

220693

**LAW OFFICES OF
LOUIS E. GITOMER**

LOUIS E. GITOMER
LOU_GITOMER@VERIZON.NET

THE ADAMS BUILDING, SUITE 301
600 BALTIMORE AVENUE
TOWSON MARYLAND 21204-4022
(202) 466-6532
FAX (410) 332-0885

November 14, 2007

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

RE: Finance Docket No. 35102, *Patriot Rail, LLC, Patriot Rail Holdings LLC,
and Patriot Rail Corp -Control Exemption-Utah Central Railway
Company*

Dear Secretary Williams

Pursuant to the decision served on November 13, 2007 by the Board in the above-entitled matter, enclosed is a redacted copy of the Stock Purchase Agreement

This letter and the enclosed Stock Purchase Agreement are being efiled. Thank you for your assistance.

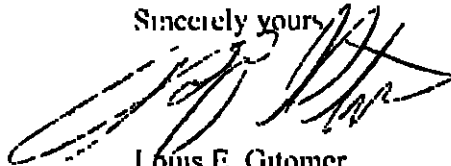
If you have any questions, please call or email me

**ENTERED
Office of Proceedings**

NOV 15 2007

**Part of
Public Record**

Sincerely yours,



Louis E. Gitomer
Attorney for Patriot Rail, LLC, Patriot Rail
Holdings LLC, and Patriot Rail Corp

Enclosures

EXECUTION VERSION

STOCK PURCHASE AGREEMENT

Among

PATRIOT RAIL CORP.,
as Buyer

BETH A. BLANSETT,
STEVE RICHARDS,
as Sellers

and

UTAH CENTRAL RAILWAY COMPANY,
as Company

OCTOBER 27, 2007

EXECUTION VERSION

STOCK PURCHASE AGREEMENT

Among
PATRIOT RAIL CORP.,
as Buyer

BETH A. BLANSETT,
STEVE RICHARDS,
as Sellers

and

UTAH CENTRAL RAILWAY COMPANY,
as Company

OCTOBER 29, 2007

TABLE OF CONTENTS

	Page
Article I SALE AND PURCHASE OF SHARES	1
1.01 Sale and Purchase of Shares.	1
1.02 Payment for Shares.	1
1.03 Additional Consideration.	2
1.04 Working Capital Adjustments.	2
1.05 Closing Date Balance Sheet	3
1.06 Disputes.	3
Article II CLOSING	4
2.01 Closing.	4
2.02 Deliveries by Sellers.	4
2.03 Deliveries by Buyer.	4
Article III REPRESENTATIONS AND WARRANTIES OF THE SELLERS AND THE COMPANY	4
3.01 Corporate Existence and Qualification.	5
3.02 Authority, Approval and Enforceability.	5
3.03 Capitalization and Corporate Records.	5
3.04 No Defaults or Consents.	6
3.05 No Proceedings.	6
3.06 Other Business Names.	6
3.07 Equipment Leases.	6
3.08 Equipment and Other Tangible Property.	6
3.09 Condition Of Personal Property Other Than Tracks.	7
3.10 Condition Of Track And Bridges.	7
3.11 Accounts Receivable and Payable.	7
3.12 Real Estate Owned.	7
3.13 Real Estate Leased.	7
3.14 Operating and Other Agreements.	8
3.15 Labor and Employee Benefit Matters.	8
3.16 Financial Statements; Liabilities; Accounts Receivable; Inventories.	10
3.17 Absence of Certain Changes.	10
3.18 Compliance with Laws.	12
3.19 Litigation.	12
3.20 Commitments.	12
3.21 Insurance.	12
3.22 Intellectual Property.	12
3.23 Environmental Matters.	13
3.24 Licenses and Permits.	14
3.25 Banks.	14
3.26 Customers and Suppliers.	14
3.27 Absence of Certain Payments.	14
3.28 Transactions With Affiliates.	14
3.29 Sufficiency of Assets.	15
3.30 Other Information.	15
Article IV REPRESENTATIONS AND WARRANTIES OF BUYER	15
4.01 Corporate Existence and Qualification.	15
4.02 Authority, Approval and Enforceability.	15
4.03 No Default or Consents.	15
4.04 No Proceedings.	15
Article V OBLIGATIONS PRIOR TO CLOSING	16
5.01 Buyer's Access to Information and Properties.	16

5.02	Company's Conduct of Business and Operations	16
5.03	General Restrictions	16
5.04	Notice Regarding Changes	17
5.05	Ensure Conditions Met	18
5.06	Employee Matters	18
5.07	Surface Transportation Board	18
5.08	Payoff of Existing Indebtedness and Tax Indebtedness, Release of Guarantees	18
5.09	No Shop	18
5.10	Auditors	19
Article VI CONDITIONS TO SELLERS' AND BUYER'S OBLIGATIONS		19
6.01	Conditions to Obligations of the Sellers	19
6.02	Conditions to Obligations of Buyer	19
Article VII POST-CLOSING OBLIGATIONS		21
7.01	Survival of Representations and Warranties	21
7.02	Indemnification	21
7.03	Further Assurances	23
7.04	Publicity	23
7.05	Transition Services	23
Article VIII TAX MATTERS		23
8.01	Representations and Obligations Regarding Taxes	23
8.02	Covenants With Respect To Taxes	25
8.03	Indemnification for Taxes	25
8.04	Defined Terms	27
Article IX TERMINATION		28
9.01	Termination	28
9.02	Effect of Termination	28
Article X MISCELLANEOUS		28
10.01	Confidentiality	28
10.02	Brokers	29
10.03	Costs and Expenses	29
10.04	Notices	29
10.05	Governing Law	30
10.06	Entire Agreement; Amendments and Waivers	30
10.07	Binding Effect and Assignment	30
10.08	Remedies	31
10.09	Exhibits and Schedules	31
10.10	Appointment and Powers of Sellers' Representative	31
10.11	Multiple Counterparts	32
10.12	References and Construction	32
10.13	Attorneys' Fees	32
Article XI DEFINITIONS		32
11.01	Affiliate	32
11.02	Business Day	33
11.03	Containers	33
11.04	Contracts	33
11.05	Current Assets	33
11.06	Current Liabilities	33
11.07	Environmental Laws	33
11.08	Escrow Agreement	33
11.09	Governmental Authority	Error! Bookmark not defined.
11.10	Hazardous Materials	33

11.11	Legal Requirements	33
11.12	Lien	33
11.13	Material	34
11.14	New Customer	34
11.15	Permits	34
11.16	Person	34
11.17	Properties	34
11.18	Release	34
11.19	Regulations	34
11.20	Related Agreements	34
11.21	Seller's Knowledge	34
11.22	Sellers' Representative	34
11.23	Subsidiaries	34
11.24	Tax Indebtedness	34
11.25	Track	34
11.26	Used	34
11.27	Working Capital	35
11.28	Working Capital Deficit	35

