a telecommunication transmission system, CONRAIL shall promptly notify LICENSEE in writing of such offer. LICENSEE shall have sixty (60) days from the date of such notice to notify CONRAIL in writing whether or not LICENSEE wishes to identify any portion of such right of way as part of the up to 2,250 miles with respect to which LICENSEE has an option pursuant

to Paragraph 4.1 hereof; provided, however, that LICENSEE will not use this option process as a means of willfully interfering with CONRAIL'S ability to license its right of way between major terminal points to other parties. If LICENSEE so notifies CONRAIL on or before the sixtieth (60th) day after the date of CONRAIL'S written notice referred to in the first sentence of this Paragraph 4.1.a, LICENSEE shall, at CONRAIL'S expense, within thirty (30) days after LICENSEE'S notice to CONRAIL, survey the right of way referred to in such notice and identify the location on said right of way where LICENSEE would elect to install its cable. LICENSEE shall not be required to perform such surveys for more than 500 miles of right of way in any calendar month. LICENSEE shall, as promptly as practicable after the completion of such survey, notify CONRAIL of the location of the proposed cable installation, which location shall be determined in accordance with the provisions governing the location of the cable on the Harrisburg to Chicago right of way, as set forth in Paragraph 1.1 hereof. If LICENSEE fulfills each of its obligations pursuant to this Paragraph 4.1.a, CONRAIL shall not enter into an agreement before January 1, 1986 with any other party which would significantly interfere with the installation, operation or maintenance of a FOC cable by LICENSEE in such location. If LICENSEE fails to fulfill any such obligations, CONRAIL shall have the unrestricted right at any time to enter into any

agreement with any other party with respect to such portion of the right of way, and the provisions of Paragraph 11.2 hereof shall not apply to such agreement.

4.1.b. LICENSEE shall, at one or more times before September 1, 1984, identify those portions of right of way owned or controlled by CONRAIL which LICENSEE selects to comprise the 2,250 miles as to which it has an option pursuant to Paragraph 4.1 hereof. Any right of way which LICENSEE has (i) identified to CONRAIL as part of said 2,250 miles pursuant to Paragraph 4.1.a hereof, or (ii) exercised its option pursuant to Paragraph 4.2 hereof, shall be deemed included in such selection.

4.1.c. CONRAIL shall have the unrestricted right to enter into agreements with other parties at any time on or after September 1, 1984 with respect to portions of its right of way not identified by LICENSEE as part of the 2,250 miles pursuant to Paragraph 4.1.b hereof, and the provisions of Paragraph 11.2 hereof shall not apply to any such agreement.

4.1.d. If CONRAIL, on or after September 1, 1984, receives an offer from another party for use by such other party of right of way identified by LICENSEE as part of said 2,250 miles, CONRAIL shall promptly notify LICENSEE in writing of such offer. LICENSEE shall, at its own expense, within thirty (30) days after the date of such notice, survey

the right of way referred to in said notice and specify in writing to CONRAIL the location on such right of way where LICENSEE proposes to install its cable. Such location shall be determined in accordance with the provisions governing the location of the cable on the Harrisburg to Chicago right of way, as set forth in Paragraph 1.1 hereof. LICENSEE shall not be required to survey more than 500 miles of right of way in any calendar month. If LICENSEE fulfills each of its obligations pursuant to this Paragraph 4.1.d, CONRAIL shall not enter into an agreement before January 1, 1986 with any other party which would significantly interfere with the installation, operation or maintenance of a FOC cable by LICENSEE in such location. If LICENSEE fails to fulfill any such obligations, CONRAIL shall have the unrestricted right at any time to enter into any agreement with any other party with respect to such portion of the right of way, and the provisions of Paragraph 11.2 hereof shall not apply to such agreement.

4.2. At any time prior to January 1, 1985, LICENSEE may exercise a separate option for up to 250 miles of right of way owned or controlled by CONRAIL, in addition to the right of way referred to in Paragraph 1.1 hereof; provided, however, that such option shall be exercised for not more than four segments of right of way of not less than 60 miles each. Upon exercise of any portion of the option referred to in this Paragraph 4.2, LICENSEE shall, on the first business

day of the first month after the exercise of such option, and on the first business day of each month thereafter pay CONRAIL a license fee of (i) $83.33 per mile through the earlier of (a) the month before commencement of operation of a FOC system on any activated portion of said 250 miles of right of way, or (b) December 1986, and (ii) in the event of such commencement of operation prior to January 1, 1987, $166.67 per mile after such commencement through December 1986, and (iii) $250.00 per mile commencing January 1987 and continuing thereafter during the Initial Term, which license fee shall be increased in accordance with the provisions of Paragraph 3.2.

4.3. In the event LICENSEE before January 1, 1986 exercises its option with respect to any right of way owned or controlled by CONRAIL pursuant to Paragraphs 4.1.a through 4.1.d in addition to any right of way as to which LICENSEE has exercised its option pursuant to Paragraph 4.2 hereof, LICENSEE shall pay to CONRAIL (i) commencing on the first business day of the first month after commencement of construction by LICENSEE of a FOC system on any portion of CONRAIL right of way as to which LICENSEE has exercised its option pursuant to Paragraphs 4.1.a through 4.1.d and 4.2, and continuing until the first business day of the first month after commencement of operation of such FOC system, a monthly license fee equal to the product of (x) $83.33 during 1986, and (y) $166.67 thereafter, in each case multiplied by

the number of miles of right of way under construction, and (ii) commencing on the first business day of the first month after commencement of operation of any such FOC system and continuing thereafter throughout the Initial Term, a monthly license fee equal to the product of $250 multiplied by the number of miles of right of way in such FOC system; provided, however, that for purposes of this Paragraph 4.3, LICENSEE shall be deemed (a) to have commenced construction by January 1, 1987 of FOC systems on at least 1,000 miles of such right of way, plus any miles of right of way as to which LICENSEE did not exercise its option pursuant to Paragraph 4.2 hereof, and to have commenced operations of all such FOC systems by January 1, 1989, and (b) to have commenced construction by January 1, 1988 of FOC systems on an additional 1,000 miles of such right of way, and to have commenced operations of all such FOC systems by January 1, 1990; further provided that in no event shall the total miles of right of way covered by the License exceed 3,000. The license fees set forth above in this Paragraph 4.3 shall be increased on the dates and pursuant to the formula set forth in Section 3.2 hereof.