LIST OF SCHEDULES

Schedule A	Shares
Schedule 1.02(a)	Existing Indebtedness and Tax Indebtedness
Schedule 3.03(a)	Capitalization
Schedule 3.03(e)	Subsidiaries
Schedule 3.04	Company and Seller Defaults or Required Consents
Schedule 3.06	Business Names
Schedule 3.07	Equipment Leases
Schedule 3.08	Liens on Owned Equipment
Schedule 3.09	Condition of Personal Property Other than Track
Schedule 3.10	Condition of Track and Bridges
Schedule 3.11	Accounts Receivable and Accounts Payable Aging
Schedule 3.12	Owned Real Estate
Schedule 3.13(a)	Leased Real Estate
Schedule 3.13(b)	License Revenue Agreements
Schedule 3.14(a)	Operating Agreements
Schedule 3.14(b)	Grants
Schedule 3.15(a)	List of Employees
Schedule 3.15(b)	Labor Issues
Schedule 3.15(c)	Employment Practices
Schedule 3.15(d)	Employee Benefit Plans
Schedule 3.16(a)	Financial Statements
Schedule 3.16(b)	Liabilities
Schedule 3.16(c)	Accounts Receivable
Schedule 3.17(a)	Adverse Changes
Schedule 3.17(b)	Certain Actions
Schedule 3.18	Compliance with Law
Schedule 3.19	Litigation
Schedule 3.20	Commitments
Schedule 3.21	Insurance Policies
Schedule 3.22	Intellectual Property
Schedule 3.23(a)	Non-Compliance with Environmental Laws
Schedule 3.23(d)	Containers
Schedule 3.24	Permits
Schedule 3.25	Bank Accounts
Schedule 3.26	Customers and Suppliers
Schedule 3.28	Affiliate Transactions
Schedule 3.29	Sufficiency of Assets
Schedule 4.03	Buyer Defaults or Required Consents
Schedule 6.02(a)	Agreements between the Company and Affiliates
Schedule 6.02(j)	Employee Resignations
Schedule 8	Tax Matters
Schedule 8.01(a)	Filed Tax Returns
Schedule 8.01(c)	Private Letter Rulings
Schedule 8.01(d)	Audited Tax Returns

LIST OF EXHIBITS

Exhibit A	-	Opinion of Seller's Counsel	A-1
Exhibit B	-	Form of Escrow Agreement	B-1

STOCK PURCHASE AGREEMENT

~~This STOCK PURCHASE AGREEMENT (the "Agreement") is made and entered into as of the 21st day of~~
October, 2007, by and among Patriot Rail Corp, a Delaware corporation (the "Buyer"), Beth A. Blansett
("Blansett") and Steve Richards (each a "Seller" and collectively, the "Sellers"), and Utah Central Railway
Company, a Utah corporation, (the "Company"). Certain capitalized terms are defined in Article XI hereof

Recitals

A. The Sellers own of record and beneficially all of the outstanding shares of common stock of the Company (the "Shares").

B. Buyer desires to purchase the Shares, and Sellers desire to sell such Shares, upon the terms and subject to the conditions set forth herein.

Agreement

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein, the parties agree as follows:

ARTICLE I SALE AND PURCHASE OF SHARES

1.01 Sale and Purchase of Shares

(a) On the terms and subject to the conditions of this Agreement, at the Closing referred to in Section 2.01 hereof, each Seller shall sell, convey, assign, transfer and deliver to Buyer, and Buyer shall purchase, acquire and accept delivery of, the number of Shares as set forth across from such Seller's name on Schedule A, free and clear of any and all liens, mortgages, adverse claims, charges, security interests, encumbrances or other restrictions or limitations whatsoever.

(b) To effect the transfers contemplated by Section 1.01(a), at the Closing, Sellers shall deliver or cause to be delivered to Buyer, against payment therefor in accordance with Section 1.02 hereof, stock certificates representing the Shares, accompanied by stock powers duly executed in blank and otherwise in form acceptable to Buyer for transfer on the books of the Company.

1.02 Payment for Shares. As payment in full for the Shares being acquired by the Buyer hereunder, Buyer shall pay consideration, in the manner set forth in this Section 1.02, an aggregate amount equal to:

(a) Initial Payment: A payment (the "Initial Payment")

and (v) either (A) plus an amount equal to the Company's Working Capital as of the Closing Date minus \$1, or (B) minus an amount equal to the Company's Working Capital Deficit as of the Closing Date plus \$1, as determined pursuant to Section 1.04(a) (the "Estimated Working Capital Adjustment")

(b) Holdback:

(i) Buyer shall holdback (the "Holdback") from the Initial Payment, which shall be delivered to the Bullock Law Firm ("Escrow Agent") and held in an interest bearing account pursuant to the terms of the Escrow Agreement and which balance shall be applied against (A) any Final Working Capital Adjustment pursuant to Section 1.04(b), (B) such Losses incurred by Seller

Indemnified Parties pursuant to Section 7.02(a), and (c) such Tax Losses incurred by Buyer pursuant to Section 8.03.

(ii) On April 14, 2008, any Holdback balance remaining, less (x) any amounts to be deducted from the Purchase Price or in dispute with respect to the working capital adjustment pursuant to Sections 1.04 - 1.06 hereof or (y) any Losses or Tax Losses, whether fixed or contingent, liquidated or unliquidated for such indemnification claims existing but unresolved on that date, shall be paid to Sellers.

(c) The Initial Payment, together with the Additional Consideration, subject to adjustment as provided in Sections 1.04, 7.02 and 8.03 hereof (such sum, as so adjusted from time to time), is herein referred to as the "Purchase Price".

(d) On the Closing Date, the Buyer shall make the following payment: Buyer shall deliver to Sellers, by wire transfer (to an account specified by Sellers' Representative in writing at least three Business Days prior to Closing), of immediately available funds, an amount equal to the Initial Payment.

(e) On the Closing Date, the Sellers shall deliver to the Escrow Agent, by wire transfer (to an account specified by the Escrow Agent in writing at least three Business Days prior to Closing), of immediately available funds, an amount equal to the Tax Indebtedness. Within three Business Days following the Closing Date, the Escrow Agent shall hand deliver or send via certified mail or overnight courier to the Internal Revenue Service representative identified by Sellers' Representative in writing at least three Business Days prior to Closing (i) a bank check, cashier's check or other method of certified funds in an amount equal to the Tax Indebtedness and (ii) a letter (in form and substance mutually acceptable to the Buyer and the Seller Representative) directing the Internal Revenue Service representative as to the application of the funds sent therewith to the Tax Indebtedness.

1.03 Additional Consideration

1.04 Working Capital Adjustments.

(a) Not later than two (2) Business Days prior to the scheduled Closing Date, the Buyer and the Sellers' Representative shall jointly estimate the Company's Working Capital or Working Capital Deficit, as applicable, which amount shall be used to determine the Estimated Working Capital Adjustment pursuant to Section 1.02(a) hereof.

(b) If the final calculation of the Working Capital based on the final Closing Date Balance Sheet is greater than the Estimated Working Capital Adjustment or, as applicable, if the Working Capital Deficit is less than the Estimated Working Capital Adjustment, then the Buyer shall pay to the Sellers an amount equal to the amount of such difference. Conversely, if the final calculation of the Working Capital based on the final Closing Date Balance Sheet is less than the Estimated Working Capital Adjustment or, as applicable, if the Working Capital Deficit is greater than the Estimated Working Capital Adjustment, then the Sellers shall owe Buyer an amount equal to the amount of such shortfall, any such obligation (the "Final Working Capital Adjustment") payable by Sellers shall be first credited against the Holdback to the maximum balance available, and second, any amount due, if any, in excess of the available Holdback shall be paid by Sellers to the Buyer. Any payments made by the Buyer

to the Sellers or by the Sellers to the Buyer pursuant to this Section 1.04(b), shall be made within ten Business Days after the date in which the Closing Date Balance Sheet is final and binding on the parties by wire transfer of immediately available funds to the account or accounts designated by the Sellers or the Buyer, as the case may be.

(c) At least five (5) Business Days prior to the Closing Date, the Sellers' Representative will provide the Buyer with customary pay-off letters from all holders of Existing Indebtedness, and make arrangements satisfactory to the Buyer for such holders to provide to the Company, simultaneously with the Closing, appropriate documentation, recordable and otherwise, evidencing satisfaction of the Indebtedness as set forth in Section 5.08 hereof. At least three (3) Business Days prior to the Closing Date, the Sellers' Representative will provide the Buyer and the Escrow Agent with written statements of the pay-off amounts.