4.3.a. In addition to the license fees set forth elsewhere in this License, LICENSEE shall pay to CONRAIL commencing on the first business day of January 1990 and each month thereafter during the Initial Term, a license fee of $187,500, which shall be increased commencing January 1, 1993

on the dates and pursuant to the formula set forth in Paragraph 3.2 hereof.

4.4. In the event that LICENSEE exercises its option to extend this License to January 1, 2014 pursuant to Paragraph 2.2 hereof, (A) the license fees referred to in Paragraphs 4.2, 4.3 and 4.3.a hereof, in each case as increased pursuant to Paragraph 3.2 hereof, shall be increased, effective January 1, 1999, by the amount in each case which is equal to the difference between (i) two-thirds of the percentage increase in the CPI-U between January 1, 1984 and January 1, 1999, and (ii) the aggregate amount of percentage increases by which such license fees were increased during such period pursuant to Paragraph 3.2 hereof; provided, however, that there shall be no increase in the event that the percentage increase referred to in (ii) is greater than the two-thirds percentage increase referred to in (i), and (B) the license fees referred to in Paragraph 3.1 hereof, as increased pursuant to Paragraph 3.2 hereof, shall be increased, effective January 1, 1999, by the amount in each case which is equal to the difference between (i) 55% of the percentage increase in the CPI-U between January 1, 1984 and January 1, 1999, and (ii) the aggregate amount of percentage increases by which such license fees were increased during such period pursuant to Paragraph 3.2 hereof; provided, however, that there shall be no increase in

the event that the percentage increase referred to in (ii) is greater than the 55% increase referred to in (i). All such increased fees shall be increased on January 1, 2002 and each third anniversary thereafter during the First Extended Term in accordance with the formula set forth in Section 3.2 hereof. In the event that LICENSEE exercises its option to extend this License to January 1, 2029 pursuant to Paragraph 2.2 hereof, the license fees referred to in Paragraphs 3.1, 4.2, 4.3 and 4.3.a hereof shall be increased, effective January 1, 2014, by the amount in each case which is equal to the difference between (i) the percentage increase in the CPI-U between January 1, 1999 and January 1, 2014, and (ii) the aggregate amount of percentage increases by which such license fees were increased during such period pursuant to Paragraph 3.2 hereof and the preceding sentences of this Paragraph 4.4; provided, however, that there shall be no increase in the event that the percentage increase referred to in (ii) is greater than the percentage increase referred to in (i). Such increased fees shall be increased on January 1, 2017 and each third anniversary thereafter during the Second Extended Term in accordance with the formula set forth in Section 3.2 hereof.

4.5. Any portions of right of way with respect to which LICENSEE exercises an option pursuant to any of the provisions of Paragraph 4 shall from the date of such exercise be deemed Licensed Premises for all purposes under

this License, and subject to all of the terms, conditions and restrictions contained herein; provided, however, that LICENSEE may install cable containing up to 36 fibers on the Licensed Premises, including the right of way referred to in Paragraph 1.1 hereof, so long as the additional fibers in such cables do not create fiber miles in excess of the product of 10% of the right of way comprising the Licensed Premises, multiplied by twelve.

4.6. Except as otherwise provided in Paragraph 11.2 hereof, CONRAIL shall have the unrestricted right to enter into agreements with other parties at any time on or after January 1, 1986 with respect to any portions of its right of way, whether or not LICENSEE has a license to use such right of way pursuant to this License; provided however, that CONRAIL shall not permit any other party to use any CONRAIL right of way as to which LICENSEE has exercised an option pursuant to Paragraph 4 hereof in a manner which would significantly interfere with the installation, operation or maintenance of a FOC cable by LICENSEE pursuant to this License in the location on such right of way specified by LICENSEE for its cable installation if LICENSEE fulfills all of its obligations under this Paragraph 4.6. If LICENSEE has not specified the location for cable installation on a portion of the CONRAIL right of way prior to the time that CONRAIL contemplates executing an agreement with another party with respect to such right of way, CONRAIL shall notify

LICENSEE in writing of its intention to enter into such agreement, and the LICENSEE shall have thirty (30) days thereafter to survey, at its own expense, the right of way referred to in said notice and specify in writing to CONRAIL the location on such right of way where LICENSEE proposes to install its cable. Such location shall be determined in accordance with the provisions governing the location of the cable on the Harrisburg to Chicago right of way, as set forth in Paragraph 1.1 hereof. LICENSEE shall not be required to survey more than 500 miles of right of way in any calendar month.

5. Construction of FOC Systems; Repairs and Maintenance

5.1. CONRAIL agrees to deliver to LICENSEE, promptly upon request therefor, upon payment to CONRAIL of its costs in connection therewith, copies of the following items:

(a) route maps;

(b) plan and profile drawings and engineering and architectural data heretofore prepared or compiled with respect to bridges, tunnels and other such engineering obstacles along the Licensed Premises; and

(c) such other documents and materials as may reasonably be required to construct and maintain the FOC system;

provided, however, that CONRAIL'S sole obligation under this paragraph shall be to provide documents, maps, drawings, and data in its existing files, and CONRAIL shall not be under any obligation to develop new documents, maps, drawings, or data for LICENSEE.

5.2. LICENSEE and its designated employees, agents, and representatives shall have the right to enter the Licensed Premises for the purpose of surveying and inspecting the same and performing engineering or other tests or studies necessary to the construction of FOC systems, and for the installation, maintenance and repair of said systems, subject to CONRAIL'S determination of its needs for orderly and efficient rail operations. Neither LICENSEE nor any of its employees, agents or representatives shall move equipment or material across CONRAIL right of way without advance approval by CONRAIL. Such activities shall be coordinated in advance with CONRAIL. LICENSEE shall require its agents and contractors, but not LICENSEE or its employees, to execute and deliver appropriate releases to CONRAIL.

5.3. Prior to commencement of construction of any FOC system on any portion of the Licensed Premises, LICENSEE

shall submit to CONRAIL construction plans and specifications (not to include technical specifications of the FOC system, but which shall include the placement of marker tape approximately twelve (12) inches above the cable or cable duct and the placement at specified intervals or locations of marker posts as mutually agreed to indicate the location of the cable and the telephone number of LICENSEE to be called in case of damage or repair or maintenance to be performed), including repeater stations and any other facilities to be used in connection therewith, together with a timetable for completion of construction, said timetable to include specific milepost references for the completion of particular segments of such FOC system. LICENSEE shall not commence construction until said plans, specifications and timetable are approved in writing by CONRAIL, which approval shall not be unreasonably withheld or delayed. LICENSEE understands and agrees that CONRAIL labor shall have the right to perform, at LICENSEE'S expense, any work in connection with the construction or installation of any FOC system which CONRAIL labor is entitled to perform under any collective bargaining agreement; provided, however, that LICENSEE may, at its option, perform, or have performed, any such work so long as LICENSEE indemnifies CONRAIL for any expenses incurred by CONRAIL arising out of the performance of such work by LICENSEE or its agents or contractors.

5.4. LICENSEE shall construct the FOC systems in accordance with the plans and specifications referred to in Paragraph 5.3. LICENSEE shall not depart from, change, alter, revise or amend said plans and specifications without the prior approval of CONRAIL, which approval shall not be unreasonably withheld or delayed. CONRAIL shall have the right to verify by inspection that the construction of any FOC system is in compliance with the plans and specifications referred to in Paragraph 5.3. Any repeater stations constructed or installed in connection with any FOC system shall be constructed or installed by LICENSEE at its own expense and at its own risk, and CONRAIL shall not be responsible for, although it will use reasonable caution to avoid, conditions in and around said stations that might adversely affect or cause damage thereto or to the contents thereof. LICENSEE agrees that all repeater stations constructed or installed by LICENSEE on CONRAIL'S property shall be approximately five hundred (500) square feet in area.

5.5. The plans and specifications referred to in Paragraph 5.3 may, at LICENSEE'S option, include the use by LICENSEE or its agent of a rail-mounted plow for installation of FOC systems. If requested, CONRAIL shall provide LICENSEE or its agent with other railroad equipment or personnel useful in conjunction with (i) the use of said plow, and (ii) to the extent deemed appropriate by CONRAIL, other

aspects of installation of FOC systems. LICENSEE shall pay CONRAIL the costs, plus CONRAIL'S normal corporate overheads, for any equipment or personnel furnished to LICENSEE or its agent pursuant to this Section 5.5.

5.6. All construction plans and specifications shall comply with current railroad engineering standards and any Federal, state or local laws applicable to railroad crossings and occupancy of railroad rights of way. In constructing the FOC systems, LICENSEE hereby agrees to comply with all applicable Federal, state, and municipal laws, orders, rules and regulations now or hereinafter enacted, to assume all costs and expense and responsibility in connection therewith, and to defend and indemnify CONRAIL with respect to any costs, expenses or liabilities in connection therewith.

5.7. Except as otherwise provided in Paragraph 4.1.a hereof, all costs of surveying, inspection by LICENSEE, engineering or other tests or studies, construction and installation of the FOC systems, including costs relating to attachments to bridges, trestles, overpasses, tunnels and other structures, and costs relating to power connections, shall be borne by LICENSEE, including without limitation engineering fees, fees and expenses provided for in any construction contracts, and the financing and purchase of all equipment owned by LICENSEE used in the FOC systems.

5.8. If at any time during the work of construction or repair or maintenance of any FOC system on any portion of the Licensed Premises, CONRAIL should in its sole discretion deem flagmen or watchmen or other measures, including but not limited to train rerouting, desirable or necessary to protect its operations or property or its employees or other persons on or near the Licensed Premises, CONRAIL shall have the right to place such personnel or take such measures, at the sole risk, cost and expense of LICENSEE. LICENSEE hereby covenants and agrees to bear the full risk, cost and expense thereof and to promptly reimburse CONRAIL upon receiving from CONRAIL an itemized, written demand for such reimbursement. LICENSEE shall have the right to audit such costs and expenses. The failure to furnish such personnel or take such measures by CONRAIL shall not relieve LICENSEE of any obligations or liabilities it might otherwise have assumed.

5.9. All cranes, lifts, drilling equipment, or other machinery that is to be operated in the vicinity of CONRAIL'S electrification or power transmission facilities in connection with construction or repair or maintenance of any FOC system on any portion of the Licensed Premises shall be electrically grounded as directed by CONRAIL. LICENSEE shall require in any contracts for the operation of such cranes, lifts, drilling equipment, or other machinery that any of contractors' employees or agents operating any such equipment shall have no less than twelve (12) months' experience in the

operation of the machinery being used, and LICENSEE'S employees operating such machinery shall also have such level of experience.

5.10. If, during construction or repair or maintenance of any FOC system on any portion of the Licensed Premises, LICENSEE, its agents, employees, or contractors discover scientific or historical artifacts, LICENSEE shall immediately notify CONRAIL of said discovery and shall not harm such artifacts until identified and removed by the appropriate authorities exercising jurisdiction, if so requested by CONRAIL.

5.11. Prior to completion of construction of any FOC system on any portion of the Licensed Premises, LICENSEE will deliver to CONRAIL a plan for regular maintenance and repair of such FOC system in sufficient detail to meet CONRAIL'S operational needs. LICENSEE will deliver to CONRAIL any amendments to any such plan throughout the Initial Term and any Extended Term.

5.12. Upon completion of construction of each FOC system on any portion of the Licensed Premises, LICENSEE shall notify CONRAIL of such completion, shall provide to CONRAIL maps and drawings sufficient to identify clearly such FOC system "as built" on the Licensed Premises, and shall

leave CONRAIL right of way in a condition satisfactory to CONRAIL.

5.13. LICENSEE shall maintain and repair each FOC system on any portion of the Licensed Premises in accordance with communications industry and applicable railroad industry standards and all applicable Federal, state and municipal laws, orders, rules and regulations. CONRAIL shall advise LICENSEE with respect to applicable railroad industry standards. Except as otherwise set forth in Paragraph 7.3, LICENSEE shall bear all costs and expenses of all maintenance and repair to each FOC system.

5.14. LICENSEE shall make emergency repairs as promptly as practicable in order to ensure that any FOC system is fully restored to operation with the least possible interruption. LICENSEE agrees to consult with CONRAIL and to seek CONRAIL'S approval prior to the initiation of any emergency measures, to the extent that it is feasible to engage in such consultation and to obtain such approval. After emergency measures have been implemented to provide service substantially equivalent to that provided over the FOC system, LICENSEE shall take subsequent measures to restore the FOC system to full and continuing operation, subject to regulatory requirements.