The Sellers and the Company jointly and severally represent and warrant to Buyer that: (i) all Contracts evidencing the Existing Indebtedness and (ii) the total amount of the are set forth on Schedule 1.02(a) hereto.

1.05 Closing Date Balance Sheet. As soon as practicable (and in no event later than March 31, 2007), Buyer shall cause to be prepared and delivered to the Sellers' Representative (i) a balance sheet for the Company dated as of the Closing Date (the "Closing Date Balance Sheet"), and (ii) a calculation of the Final Working Capital Adjustment and the Purchase Price, including such schedules and data as may be appropriate to support such calculation. The Sellers' Representative and its accountants shall be entitled to review the Closing Date Balance Sheet, Buyer's calculations of the Final Working Capital Adjustment and the Purchase Price, and any working papers, trial balances and similar materials relating to the Closing Date Balance Sheet prepared by Buyer or its accountants. Buyer shall also provide Sellers' Representative and its accountants with timely access, during Buyer's normal business hours, to Buyer's personnel, properties, books and records to the extent related to the determination of the Final Working Capital Adjustment.

1.06 Disputes. The following clauses (i) and (ii) set forth the procedures for resolving disputes among the parties with respect to the determination of the Final Working Capital Adjustment.

(i) Within ten (10) days after delivery to the Sellers' Representative of Buyer's calculation of the Final Working Capital Adjustment pursuant to this Article I, the Sellers' Representative may deliver to Buyer a written report (the "Seller's Report") prepared by the Sellers' Representative accountants (the "Seller Accountants") advising Buyer that the Seller Accountants deem that one or more adjustments to Buyer's calculation are required. The costs and expenses of the services of the Seller Accountants shall be borne by the Sellers. If Buyer shall concur with the adjustments proposed by the Seller Accountants, or if Buyer shall not object thereto in a writing delivered to the Sellers' Representative within fifteen (15) days after Buyer's receipt of each Seller's Report, the calculations of the Final Working Capital Adjustment set forth in such Seller's Report shall become final and shall not be subject to further review, challenge or adjustment absent fraud. If the Sellers' Representative does not submit a Seller's Report within the 10-day period provided herein, then the Final Working Capital Adjustment as calculated by Buyer shall become final and shall not be subject to further review, challenge or adjustment absent fraud.

(ii) In the event that the Sellers' Representative submits a Seller's Report and Buyer and the Seller Accountants are unable to resolve the disagreements set forth in such report within (30) days after the date of the Seller's Report, then such disagreements shall be referred to BDO Seidman, LLP or such other nationally recognized accounting firm mutually agreed by the Buyer and the Sellers' Representative (the "Settlement Accountants"), and the determination of the Settlement Accountants shall be final and shall not be subject to further review, challenge or adjustment absent fraud. The Settlement Accountants shall use their commercially reasonable efforts to reach a determination not more than forty-five (45) days after such referral. The costs and expenses of the services of the Settlement Accountants shall be paid by the Buyer if (A) the difference between (i) the Final Working Capital Adjustment resulting from the determinations of the Settlement Accountants, and (ii) the Final Working Capital Adjustment resulting from the determinations set forth in the Seller Report, is less than (B) the difference between (i) the Final Working Capital Adjustment resulting from the determinations of the Settlement Accountants, and (ii) the Final Working Capital Adjustment resulting from Buyer's calculations as set forth in the

deliveries pursuant to Section 1.01 hereof; otherwise, such costs and expenses of the Settlement Accountants shall be paid by the Sellers.

ARTICLE II CLOSING

2.01 **Closing.** Subject to the conditions stated in Article VI of this Agreement, the closing of the transactions contemplated hereby (the "Closing") shall be held at 10:00 a.m., Eastern time, on November 30, 2007, or, if the conditions set forth in Section 6.02 have not been satisfied or waived on such date, on the third (3rd) business day after all such conditions shall have been satisfied or waived, at the offices of Greenberg Traurig, P.A., 1221 Brickell Avenue, Miami, Florida 33131 or at such other time and place as the parties mutually agree. The date upon which the Closing occurs is hereinafter referred to as the "Closing Date."

2.02 **Deliveries by Sellers.** At or prior to the Closing, the Sellers shall deliver to Buyer:

- (i) certificates representing all of the outstanding shares of the Company's common stock, duly endorsed in blank for transfer, or with appropriate stock powers in blank attached;
- (ii) the resignations of all the officers and directors of the Company as described in Section 6.02(f);
- (iii) the stock book, stock ledger, minute books and corporate seal of the Company,
- (iv) a certificate executed by the Sellers to the effect that the conditions set forth in Sections 6.02(a), 6.02(b) and 6.02(c) have been satisfied,
- (v) possession of all originals and copies of agreements, instruments, documents, deeds, books, records, files and other data and information within the possession of any Seller or any Affiliate of such Seller pertaining to the Company (collectively, the "Records"); provided, however, that the Sellers may retain (1) copies of any tax returns and copies of Records relating thereto; (2) copies of any Records that such Sellers are reasonably likely to need for complying with requirements of law; and (3) copies of any Records that in the reasonable opinion of such Sellers will be required in connection with the performance of its obligations under Article VIII hereof;
- (vi) evidence satisfactory to Buyer that Buyer's designees shall be the only authorized signatories with respect to the Company's various accounts, credit lines, safe deposit boxes or vaults set forth or required to be set forth in Schedule 3.25, and
- (vii) _____ required to be paid to the Escrow Agent at Closing pursuant to Section 1.02(e) hereof.

2.03 **Deliveries by Buyer** At or prior to the Closing, Buyer shall deliver to Sellers' Representative

- (i) the amount and form of Purchase Price required to be paid at Closing pursuant to Section 1.02(d) hereof, and
- (ii) a certificate executed by an authorized officer of the Buyer, on behalf of the Buyer, to the effect that the conditions set forth in Section 6.01(a) have been satisfied.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF THE SELLERS AND THE COMPANY

In order to induce the Buyer to consummate the transactions under this Agreement, the Sellers and the Company hereby jointly and severally represent and warrant to Buyer that as of the date hereof and as of the Closing Date:

3.01 Corporate Existence and Qualification. The Company is a corporation duly organized, validly existing and in good standing under the laws of the state of Utah, and has the corporate power to own, manage, lease and hold its Properties and to carry on its business as presently conducted. The Company does not own or lease real property or otherwise conduct its business in a manner that requires qualification to do business in any state other than the State of Utah.

3.02 Authority, Approval and Enforceability This Agreement has been duly executed and delivered by the Company and each Seller, and each Seller and the Company has all requisite power and legal capacity to execute and deliver this Agreement and all Related Agreements executed and delivered or to be executed and delivered in connection with the transactions provided for hereby, to consummate the transactions contemplated hereby and by the Related Agreements, and to perform its obligations hereunder and under the Related Agreements. This Agreement and each Related Agreement to which any Seller and/or the Company is a party constitutes, or upon execution and delivery will constitute, the legal, valid and binding obligation of such party, enforceable in accordance with its terms, except as such enforcement may be limited by general equitable principles or by applicable bankruptcy, insolvency, moratorium, or similar laws which affect creditors' rights generally.

3.03 Capitalization and Corporate Records.

(a) Schedule 3.03(a) sets forth the authorized and issued and outstanding capital stock of the Company. Each Seller owns, beneficially and of record, the shares of the Company's stock set forth across from his or her name on Schedule A, free and clear of any and all liens, mortgages, adverse claims, charges, security interests, encumbrances or other restrictions or limitations whatsoever. The shares listed on Schedule A constitute all of the issued and outstanding shares of the Company. All of the outstanding shares of the Company's capital stock are duly authorized, validly issued, fully paid and non-assessable and were not issued in violation of any preemptive or other rights of any Person to acquire securities of the Company. There are no outstanding subscriptions, options, convertible securities, rights (preemptive or otherwise), warrants, calls or agreements relating to any shares of capital stock of the Company. Upon delivery to Buyer at the Closing of certificates representing the Shares, accompanied by stock powers duly endorsed in blank, good and valid title to the Shares will pass to Buyer, free and clear of all liens, mortgages, adverse claims, charges, security interests, encumbrances or other restrictions or limitations whatsoever of any kind, other than those arising from acts of Buyer.

(b) The copies of the Articles of Incorporation and Bylaws of the Company and each of its Subsidiaries provided to Buyer are true, accurate, and complete and reflect all amendments made through the date of this Agreement. The Company and each Subsidiary's stock and minute books made available to Buyer for review were correct and complete as of the date of such review, no further entries have been made through the date of this Agreement, and such minute books contain an accurate record of all shareholder and corporate actions of the shareholders and directors (and any committees thereof) of the Company and each Subsidiary taken by written consent or at a meeting. All corporate actions taken by the Company have been duly authorized or ratified. All accounts, books, ledgers and official and other records of the Company and each Subsidiary fairly and accurately reflect all of the Company's and each Subsidiary's transactions, properties, assets and liabilities.

(c) Except for the Subsidiaries of the Company listed on Schedule 3.03(c), the Company does not own, directly or indirectly, any outstanding voting securities of or other interests in any other corporation, partnership, joint venture or other business entity. Schedule 3.03(c) hereto sets forth the name of each Subsidiary of the Company, and, with respect to each Subsidiary, the jurisdiction in which it is incorporated or organized, the number of shares of its authorized capital stock, the number and class of shares thereof duly issued and outstanding, the names of all stockholders or other equity owners and the number of shares of stock owned by each stockholder or the amount of equity owned by each equity owner. The outstanding shares of capital stock or equity interests of each Subsidiary are validly issued, fully paid and non-assessable, and all such shares or other equity interests represented as being owned by the Company or Subsidiary of the Company is owned by it free and clear of any and all liens, pledges, encumbrances, charges, agreements or claims of any kind whatsoever, except as set forth in Schedule 3.03(c) hereto. There is no existing option, warrant, call, commitment or agreement to which the Company or any Subsidiary is a party requiring, and there are no convertible securities of any Subsidiary outstanding which upon conversion would require, the issuance of any additional shares of capital stock or other equity interests of any Subsidiary or other securities convertible into shares of capital stock or other equity interests of any Subsidiary or other equity security of any Subsidiary. Each Subsidiary is a duly organized and validly existing corporation or other entity in good standing under the laws of the jurisdiction of its reorganization and is

duly qualified to do business and is in good standing under the laws of (i) each jurisdiction in which it owns or leases real property and (ii) each other jurisdiction in which the conduct of its business or the ownership of its assets requires such qualification. Each Subsidiary has all requisite corporate power and authority to own its properties and carry on its business as presently conducted

3.04 No Defaults or Consents. Except as otherwise set forth in Schedule 3.04 attached hereto, neither the execution and delivery of this Agreement nor the consummation of any of the transactions contemplated hereby will:

(i) violate or conflict with any of the terms, conditions or provisions of the charter or bylaws of the Company or any of its Subsidiaries,

(ii) violate any provision of law or any judgment, award or decree to which the Company, any of its Subsidiaries or any Seller is a party, or by which the properties or assets of the Company, any of its Subsidiaries or any Seller is bound or affected;

(iii) violate, conflict with, result in a breach of, constitute a default under (whether with or without notice or the lapse of time or both), or accelerate or permit the acceleration of the performance required by, or give any other party the right to terminate, any indenture, agreement or other instrument or Permit binding upon or applicable to the Company, any of its Subsidiaries or any Seller,

(iv) result in the creation of any Lien, charge or other encumbrance on any Properties of the Company or any of its Subsidiaries, or

(v) require any of the Sellers, the Company or any of its Subsidiaries to obtain or make any waiver, consent, action, approval or authorization of, or registration, declaration, notice or filing with, any third party or any Governmental Authority.

3.05 No Proceedings. No suit, action or other proceeding is pending or, to any Seller's Knowledge, threatened before any Governmental Authority seeking to restrain the Company or any Seller or prohibit their entry into this Agreement or prohibit the Closing, or seeking damages against the Company, any of its Subsidiaries or their Properties as a result of the consummation of this Agreement.

3.06 Other Business Names. Schedule 3.06 attached hereto is a complete list of the business names used by the Company and each of the Subsidiaries. After the Closing, Sellers shall refrain from using any of the business names included in Schedule 3.06 or any derivation thereof.

3.07 Equipment Leases. Schedule 3.07 attached hereto contains an accurate and complete list and description of all equipment or other tangible personal property, including, without limitation, locomotives and railcars, leased by the Company or any of its Subsidiaries, including the name of the lessor, the expiration date of the lease, and the rent payable under each such lease. Except as set forth on Schedule 3.07, each such lease may be cancelled by the Company or a Subsidiary of the Company on not more than 90 days' notice. True and complete copies of all such leases have been furnished to the Buyer. All such leases are in full force and effect and constitute legal, valid and binding obligations of the respective parties thereto enforceable in accordance with their terms and grant the leasehold estates they purport to grant free and clear of all liens or other encumbrances whatsoever, except as stated on Schedule 3.07. Neither the Company nor any Subsidiary is in default under any railcar or locomotive lease, and there is no fact which, with notice and/or passage of time would constitute such a default, including, without limitation, the consummation of the transactions contemplated by this Agreement. To any Seller's Knowledge, except as described in Schedule 3.07, none of the parties contracting with the Company or a Subsidiary is in default under any material provision of such leases.

3.08 Equipment and Other Tangible Property. Except for the leased equipment and other tangible personal property in Schedule 3.07, the Company and each of its Subsidiaries has good and merchantable title to all of the locomotives, railcars, vehicles, Track and railcar repair equipment, radios, fixtures, equipment and other tangible personal property which the Company or any of the Subsidiaries uses in connection with its business and/or purports to own as reflected on its financial books and records, including, without limitation those reflected on the Financial Statements, or acquired after such date, (other than personal property sold or otherwise disposed of in the

ordinary and usual course of business subsequent to August 31, 2007), free and clear of all mortgages, liens, security interests and encumbrances of any nature whatsoever except as described on Schedule 3.08 attached hereto. The Company and each of its Subsidiaries shall at Closing have an inventory on hand of expendable material and supplies (not including rails and ties) in amounts routinely maintained by them, including diesel fuel, to allow for continued operation after Closing until such expendable materials and supplies can be obtained in the ordinary course of business.

3.09 Condition Of Personal Property Other Than Tracks All tangible personal property (other than Track and bridges) owned by the Company or any of its Subsidiaries or used by the Company or any of its Subsidiaries in its business is in good condition, normal wear and tear excepted, and is in good operating order, except as otherwise described on Schedule 3.09 attached hereto. All of the equipment owned or operated by the Company or any of its Subsidiaries is maintained and operated in compliance with all federal, state and local laws and regulations.

3.10 Condition Of Track And Bridges. True and complete copies of all periodic Track and bridge inspections and exemption reports in the possession or under the control of the Company or any of its Subsidiaries or any of its agents describing the condition of all of the Track and bridges owned or operated by the Company or any of its Subsidiaries have been provided to the Buyer. All of such Track and bridges are in good, safe operating order, except as otherwise indicated on Schedule 3.10 attached hereto (specified by mile posts). All of the Track and bridges owned or operated by the Company or any of its Subsidiaries are maintained and operated in material compliance with all federal, state and local laws and regulations, requirements of grants, loan documents or any other agreements with third parties.