5.15. CONRAIL shall have the right to inspect all maintenance and repairs performed on each FOC system which may affect rail operations.

5.16. CONRAIL approvals pursuant to this License shall be limited in scope to the impact on rail operations of the matters for which such approvals are sought, and shall not in any way imply CONRAIL'S approval of the operational aspects of any FOC system, nor shall any such approval give rise to any liability on the part of CONRAIL to LICENSEE or any third party.

6. Liens and Encumbrances

LICENSEE will not permit any mortgage, pledge, security interest, lien or encumbrance, including without limitation tax liens or encumbrances and liens or encumbrances with respect to work performed or equipment furnished in connection with the construction, installation, repair, maintenance or operation of any FOC system on any portion of the Licensed Premises (collectively, "Liens or Encumbrances"), to be established or remain against the Licensed Premises or any portion thereof; provided, however, that the existence of such Liens or Encumbrances shall not constitute a violation of this sentence if payment with respect thereto is not yet due and payable; and provided further that LICENSEE shall not be required to pay, discharge

or remove any such Lien or Encumbrance against the Licensed Premises or any portion thereof, so long as LICENSEE shall, after written notice to CONRAIL, contest the same or the validity thereof in good faith by appropriate proceedings which shall operate to prevent the collection of such Lien or Encumbrance so contested and the transfer of LICENSEE'S or CONRAIL'S interest in the Licensed Premises or any portion thereof to satisfy the same. If any such Lien or Encumbrance does attach to or affect in any way the Licensed Premises or any portion thereof and is not so contested, LICENSEE shall bond, discharge or otherwise cause to be removed such Lien or Encumbrance within sixty (60) days of receipt of actual notice of its existence.

7. Railroad Operations

7.1. CONRAIL and LICENSEE shall cooperate to avoid, to the extent practicable, actions which could endanger any FOC system or the railroad. LICENSEE shall not interfere with railroad operations in the Licensed Premises. CONRAIL may, at its option, require that employees, agents and contractors of LICENSEE who are or will be involved in the construction, operation and maintenance of any FOC system on any portion of the Licensed Premises be trained in railroad safety matters via courses or materials to be offered or provided by CONRAIL.

7.2. LICENSEE understands and agrees that the normal course of railroad operations may involve construction, maintenance, demolition and similar activities that have the potential to cause interruption or damage to the installation, operation, maintenance and repair of the FOC systems. CONRAIL recognizes the serious and essential nature of the functioning of the FOC systems and understands and agrees that reasonable precautions shall be taken by its personnel and agents to avoid such interruption or damage, and whenever practicable CONRAIL will notify LICENSEE in advance of activities that might reasonably be foreseen to cause such interruption or damage. CONRAIL'S only liability for interruption or damage to the installation, operation, maintenance or repair of any FOC system shall be limited to the liability of CONRAIL as set forth in Paragraph 7.3 hereof.

7.3. CONRAIL agrees that, to the extent the negligence of CONRAIL, its employees, agents or other parties performing services for CONRAIL causes an interruption in service over, or damage to, any FOC system, CONRAIL shall pay the reasonable and necessary expenses of restoring such FOC system to full and continuing operation. The actual cost of restoring an FOC system to operation shall be the sole remedy of LICENSEE and the sole liability of CONRAIL for any delay in commencement or interruption of service over, or damage to, any FOC system and in no event shall CONRAIL be liable

for loss of income, cost of substitute services, or other consequential damages of any kind. For purposes of this paragraph, the term "interrupt" or "interruption" shall mean an actual break in, or failure of, service and shall not encompass degradations of service.

7.4. LICENSEE shall notify CONRAIL in advance of LICENSEE'S maintenance and other activities requiring access to the Licensed Premises, in order to coordinate said access by LICENSEE with CONRAIL'S railroad operations. CONRAIL shall provide LICENSEE with a list of telephone numbers which will be staffed 24 hours a day.

7.5. CONRAIL and LICENSEE shall cooperate with each other and coordinate their activities in an effort to ensure that FOC system construction, operation, repair and maintenance activities do not conflict with, and are not inconsistent with, the duties and obligations of CONRAIL under CONRAIL'S labor agreements with the Brotherhood of Railroad Signalmen, the International Brotherhood of Electrical Workers, and any other labor unions with which CONRAIL has or may have labor agreements. CONRAIL shall use its best efforts to ensure that nothing contained in its labor agreements interferes with or obstructs the construction, operation and maintenance of the FOC systems. In the event of any such conflict, inconsistency, interference or obstruction, CONRAIL shall be entitled to

fulfill its duties and obligations under its labor agreements and shall have no liability to LICENSEE as a result thereof.

8. Governmental Approvals and Related Matters

8.1. LICENSEE shall not commence installation of any FOC system on any portion of the Licensed Premises before obtaining, at its own cost and expense, all permits, licenses and approvals for the construction, operation, maintenance, repair and use of such FOC system required by the Federal Communications Commission ("FCC"), state and local public utility commissions, and any other governmental authorities, including but not limited to construction permits and common carrier operating authority. LICENSEE shall continue in full force and effect throughout the Initial Term and any Extended Term all such permits, licenses and approvals. CONRAIL will cooperate with LICENSEE to the extent reasonably requested by LICENSEE in obtaining such permits, licenses and approvals. In the event LICENSEE'S application for any such permit, license or approval is denied or is not granted within one year after such application was filed or submitted, LICENSEE shall have the right to select other right of way owned or controlled by CONRAIL equal in length to the right of way covered by such application, whereupon such selected

right of way shall become Licensed Premises for all purposes under this License, and this License shall terminate as to the right of way covered by such application.

8.2. LICENSEE will ensure at all times that the design, construction, operation and maintenance of each FOC system complies with sound electronic and engineering practices; with the engineering and safety rules and regulations imposed by any governmental authority having jurisdiction over any FOC system or railroad operations, including but not limited to the FCC, the Federal Railroad Administration, and the Rural Electrification Administration; with appropriate standards of recognized industry and professional associations, including but not limited to, as applicable, the Safety Rules for the Installation and Maintenance of Electric Supply and Communications Lines, National Electrical Safety Code Handbook, Part 2; and with CONRAIL'S standards for engineering and safety, pipeline occupancy, and wire, conduit and cable operations, which standards shall be made available to LICENSEE. The manner of, and the equipment and devices to be used for, any installation, relocation or removal of LICENSEE'S equipment must be approved by CONRAIL, which approval shall not be unreasonably withheld.

9... Insurance

9.1. LICENSEE represents and warrants that it is self-insured for the following coverages in the following amounts:

a. Workers' Compensation, Employer's Liability Insurance and Occupational Disease Insurance;

b. Public Liability Insurance

Public Liability Insurance covering actions by LICENSEE providing for a limit of not less than $2,000,000, single limit, bodily injury and/or property damage combined, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to or destruction of property, including the loss of use thereof, in any one occurrence.

c. Protective Public Liability Insurance

Protective Public Liability Insurance covering actions by LICENSEE'S contractors and agents providing for a limit of not less than $2,000,000, single limit, bodily injury and/or property damage combined, for damages arising out of bodily injuries to or death of all persons in any one occurrence and

for damage to or destruction of property, including the loss of use thereof, in any one occurrence.

d. Automobile Liability Insurance

If any motor vehicles are used in connection with the work to be performed, Automobile Public Liability Insurance with limits of not less than $2,000,000 single limit, bodily injury and/or property damage combined, for damages to or destruction of property including the loss of use thereof, in any one occurrence.

9.2. Except to the extent expressly waived in writing by CONRAIL, LICENSEE shall, as soon as practicable after the execution of this License, at its own expense obtain and deliver to CONRAIL, the original copy of the AAR-AASHTO policy for Railroad Protective Public Liability Insurance in the name of Consolidated Rail Corporation providing for a limit of not less than $2,000,000, single limit, bodily injury and/or property damage combined, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to or destruction of property, including the loss of use thereof, in any one occurrence. Such insurance shall be furnished with an aggregate of not less than $6,000,000 for all damages as a result of more than one occurrence.

9.3. The insurance hereinbefore specified shall be continued until three years after the termination of the last Extended Term, or, in the event there is no Extended Term, the Initial Term. The amounts of insurance referred to in Paragraphs 9.1 and 9.2 hereof shall be increased by LICENSEE, at its sole cost and expense, not less than once every five years during the term of this License, said increased amount to be in the same percentage as the net increase in the CPI-U over said five-year period.

9.4. The insurance provided for in Paragraph 9.2 hereof shall be effected under standard form policies issued by insurers of recognized responsibility, authorized to do business in all of the states in which any portion of the Licensed Premises is located, which are well-rated by national ratings associations and have been approved in writing by CONRAIL, such approval not to be unreasonably withheld.

9.5. Not less than thirty (30) days prior to the expiration dates of the expiring policies theretofore furnished pursuant to this Section 9, originals or duplicate originals of the insurance policies required hereunder, bearing notations evidencing the payment of premiums or accompanied by other evidence satisfactory to CONRAIL of such payment, shall be delivered by LICENSEE to CONRAIL.

9.6. Each policy delivered hereunder shall, to the extent obtainable, contain an agreement by the issuer that such policy shall not be cancelled without at least thirty (30) days prior written notice to CONRAIL.

10. Indemnification and Liability

10.1. LICENSEE agrees to indemnify, defend and hold CONRAIL harmless from and against any and all claims, damages, liabilities, costs and expenses, including reasonable attorney's fees, for:

(a) Libel, slander, infringement of copyright, or unauthorized use of any trademark, trade name, or service mark, arising out of the material, data, information or other content transmitted or received over any FOC system (excluding material, data, information or other content transmitted by or on behalf of CONRAIL); and

(b) Except to the extent caused by CONRAIL'S negligence, but subject to the provisions of Paragraph 7.3 hereof, any personal injury to, or death of, any person or persons, and any loss, damage, defacement, or destruction of property, arising out of the presence on or about any portion of the Licensed

Premises of any FOC system or LICENSEE, its agents, contractors, or employees.

10.2. LICENSEE shall be solely responsible for any settlement or damage to the Licensed Premises, including but not limited to settlement of or damage to roadbed, tracks, facilities, shelters, structures, and appurtenances of CONRAIL, arising from or as a result of the construction, installation, maintenance, repair and operation of any FOC system by LICENSEE on the Licensed Premises. In the event that LICENSEE fails to repair any such damage, CONRAIL shall have the right to repair, replace, restore or correct any such settlement or damage at the sole cost and expense of LICENSEE.

10.3. Upon written notice by CONRAIL to LICENSEE of a claim or suit covered by Paragraph 10.1 or 10.2, LICENSEE shall promptly assume responsibility for the claim or undertake the defense of any litigation on behalf of CONRAIL, its agents, contractors, and employees; hold CONRAIL harmless for any expense associated therewith; and promptly pay any settlement or judgment that may be agreed to by the parties or entered by a court. CONRAIL shall not settle or compromise any such claim or suit without the written consent of LICENSEE.

10.4. In the event that LICENSEE does not assume and meet its obligations under Paragraph 10.3 promptly upon receiving written notice from CONRAIL, CONRAIL may, at its option, defend or settle any such claims or suits and make any reasonable expenditures or incur any reasonable obligations for the payment of money in connection with or arising out of the matters referred to in Paragraphs 10.1 or 10.2, including but not limited to attorney's fees. Such sums paid or obligations incurred shall be deemed to be additional license charges under this License and shall be paid promptly by LICENSEE upon the rendering of a statement to LICENSEE therefor.

11. Representations and Warranties

11.1. Each party hereby represents to the other and warrants that:

(a) It has been duly incorporated and is validly existing as a corporation in good standing under the laws of the state of its incorporation, is, or one of its subsidiaries is, duly qualified to do business as a foreign corporation and in good standing in each state in which any portion of the Licensed Premises is located.

(b) There is no litigation or governmental or administrative proceeding pending, or, to the best knowledge of the party, threatened against either the party or the real or personal property that the party is providing pursuant to this License, that might adversely affect the right or ability of the party to enter into or perform this License. Both parties recognize that regulatory approval is required with respect to the construction and operation of FOC systems.

(c) The execution and delivery by the party of this License, and the performance of its obligations thereunder, have been duly authorized by all necessary corporate action and do not, and adherence by the party to this License will not, violate any provision of law or of the party's certificate of incorporation or by-laws, or any material agreement or instrument which is binding on the party or by which it or its property is bound or affected, or any statute, order, judgment, decree, rule, or regulation of any court or governmental agency or body having jurisdiction over the party or the real or personal property being provided by the party pursuant to the terms of this License, or any franchise, license, or permit with respect to said real or personal property, subject to the provisions of Section 11.5 hereof.