3.11 Accounts Receivable and Payable

(a) Schedule 3.11 includes an aged account receivable list of all accounts of the Company and its Subsidiaries as at September 30, 2007. Except for interline accounts receivable, none of such receivables by their terms are due more than 30 days after the date of service or sale giving rise to such receivables. All such receivables are collectible in full except to the extent of applicable reserves.

(b) All trade and interline accounts payable of the Company or any of its Subsidiaries have originated in the ordinary course of business. Schedule 3.11 includes an aged account payable list of all accounts of the Company and its Subsidiaries as at September 30, 2007.

3.12 Real Estate Owned. Schedule 3.12 attached hereto describes the current owners' title policies covering and describing all real estate owned by the Company or any of its Subsidiaries, together with a summary description of all real estate assets and owned rights-of-way, including easements, held by the Company or any of its Subsidiaries (the "Real Estate"), other than truckage rights held by the Company or any Subsidiary which are described in Schedule 3.14 hereof. Except as set forth on Schedule 3.12, the Company or any Subsidiary holds sufficient rights in and to all easements or other rights necessary for perpetual access thereto, and owns outright all buildings and other structures, improvements and fixtures thereon, free and clear of all mortgages, liens or other encumbrances whatsoever. Collectively, the Real Estate, the Leased Real Estate pursuant to Section 3.13 and truckage rights pursuant to Section 3.14 comprise all the real estate used in the operation of the Company and its Subsidiaries. All structures, improvements, fixtures and equipment on the Real Estate conform in all material respects to any applicable state, federal and local laws, regulations, zoning and building ordinances and health and safety ordinances. The Real Estate is zoned for the various purposes for which such real estate is currently being used. Except as set forth on Schedule 3.12, no notice from any governmental body has been served upon, or received by, the Company, any Subsidiary or any Seller claiming any violation of any such law, regulation, code or ordinance, or requiring any substantial work, repairs, construction, alterations or installation on or in connection with the Real Estate which has not been complied with.

3.13 Real Estate Leased

(a) Schedule 3.13(a) attached hereto sets forth a list and summary description of all real estate leased by the Company or a Subsidiary, (including leases for right-of-way, licenses and other right of access documents) ("Leased Real Estate") and all leases, subleases, licenses and other agreements by which the Leased Real Estate was leased to or by the Company or a Subsidiary ("Lessor") including the name of the landlord, the

name of the tenant, the location of the Leased Real Estate, the lease term, the kind of space leased (office space, garage space, warehouse, etc.), the approximate area, the tenant's annual charges for rent, taxes and other expenses, a statement of term-end restoration obligations and a list of consents needed to an assignment of the lease or sublease. Accurate and complete copies of all leases of Leased Real Estate have been furnished to Buyer. All Leases are in full force and effect and constitute legal, valid and binding obligations of the respective parties thereto, enforceable in accordance with their terms and grant the leasehold estates they purport to grant free and clear of all mortgages, liens or other encumbrances whatsoever, except as stated on Schedule 3.13(a). Each of the Company or a Subsidiary, as the case may be, has the full right to exercise any renewal options contained in the Leases on the terms and conditions contained therein and upon due exercise would be entitled to enjoy the use of each item of Leased Real Estate for the full term of such renewal options. Each of the Company and its Subsidiaries have renewed all Leases that contain provisions that require such Leases to be renewed prior to the Closing Date. There is not under any of such instruments any existing or claimed default, event of default or event which with notice or lapse of time or both would constitute an event of default, including the consummation of the transactions contemplated by this Agreement. All structures, improvements, fixtures and equipment on the Leased Real Estate conform in all material respects to any applicable state, federal and local laws, regulations, zoning and building ordinances and health and safety ordinances. The Leased Real Estate is zoned for the various purposes for which such real estate is currently being used. Except as set forth on Schedule 3.13(e), no notice from any governmental body has been served upon, or received by, the Company, any Subsidiary or any Seller claiming any violation of any such law, regulation, code or ordinance, or requiring any substantial work, repairs, construction, alterations or installation on or in connection with the Leased Real Estate which has not been complied with.

(b) Schedule 3.13(b) attached hereto includes a schedule of all licenses, crossing right agreements and other agreements encumbering or affecting any of the Real Estate or Leased Real Estate, granting access to third parties from the Company or any of the Subsidiaries. The rents or revenues derived from these licenses, crossing right agreements, and other agreements are paid and current and listed on Schedule 3.13(b), but no more than one installment is paid in advance and the rents and revenues are consistent with those reflected on the Financial Statements.

3.14 **Operating and Other Agreements.** Schedule 3.14(a) attached hereto contains an accurate and complete list of all operating agreements between the Company or any Subsidiary and any third party, including agreements with another railroad. Such operating agreements include, without limitation, trackage rights agreements, interchange agreements, rate agreements, car hire agreements, car supply agreements, contract switching agreements and marketing agreements. Schedule 3.14(a) includes a summary description of each agreement including the name of the contracting parties, the location of the operating rights granted and the term of the agreement. All of such agreements are in full force and effect and constitute legal, valid and binding obligations of the respective parties thereto enforceable in accordance with their terms, and there is not under any of such instruments any existing or claimed default or event which with notice or lapse of time or both would constitute an event of default, including the consummation of the transactions contemplated by this Agreement. Accurate and complete copies of all agreements referred to in Schedule 3.14(a) have been furnished to Buyer. Schedule 3.14(b) attached hereto contains an accurate and complete list of all existing Federal and state grants for capital expenditures (the "Grants") received by the Company or any Subsidiary and includes (i) the original amount of each Grant; and, (ii) with respect to each such Grant: (A) the funds received to date, and (B) remaining amounts which may be received in the future and the basis for such future payment(s).

3.15 **Labor and Employee Benefit Matters**

(a) Schedule 3.15(a) provides a list, as of the date of this Agreement, showing the names of all employees of the Company and each of the Subsidiaries, their original dates of employment, job titles and salary rates of pay for salaried employees and hourly rates for hourly compensation employees and accrued vacation days. Except as listed on Schedule 3.15(a), neither the Company nor any Subsidiary is indebted to nor a creditor of any employee of the Company or any of its Subsidiaries, except, for accrued wages and salaries payable by their employer.

(b) Except as set forth on Schedule 3.15(b), no employees of the Company or any of its Subsidiaries are represented by any labor union or similar organization and there are no pending or, to any Seller's knowledge, threatened activities the purpose of which is to achieve such representation of all or some of such employees.

(c) Except as set forth on Schedule 3.15(c), (i) the Company and its Subsidiaries are operating and have been operating in compliance with all Legal Requirements covering employment and employment practices, terms and conditions of employment and wages and hours; and (ii) there is no labor strike, dispute, slowdown or stoppage pending or, to any Seller's Knowledge, threatened against or affecting the Company or any of its Subsidiaries, and the Company has not experienced any work stoppage or other labor difficulty.