(d) This License Agreement is a legal, valid and binding obligation of the party, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy or similar laws relating generally to enforcement of creditors' rights.

(e) No authorization, approval, consent, or other order of, or registration with, any governmental authority is legally required for the execution and delivery by the party of this License or the performance of its obligations thereunder, except as referred to Paragraph 8 hereof.

11.2. CONRAIL covenants and agrees that, in the event it enters into any agreement with a party other than LICENSEE providing for the use by such party of right of way owned or controlled by CONRAIL for the installation of a FOC system between any two points on the Licensed Premises, whether such system is to be installed on the Licensed Premises or parallel to the Licensed Premises, CONRAIL will, at its option, either (i) charge such other party a per mile fee at least equal to the average per mile fee (including adjustments thereto referred to in Paragraphs 3 and 4 hereof), between such two points which LICENSEE is obligated to pay CONRAIL pursuant to this License, or, in the alternative, (ii) reduce its average per mile fee between

such two points to LICENSEE to the average per mile fee charged to such other party.

11.3. CONRAIL covenants and agrees that it will defend, at its sole cost and expense, any and all claims or disputes challenging, on the basis of alleged insufficiency of title, CONRAIL'S right to license to LICENSEE any portion of the Licensed Premises, whether before a court or a governmental agency having jurisdiction of the matter, to a final, non-appealable judgment or order; provided, however, that if in the opinion of counsel to CONRAIL, which counsel shall be acceptable to LICENSEE, CONRAIL does not have a significant likelihood of success on the appeal of any such order or judgment CONRAIL, at its option, shall be relieved of any obligation to defend or prosecute such appeal, and LICENSEE, at its sole cost and expense, shall thereafter be entitled to defend or prosecute such appeal; and provided further that any such claim or dispute may be settled or otherwise disposed of at any time with the agreement of both CONRAIL and LICENSEE.

11.4. Each party covenants and agrees to give the other prompt written notice of the institution of any claim or dispute referred to in Paragraph 11.3 hereof. LICENSEE covenants and agrees to cooperate as reasonably requested by CONRAIL in the defense of any such claim or dispute (such cooperation to be at CONRAIL'S sole cost and expense), and to

satisfy and discharge without any liability to CONRAIL, and to indemnify CONRAIL against, any final judgment, order or settlement arising out of any such claim or dispute; provided, however, that in the event any such final judgment, order or settlement shall prohibit LICENSEE from using the right of way the title to which was being contested, CONRAIL shall, as promptly as practicable, return to LICENSEE the full amount of all license fees previously paid by LICENSEE to CONRAIL pursuant to this License with respect to such right of way, and LICENSEE shall have no further obligations to CONRAIL pursuant to this License with respect to such right of way. In the event that LICENSEE institutes condemnation proceedings against any right of way which any final judgment, order or settlement prohibits LICENSEE from using, CONRAIL agrees to cooperate as reasonably requested by LICENSEE in any such condemnation proceedings (such cooperation to be at LICENSEE'S sole cost and expense) and not to oppose such proceedings. Such condemnation proceedings shall not contemplate any interference with CONRAIL'S interest in such right of way.

11.5. Nothing in this License shall be deemed or construed to be a representation, warranty or covenant to the effect that CONRAIL'S right, title or interest with respect to its right of way will permit LICENSEE'S use of such right of way as contemplated by this License, or a limitation on

the rights of CONRAIL to abandon or discontinue service over any portion of its right of way.

11.6. LICENSEE covenants and agrees that it intends to use its best efforts to transmit CONRAIL communications subscribed to by CONRAIL pursuant to tariff over the FOC systems. LICENSEE covenants and agrees to provide CONRAIL with quarterly reports with respect to CONRAIL'S communications transmissions over the FOC systems.

12. Events of Default

12.1. The following events shall constitute "Events of Default" under this License:

(a) Non-payment by LICENSEE of any amount due CONRAIL pursuant to Paragraphs 3 or 4 hereof on the date on which such amount is due;

(b) LICENSEE shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the

appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing; or an involuntary case or other proceeding shall be commenced against LICENSEE seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, involvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of sixty 60 days; or an order for relief shall be entered against LICENSEE under the Federal bankruptcy laws as now or hereafter in effect; and

(c) Breach by CONRAIL or LICENSEE as to any other representations, warranties, or covenants of this License.

12.2. Upon the occurrence of an Event of Default as defined in Paragraph 12.1(b), this License shall terminate immediately without the necessity of any action by CONRAIL. Upon the occurrence of an Event of Default as defined in

Paragraph 12.1(a) or (c), the other party may give written notice to the defaulting party of such Event of Default, and the defaulting party shall then have thirty (30) days to cure the default. Upon the failure of the defaulting party to cure before the expiration of (i) said thirty (30) days, or, (ii) sixty (60) days after such written notice if the default cannot reasonably be cured within thirty (30) days and the defaulting party is diligently proceeding to cure said default at the expiration of said thirty (30) days, this License may be terminated, but only as to the Licensed Premises as to which such default relates, at the option of the non-defaulting party, upon written notice to the defaulting party.

12.3. In the event that this License or any part thereof terminates because of an Event of Default by LICENSEE, (a) CONRAIL shall have an unqualified right to retain (as payment pursuant to this License, and not as liquidated damages) the full amount of the license charges with respect to the terminated portion made by LICENSEE pursuant to the terms of this License, and (b) to receive from LICENSEE the aggregate amount of all future license charges set forth in this License with respect to the terminated portion until the expiration of the Initial Term, or, if the Initial Term has expired, until the expiration of the then current Extended Term, discounted at the then

appropriate rate to the then present value of such aggregate amount.

12.4. The termination provisions of Paragraphs 12.2 and 12.3 shall be in addition to, and not in lieu of, any other rights, whether in law or equity, either party hereto has for breach of this License by the other.

12.5. If LICENSEE fails to obtain the guarantee by American Telephone and Telegraph Company of all of LICENSEE'S obligations under this License by February 3, 1984 in a form satisfactory to CONRAIL, CONRAIL may, in its sole discretion and without any liability, terminate this License upon written notice to LICENSEE.