(d) Schedule 3.15(d) provides a description of each "employee benefit plan" (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended and the rules, regulations, standards and guidelines publicly issued thereunder ("ERISA")) and each personnel policy, employee manual or other written statements of rules or policies concerning employment, stock option plan, collective bargaining agreement, bonus plan or arrangement, which is sponsored, maintained or contributed to by the Company or any of its Subsidiaries for the benefit of the employees or agents of the Company or its Subsidiaries, which has been sponsored, maintained or contributed to at any time during the Company's existence or with respect to which the Company or any of its Subsidiaries has or may have any actual or contingent liability. True, correct and complete copies of each of the employee benefit plans and all other agreements, policies or arrangements described on Schedule 3.15(d), including all amendments thereto, have been furnished to Buyer. There has also been furnished to Buyer, with respect to each employee benefit plan required to file such report and description, the three most recent reports on Form 5500 and the summary plan description. None of the Company, Subsidiaries, the officers of the Company or any Subsidiary or any "employee benefit pension plan" (as defined in Section 3(2) of ERISA) of the Company or any Subsidiary which are subject to ERISA, or any trust created thereunder, or any trustee or administrator thereof, has engaged in, or permitted the assets of any such plan or trust to be involved in, a "prohibited transaction," as such term is defined in Section 4975 of the Code or Sections 406 and 407 of ERISA, which could subject any such Person to any material tax or penalty on prohibited transactions imposed by Section 4975 of the Code or which would have a material adverse effect on the Company or any Subsidiary. All employee benefit plans listed or required to be listed on Schedule 3.15(d) have timely complied and currently comply, both as to form and operation, with ERISA, the Code and all other applicable laws and with applicable Statements of Financial Accounting Standards.

(e) With respect to each employee benefit plan listed or required to be listed on Schedule 3.15(d): (i) no actions, suits, claims or disputes are pending, or to Sellers' knowledge threatened; (ii) no audits, inquiries, reviews, proceedings, claims, or demands are pending with any governmental or regulatory agency; (iii) there are no facts which could give rise to any material liability in the event of any such investigation, claim, action, suit, audit, review, or other proceeding; (iv) all premiums, contributions, or other payments required to have been made by law or under the terms of any employee benefit plan as of the Closing Date have been made; and (v) for each employee benefit plan intended to qualify under Section 401(a) of the Code, the Internal Revenue Service has issued a favorable determination letter that such plan is qualified under Section 401(a) of the Code.

(f) Neither the Company nor any of its Subsidiaries maintains, sponsors or contributes to, nor have they ever maintained, sponsored or contributed to, (i) an employee benefit plan subject to Section 412 of the Code; (ii) a multi-employer plan as described in Section 4001(a)(3) of ERISA, (iii) a multiple employer plan as described in Section 413 of the Code; (iv) an employee welfare benefit plan as described in Section 3(1) of ERISA (a "Welfare Plan") that provides for retiree medical and/or death benefits; (v) a Welfare Plan that is a self-insured group health plan. The Company and its Subsidiaries has complied with the notice and continuation coverage requirements, and all other requirements, of Section 4980B of the Code and Parts 6 and 7 of Title I of ERISA, and the regulations thereunder, with respect to any Welfare Plan.

(g) Except as specified on Schedule 3.15(d), (i) neither of the Company nor its Subsidiaries will be obligated to pay separation, severance, termination or similar benefits as a result of any transaction contemplated by this Agreement, nor will any such transaction accelerate the time of payment or vesting, or increase the amount, of any benefit or other compensation due to any individual; and (ii) the transactions contemplated by this Agreement will not be the direct or indirect cause of any amount paid or payable by the Company or its Subsidiaries being classified as an excess parachute payment under Section 280G of the Code.

(h) Each employee benefit plan listed or required to be listed on Schedule 3.15(d) that is a "nonqualified deferred compensation plan" (as defined under Section 409A(d)(1) of the Code) has been operated

and administered in good faith compliance, in all material respects, with Section 409A of the Code from the period beginning January 1, 2005 through the date hereof and has not been materially modified since October 2, 2004.

3.16 Financial Statements; Liabilities; Accounts Receivable; Inventories.

(a) The Sellers have delivered to Buyer true and complete copies of unaudited consolidated balance sheets and statements of operations, with respect to the Company, its Subsidiaries and their business as of and for the year ended December 31, 2004, 2005 and 2006, and the eight months ended August 31, 2007 and prior to Closing shall have delivered to Buyer true and complete copies of audited consolidated balance sheets and statements of operations with respect to the Company, its subsidiaries and their business as of and for the year ended December 31, 2006 (the "Financial Statements"), and said Financial Statements are attached hereto as Schedule 3.16(a). All of such Financial Statements present fairly the financial condition and results of operations of the Company and its Subsidiaries for the dates or periods indicated thereon. All of such Financial Statements have been prepared in accordance with U.S. generally accepted accounting principles ("GAAP") applied on a consistent basis throughout the periods indicated except for the absence of notes thereto and subject to normal year-end adjustments which are not materially adverse and which are consistent with past practices.

(b). Except for (i) the liabilities reflected on the December 31, 2006 balance sheet included with the Financial Statements attached as Schedule 3.16(a), (ii) trade payables and accrued expenses incurred since December 31, 2006 in the ordinary course of business consistent with past practice, none of which are material, (iii) executory contract obligations under (x) Contracts listed on Schedule 3.20, and/or (y) Contracts not required to be listed on Schedule 3.20, and (iv) the liabilities set forth in Schedule 3.16(b) attached hereto, neither the Company nor any Subsidiary has any liabilities or obligations (whether accrued, absolute, contingent, known, unknown or otherwise, and whether or not of a nature required to be reflected or reserved against in a balance sheet in accordance with GAAP).

(c) Except as otherwise set forth in Schedule 3.16(c), the accounts receivable reflected on the December 31, 2006 balance sheet included in the Financial Statements referenced in Section 3.16(a) and all of the Company's and its Subsidiaries' accounts receivable arising since December 31, 2006 (the "Balance Sheet Date") arose from bona fide transactions in the ordinary course of business consistent with past practice and no further services are required to be rendered in order to enable the Company or Subsidiary to collect the accounts receivable in full. Except as set forth in Schedule 3.16(c), no such account has been factored, assigned or pledged to any other person, firm or corporation, all such accounts are owned by the Company or a Subsidiary free and clear of any lien or encumbrance and, except only to the extent fully reserved against as set forth in the December 31, 2006 balance sheet included in such Financial Statements, no defense or set-off to any such account has been asserted by the account obligor or exists. Except as otherwise set forth in Schedule 3.16(c), the Company's and its Subsidiaries' inventory is valued on the Company's and its Subsidiaries books of account in accordance with GAAP at the lower of cost (on a first in first out basis) or market.

3.17 Absence of Certain Changes

(a) Except as otherwise set forth in Schedule 3.17(a) attached hereto, since the Balance Sheet Date, there has not been:

(i) any event, circumstance or change that had or might have a material adverse effect on the business, operations, prospects, Properties, financial condition or working capital of the Company or any of its Subsidiaries;

(ii) any damage, destruction or loss (whether or not covered by insurance) that had or might have a material adverse effect on the business, operations, prospects, Properties or financial condition of the Company or any of its Subsidiaries; or

(iii) any material adverse change in the Company's or any of its Subsidiaries' accounts receivable or accounts payable

(b) Except as otherwise set forth in Schedule 3 17(h) attached hereto, since the Balance Sheet Date, neither the Company nor any of its Subsidiaries has done any of the following:

- (i) merged into or with or consolidated with, any other corporation or acquired the business or assets of any Person;
- (ii) purchased any securities of any Person;
- (iii) created, incurred, assumed, guaranteed or otherwise become liable or obligated with respect to any indebtedness, or made any loan or advance to, or any investment in, any person, except in each case in the ordinary course of business;
- (iv) made any change in any existing election, or made any new election, with respect to any tax law in any jurisdiction which election could have an effect on the tax treatment of the Company or its Subsidiaries;
- (v) entered into, amended or terminated any material agreement;
- (vi) sold, transferred, leased, mortgaged, encumbered or otherwise disposed of, or agreed to sell, transfer, lease, mortgage, encumber or otherwise dispose of, any Properties except (i) in the ordinary course of business, or (ii) pursuant to any agreement specified in Schedule 3 20;
- (vii) settled any claim or litigation, or filed any motions, orders, briefs or settlement agreements in any proceeding before any Governmental Authority or any arbitrator;
- (viii) incurred or approved, or entered into any agreement or commitment to make, any expenditures in excess of \$25,000 (other than those arising in the ordinary course of business or those required pursuant to any agreement specified in Schedule 3.20);
- (ix) maintained its books of account other than in the usual, regular and ordinary manner in accordance with GAAP and on a basis consistent with prior periods or made any change in any of its accounting methods or practices that would be required to be disclosed under GAAP;
- (x) adopted any employee benefit plan or other agreement, policies or arrangement with respect to employment, or granted any increase in the compensation payable or to become payable to directors, officers or employees (including, without limitation, any such increase pursuant to any bonus, profit-sharing or other plan or commitment), other than merit increases to non-officer employees in the ordinary course of business and consistent with past practice or made any arrangement governing rates and rules of employment;
- (xi) suffered any extraordinary losses or waived any rights of material value;
- (xii) made any payment to any Affiliate or forgiven any indebtedness due or owing from any Affiliate to the Company;
- (xiii) (A) accelerated receivables, (B) delayed payables, or (C) changed in any material respect the Company's practices in connection with the payment of payables and/or the collection of receivables;
- (xiv) entered into or made any modifications to any commercial agreements, rebate agreements, customer rate agreements or service contracts;
- (xv) engaged in any one or more activities or transactions with an Affiliate or outside the ordinary course of business;
- (xvi) declared, set aside or paid any dividends, or made any distributions or other payments in respect of its equity securities, or repurchased, redeemed or otherwise acquired any such securities;
- (xvii) amended its charter or bylaws;

(xvii) issued any capital stock or other securities, or granted, or entered into any agreement to grant, any options, convertible rights, other rights, warrants, calls or agreements relating to its capital stock, or

(xix) committed to do any of the foregoing

3.18 Compliance with Laws. Except as otherwise set forth in Schedule 3.18, the Company and each of its Subsidiaries ~~is~~ and has been in compliance in all respects with any and all applicable Legal Requirements. Except as otherwise set forth in Schedule 3.18, neither the Company nor any of its Subsidiaries (x) has received or entered into any citations, complaints, consent orders, compliance schedules, or other similar enforcement orders or received any written notice from any Governmental Authority, or received notice of a requirement to pay or paid any fines or penalties to the Federal Railroad Administration or the Railroad Retirement Board or any other written notice that would indicate that there is not currently compliance with all such Legal Requirements, and (y) is not in default under, and no condition exists (whether covered by insurance or not) that with or without notice or lapse of time or both would constitute a default under, or breach or violation of, any Legal Requirement or Permit applicable to the Company.

3.19 Litigation. Except as otherwise set forth in Schedule 3.19, there are no claims, actions, suits, investigations or proceedings against the Company or any of its Subsidiaries pending or, to any Seller's Knowledge, threatened in any court or before or by any Governmental Authority, or before any arbitrator. Schedule 3.19 also includes a true and correct listing of all material actions, suits, investigations, claims or proceedings that were pending, settled or adjudicated since January 1, 2005.

3.20 Commitments

Attached hereto as Schedule 3.20 is a list of all written and oral contracts, commitments, leases and other agreements (including, without limitation, promissory notes, loan agreements and other evidences of indebtedness) to which the Company or any Subsidiary is a party or by which the Company, any Subsidiary or their respective properties are bound, pursuant to which the obligations thereunder of either party thereto are, or are contemplated as being, in respect of any such individual contracts, commitments, leases or other agreements during the term thereof, \$25,000 or greater or which are otherwise material to the business of the Company or any Subsidiary (including, without limitation, all mortgages, deeds of trust, security agreements, pledge agreements and similar agreements and instruments, all vendor agreements, all agreements limiting the ability of the Company or any Subsidiary to compete against any Person in any line of business, and all confidentiality agreements). Except as set forth on Schedule 3.20, neither the Company nor any Subsidiary, and, to any Seller's Knowledge, no other party thereto, is in default (and no event has occurred which, with the passage of time or the giving of notice or both, would constitute a default) under any such contracts, commitments, leases or other agreements, and neither the Company nor any Subsidiary has waived any right under any such contracts, commitments, leases or other agreements. Except as set forth on Schedule 3.20, neither the Company nor any Subsidiary has guaranteed any obligations of any other person nor entered into any contract or agreement, contingent or otherwise, relating to any right to lease, operate, use, supply or purchase any material asset of the Company or Subsidiary. Except as otherwise set forth in Schedule 3.20, neither the Company nor any Subsidiary is a party to or bound by any contract, agreement or arrangement the terms of which were arrived at by or otherwise reflect less-than-arm's-length negotiations or bargaining.

3.21 Insurance. Attached hereto as Schedule 3.21 is a list of all policies of fire, liability, business interruption and other forms of insurance and all fidelity bonds held by or applicable to the Company or any Subsidiary at any time within the past three years, which schedule sets forth in respect of each such policy the policy name, policy number, carrier, term, type of coverage, deductible amount or self-insured retention amount, limits of coverage and annual premium. Except as disclosed on Schedule 3.21 attached hereto, there has been no material change in the type of insurance coverage maintained by the Company or Subsidiary during the past three years that has resulted in any period during which the Company or its Subsidiaries had no insurance coverage. Excluding insurance policies which have expired and been replaced, no insurance policy of the Company or its Subsidiaries has been canceled within the last three years and, to any Seller's Knowledge, no threat has been made to cancel any insurance policy of the Company or its Subsidiaries within such period.

3.22 Intellectual Property

(a) Schedule 3.22 sets forth all Intellectual Property owned, licensed or otherwise used by the Company or any Subsidiary. Except as set forth on Schedule 3.22:

(i) the Company and each of its Subsidiaries owns, clear of any liens, mortgages, adverse claims, charges, security interests or other encumbrances, or is licensed or otherwise has the legally enforceable right to use, all Intellectual Property (as hereinafter defined) used in or necessary for the conduct of its business as currently conducted;

(ii) no claims are pending or, to any Seller's Knowledge, threatened that the Company or any of the Subsidiaries is infringing on or otherwise violating the rights of any person with regard to any Intellectual Property used by, owned by and/or licensed to the Company or any of the Subsidiaries and, to any Seller's Knowledge, there are no valid grounds for any such claims,

(iii) to any Seller's Knowledge, no person is infringing on or otherwise violating any right of the Company or any of the Subsidiaries with respect to any Intellectual Property owned by and/or licensed to the Company or any of the Subsidiaries;

(iv) to any Seller's Knowledge, there are no valid grounds for any claim challenging the ownership or validity of any Intellectual Property owned by the Company or any of the Subsidiaries or challenging the Company's or any of the Subsidiaries' license or legally enforceable right to use any Intellectual Property licensed by it, and

(v) to any Seller's Knowledge, all patents, registered trademarks, service marks and copyrights held by the Company and each of the Subsidiaries are valid and subsisting.