13. Expiration of Term of License.

Upon the expiration or termination of this License, LICENSEE (i) shall, at its cost and expense, remove all repeater stations from the Licensed Premises and restore the Licensed Premises substantially to the condition of the Licensed Premises prior to the commencement of the Initial Term, and (ii) may at its option remove, at its cost and expense, any fiber optic cable and associated electronics and other equipment placed on the Licensed Premises by LICENSEE or its agents or contractors. Any such material not removed by LICENSEE within twelve (12) months after the later of

(i) said expiration, or (ii) the obtaining of any necessary regulatory approval, shall at the end of said twelve-month period become the property of CONRAIL and LICENSEE shall execute and deliver such documents as are useful or necessary to evidence full vesting of title thereto in CONRAIL. If LICENSEE does not receive the required regulatory approval to discontinue service on any FOC system by the expiration or termination (other than as a result of LICENSEE'S default under Section 12.1 hereof) of this License, this License shall be extended until such regulatory approval has been obtained. All such removals and restoration shall be subject to the same terms and conditions set forth in Paragraph 5 hereof which apply to LICENSEE'S repair and maintenance activities.

14. Assignment

14.1. LICENSEE shall not assign, sell, or transfer, for collateral or for any other purpose, all or any of its rights or obligations under this License, or sublicense all or any part of the Licensed Premises without the prior written approval of CONRAIL, which will not be withheld if such transferee is a subsidiary or affiliate of LICENSEE and CONRAIL is satisfied with the financial and operational ability of the transferee to perform all of the terms and conditions of this License.

14.2. CONRAIL shall have an unrestricted right to assign, for collateral or for any other purpose, all or part of its right to receive payments pursuant to the terms of this License.

15. Notices

15.1. All notices, demands, requests, or other communications which may be or are required to be given, served, or sent by one party to the other pursuant to this License (except as otherwise specifically provided in this License, including but not limited to Paragraph 5.14) shall be in writing and shall be mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, or transmitted by telegram or telex, addressed as follows:

(a) If to CONRAIL:

Consolidated Rail Corporation
Six Penn Center
Philadelphia, Pennsylvania 19104

Attention: Richard C. Sullivan
Vice President - Resource Development

(b) If to LICENSEE:

AT&T Communications
3033 Chain Bridge Road
Oakton, Virginia 22185

Attention: M. E. Perkins
General Manager - Engineering

15.2. All payments due from LICENSEE to CONRAIL hereunder shall be delivered to: Treasury Department, Consolidated Rail Corporation, P.O. Box 8538-230, Philadelphia, Pennsylvania 19117, or such other address as CONRAIL, by notice to LICENSEE in writing, may direct LICENSEE to use for payment delivery.

15.3. Either party may designate by notice in writing a new address and/or individual to which any notice, demand, request or communication made thereafter shall be so given, served or sent.

15.4. Each notice, demand, request, or communication which shall be mailed or telexed in the manner described in Paragraph 15.1, or which shall be delivered to a telegraph company, shall be deemed sufficiently given, served, sent or received for all purposes at such time as it is delivered to the addressee first named above as to each party (with the return receipt or the delivery receipt being deemed conclusive evidence of such delivery, or (with respect to a telex) the answerback being deemed presumptive evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation.

16. Miscellaneous Matters

16.1. By licensing occupancy of the Licensed Premises to LICENSEE, CONRAIL is not hereby establishing any joint undertaking, joint venture or partnership with LICENSEE, its agents, or contractors. Each party shall be deemed to be an independent contractor, and shall act solely for its own account.

16.2. CONRAIL shall have the right, but not the obligation, after LICENSEE has been given notice and an opportunity to cure in accordance with Paragraph 12.2 hereof, to cure any defaults by LICENSEE of its obligations pursuant to any loan agreements, governmental requirements, or any other matters regarding LICENSEE'S construction, maintenance or operation of any FOC system.

16.3 This License constitutes the entire agreement between the parties, and supersedes all previous oral or written understandings, agreements, commitments, or representations concerning the subject matter of this License. This License may not be changed, amended, or modified in any way, and none of its provisions may be waived, except as may be agreed to in writing executed by each of the parties.

16.4. Neither the waiver by either of the parties hereto of a breach of or a default under any of the provisions of this License, nor the failure of either of the parties, on one or more occasions, to enforce any of the provisions of this License or to exercise any right or privilege hereunder shall thereafter be construed as a waiver of any subsequent breach or default, or as a waiver of any of such provisions, rights, or privileges hereunder. Time shall be of the essence with respect to each obligation of either LICENSEE or CONRAIL under this License which obligation is required to be performed by a specific date, or within a certain number of days, specified herein.

16.5. This License shall be binding upon and shall inure to the benefit of both parties hereto and, subject to the provisions of Paragraph 14.1 hereof, their respective legal representatives, successors and assigns.

16.6. This License, the rights and obligation of the parties hereto, and any claims or disputes relating thereto, shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, except that all claims or disputes referred to in Paragraph 11.3 hereof shall

be governed by and construed in accordance with the laws of the state in which the real property as to which such claim or dispute arose is located.

16.7. To facilitate execution, this License may be executed in as many counterparts as may be required; and it shall not be necessary that the signatures of, or on behalf of, each party, or that the signatures of all persons required to bind any party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each party, or that the signatures of the persons required to bind any party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this License to produce or account for more than a number of counterparts containing the respective signatures of, or on behalf of, all of the parties hereto.

16.8. Section headings contained in this License are inserted for convenience of reference only, shall not be deemed to be a part of this License for any purpose, and shall not in any way define or affect the meaning, construction or scope of any of the provisions hereof.

16.9. In connection with this License, LICENSEE may find it necessary to disclose to CONRAIL specifications, drawings, computer programs and/or technical or business information (herein collectively referred to as information) which LICENSEE considers confidential or proprietary.

16.9.a. LICENSEE shall clearly mark proprietary information provided under this License by either applying the following inscription:

AT&T COMMUNICATIONS - PROPRIETARY
Use pursuant to company instructions

or by marking the information as proprietary and placing on it the date the information is disclosed, e.g., "AT&T Communications Proprietary Information 1/1/84."

16.9.b. In connection with information marked proprietary CONRAIL shall:

(a) restrict disclosure of such information solely to those of its employees with a need to know, and not disclose it to other parties,

(b) advise employees of the obligation of confidentiality hereunder, and

(c) use and require employees to use the same degree of care as is used with CONRAIL'S proprietary information.

16.9.c. Upon request, CONRAIL shall return all copies of information marked proprietary to LICENSEE, or if requested by LICENSEE, shall certify to LICENSEE that all such information has been destroyed; provided, however, that CONRAIL shall be entitled to retain, until the expiration or termination of this License in its entirey, any information which is necessary or useful to enable CONRAIL to monitor LICENSEE'S performance under this License.

16.9.d. Notwithstanding anything to the contrary herein, CONRAIL shall have no obligation to preserve the confidentiality of any information which:

(a) was previously known to CONRAIL free of any obligation to keep it confidential, or

(b) is disclosed to other parties by LICENSEE without restriction, or

(c) is or becomes publicly available, by other than unauthorized disclosure by CONRAIL.

16.9.e. Nothing contained in this paragraph shall be construed as granting or conferring any rights by license or otherwise in any information marked proprietary and disclosed to CONRAIL.

16.9.f. Notwithstanding any of the foregoing, in the event that CONRAIL receives a request to disclose all or any part of the information marked proprietary under the terms of a valid and effective subpoena or order issued by a court of competent jurisdiction or by other governmental body authorized to issue compulsory process, CONRAIL agrees to (i) notify LICENSEE as promptly as practicable of the existence, terms and circumstances surrounding such a request, and (ii) consult with LICENSEE on the advisability of taking legally available steps to resist or narrow such request or to motion the court for protection of the information if disclosed. If CONRAIL is nonetheless, in the opinion of its counsel, which counsel shall be satisfactory to LICENSEE, obliged to disclose such information or else be adjudged in contempt or suffer other sanction or penalty, CONRAIL may so disclose such information without liability hereunder.

IN WITNESS WHEREOF, the undersigned have caused this License Agreement to be duly executed on their behalf as of the day and year first hereinabove set forth.

[Corporate Seal]
ATTEST:

CONSOLIDATED RAIL CORPORATION

By: _____
Richard C. Sullivan
Vice President -
Resource Development

[Corporate Seal]
ATTEST:

A. G. Walton

AT&T COMMUNICATIONS, INC.

By: _____
Robert Kleinert
President and
Chief Operating Officer

EXHIBIT A

CONRAIL RIGHT OF WAY TO BE OCCUPIED BY AT&T FIBER CABLE BETWEEN HARRISBURG, PA. AND CHICAGO, ILL.

Line Code	From MP	To MP	Description
13-1302	105.5	113.5	Main Line Harrisburg to Pittsburgh
21-2102	113.5	290.2	Main Line Harrisburg to Pittsburgh
22-2202	290.2	353.3	Main Line Harrisburg to Pittsburgh
22-2202	0.0	25.9	Main Line Pittsburgh to Chicago
22-2233	25.9	29.3	Low Grade Branch
25-2433	29.3	41.8	Low Grade Branch
25-2423	41.8	75.5	E&A Branch
25-2424	75.5	80.9	PY&A Secondary
25-6501	160.5	164.9	Main Line Meadville
25-6501	164.9	201.7	Freedom Secondary
25-2412	88.5	98.0	Main Line Alliance to Cleveland
35-2412	98.0	102.0	Main Line Alliance to Cleveland
35-3512	102.0	123.6	Main Line Alliance to Cleveland
35-3500	182.3	194.3	Main Line Buffalo to Chicago
-3600	194.3	420.0	Main Line Buffalo to Chicago
-3200	420.0	501.0	Main Line Buffalo to Chicago
-3202	446.7	466.2	Main Line Pittsburgh to Chicago

Note: Several alternate routes exist through Cleveland, Oh. The final route may include the following line segments as appropriate:

35-3534	9.2	12.9	Clark Branch
35-3532	12.9	22.3	Clark Branch
35-3531	9.0	17.9	Cleveland Short Line
35-3541	0.0	1.8	Harvard Connection
35-6502	2.2	5.2	Randall Secondary

GUARANTEE AGREEMENT

This Guarantee Agreement (the "Guarantee"), dated as of the 1st day of February 1984, by and between CONSOLIDATED RAIL CORPORATION, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania ("CONRAIL"), and AMERICAN TELEPHONE AND TELEGRAPH COMPANY, a corporation organized and existing under the laws of the State of New York ("AT&T").

WHEREAS, CONRAIL and AT&T Communications, Inc., a wholly-owned subsidiary of AT&T (the "LICENSEE") have executed a License Agreement dated as of January 1, 1984 (the "License Agreement") providing for, among other things, the acquisition by LICENSEE of a license over 750 miles of CONRAIL right of way and options by LICENSEE to acquire licenses over up to an additional 2,250 miles of CONRAIL right of way for the purpose of installing and operating fiber optic cable communications systems on said rights of way;

WHEREAS, AT&T and LICENSEE have significant internal purposes for having LICENSEE execute the License Agreement instead of AT&T;

WHEREAS, CONRAIL is relying on the financial and operational ability of AT&T for the performance of LICENSEE'S obligations under the License Agreement; and

WHEREAS, the License Agreement provides for termination by CONRAIL should LICENSEE fail to obtain this Guarantee;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. AT&T Guarantee

AT&T hereby unconditionally guarantees each and every obligation, whether financial or otherwise, of LICENSEE under the License Agreement, and agrees that, upon the default of LICENSEE to perform any such obligation under the License Agreement, CONRAIL may obtain the performance of AT&T of any obligation as to which LICENSEE is in default without any obligation on the part of CONRAIL to first seek legal recourse against LICENSEE.

2. CONRAIL Waiver

CONRAIL hereby waives any and all termination rights it has under Section 12.5 of the License Agreement.

IN WITNESS WHEREOF, the undersigned have caused this Guarantee Agreement to be duly executed on their behalf as of the day and year first hereinabove set forth.

[Corporate Seal]
ATTEST:

Judith Coleridge
ASSISTANT SECRETARY

CONSOLIDATED RAIL CORPORATION

By: Richard C. Sullivan
Richard C. Sullivan
Vice President -
Resource Development

[Corporate Seal]
ATTEST:

A. J. Batson
Assistant Secretary

AMERICAN TELEPHONE AND TELEGRAPH

By: W. G. Sloswell