(b) For purposes of this Agreement, "Intellectual Property" means trademarks (registered or unregistered), service marks, brand names, certification marks, trade dress, assumed names, trade names and other indications of origin, the goodwill associated with the foregoing and registrations in any jurisdiction of, and applications in any jurisdiction to register, the foregoing, including any extension, modification or renewal of any such registration or application; inventions, discoveries and ideas, whether patented, patentable or not in any jurisdiction; trade secrets and confidential information and rights in any jurisdiction to limit the use or disclosure thereof by any person; writings and other works of authorship, whether copyrighted, copyrightable or not in any jurisdiction; registration or applications for registration of copyrights in any jurisdiction, and any renewals or extensions thereof, any similar intellectual property or proprietary rights and computer programs and software (including source code, object code and data); licenses, immunities, covenants not to sue and the like relating to the foregoing; and any claims or causes of action arising out of or related to any infringement or misappropriation of any of the foregoing

3.23 Environmental Matters

(a) The Company and its Subsidiaries have been and are in compliance with all Environmental Laws and Environmental Permits. A copy of any notice, citation, inquiry or complaint which any Seller, the Company and any of its Subsidiaries has received of any alleged violation of any Environmental Law or Environmental Permit is set forth in Schedule 3.23(a), and all violations alleged in such notices have been corrected. The Company and its Subsidiaries possess all Environmental Permits which are required for the operation of their respective business, and are in compliance with the provisions of all such Environmental Permits. No capital expenditures are needed for the Company or any Subsidiary to maintain compliance with Environmental Laws. To the best of any Seller's Knowledge, copies of all Environmental Permits issued to any Seller, the Company and any of its Subsidiaries with respect to the operation of their respective business are set forth on Schedule 3.23(a)

(b) There has been no storage, treatment, generation, transportation, presence or Release of any Hazardous Materials at, to from or about the Properties or by the Company, Subsidiary or predecessors in interest, or by any other Person for which any Seller, the Company or any Subsidiary is or may be held responsible, at any facility in violation of, or which could give rise to any obligation under, Environmental Laws.

(c) There are no environmental claims, demands, lawsuits, inquiries, suits, or liabilities with respect to any Seller, the Company, any Subsidiary or the Properties pending, or, to any Seller's Knowledge, threatened, against the Company any of its Subsidiaries and there is no basis for such a claim, demand, lawsuit, inquiry, suit or liability.

(d) Schedule 3.23(d) sets forth a complete list of all Containers that are now present at, or have heretofore been removed from, the Properties. All Containers which have been heretofore removed from the Properties have been removed in accordance with all applicable Environmental Laws.

3.24 Licenses and Permits. Attached hereto as Schedule 3.24 is a list of all Permits held or applied for by the Company and each of its Subsidiaries. Except as set forth on Schedule 3.24 attached hereto, the Company and each of its Subsidiaries have complied in all material respects, and are in compliance in all material respects, with the terms and conditions of all such licenses, certificates and permits and no violation of any such licenses, certificates or permits or the laws or rules governing the issuance or continued validity thereof has occurred. Except as set forth on Schedule 3.24 attached hereto, no additional Permit is required from any Governmental Authority in connection with the conduct of the business of the Company or any of its Subsidiaries. Except as set forth on Schedule 3.24 attached hereto, no claim has been made by any Governmental Authority (and, to any Seller's Knowledge, no such claim is anticipated) to the effect that a Permit is necessary in respect of the business conducted by the Company or any Subsidiary.

3.25 Banks. Schedule 3.25 sets forth (i) the name of each bank, trust company or other financial institution and stock or other broker with which the Company or any of its Subsidiaries has an account, credit line or safe deposit box or vault, (ii) the names of all persons authorized to draw thereon or to have access to any safe deposit box or vault, (iii) the purpose of each such account, safe deposit box or vault, and (iv) the names of all persons authorized by proxies, powers of attorney or other like instrument to act on behalf of the Company or any Subsidiary in matters concerning any of its business or affairs. Except as otherwise set forth in Schedule 3.25, no such proxies, powers of attorney or other like instruments are irrevocable.

3.26 Customers and Suppliers. Except as set forth in Schedule 3.26, to any Seller's Knowledge, no customer, supplier or interchange partner of the Company or any of its Subsidiaries will, as a result of the transactions contemplated hereby or otherwise, cease to do business with the Company or any Subsidiary after the consummation of the transactions contemplated hereby in the same manner as previously conducted with the Company or any Subsidiary. None of the Sellers, the Company nor any Subsidiary has received any notice of termination or of any disruption (including delayed deliveries) of the services, materials or products supplied by suppliers.

3.27 Absence of Certain Payments. None of the Company, any of the Subsidiaries or any of their respective affiliates, officers, directors, managers, members, employees or agents or other people acting on behalf of any of them have (a) engaged in any activity prohibited by the United States Foreign Corrupt Practices Act of 1977 or any other similar law, regulation, decree, directive or order of any other country, and (b) without limiting the generality of the preceding clause (a), used any corporate or other funds for unlawful contributions, payments, gifts or entertainment, or made any unlawful expenditures relating to political activity to government officials or others. None of the Company, any of the Subsidiaries or any of their respective affiliates, directors, officers, employees or agents or other persons acting on behalf of any of them, has accepted or received any unlawful contributions, payments, gifts or expenditures.

3.28 Transactions With Affiliates. Except as set forth on Schedule 3.28 and except for normal advances to employees consistent with past practices, payment of compensation for employment to employees consistent with past practices, and participation in scheduled employee benefit plans and agreements by employees, the Company has not purchased, acquired or leased any property or services from, or sold, transferred or leased any property or services to, or loaned or advanced any money to, or borrowed any money from, or entered into or been subject to any management, consulting or similar agreement with, or engaged in any other significant transaction with any Seller or any other officer, director or shareholder of the Company or any Seller or any of their respective Affiliates. Except as set forth on Schedule 3.28, neither any Seller nor any other Affiliate of the Company, including without limitation Modco Northern, is indebted to the Company or any Subsidiary for money borrowed or other loans or advances, and none of the Company nor any Subsidiary is indebted to any such Affiliate.

3.29 **Sufficiency of Assets.** Except as disclosed in Schedule 3.29, as of the date hereof, there are no material assets, properties, rights, licenses, Permits or businesses of any kind or description, real, personal or mixed, tangible or intangible, owned, held or used for the conduct of the business of the Company that are not owned by the Company or a Subsidiary or used by them pursuant to valid and existing leases or licenses, and all such owned assets and property, whether tangible or intangible, owned, held or used for the conduct of their business are free and clear of all mortgages, liens, security interests and encumbrances except as described in Schedule 3.29.

3.30 **Other Information.** The information furnished by each Seller and the Company to Buyer pursuant to this Agreement (including, without limitation, information contained in the exhibits hereto, the Schedules identified herein, the agreements, instruments and other documents referred to in such Schedules and the certificates and other documents to be executed or delivered pursuant hereto by such Sellers and/or the Company at or prior to the Closing) is not, and at the Closing will not be, false or misleading in any material respect, and does not contain or omit, and at the Closing will not contain or omit, any misstatement or omission of any material fact required to be stated in order to make the statements therein not misleading.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF BUYER

In order to induce each Seller to consummate the transactions under this Agreement, Buyer hereby represents and warrants to such Seller that as of the date hereof and as of the Closing Date:

4.01 **Corporate Existence and Qualification.** Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware; has the corporate power to own, manage, lease and hold its properties and to carry on its business as and where such properties are presently located and such business is presently conducted; and is duly qualified to do business and is in good standing as a foreign corporation in each of the jurisdictions where the character of its properties or the nature of its business requires it to be so qualified.

4.02 **Authority, Approval and Enforceability.** This Agreement has been duly executed and delivered by Buyer and Buyer has all requisite corporate power and legal capacity to execute and deliver this Agreement and all Related Agreements executed and delivered or to be executed and delivered by Buyer in connection with the transactions provided for hereby, to consummate the transactions contemplated hereby and by the Related Agreements, and to perform its obligations hereunder and under the Related Agreements. Upon the approval of this Agreement by the Board of Directors of Buyer, the execution and delivery of this Agreement and the Related Agreements and the performance of the transactions contemplated hereby and thereby will be duly and validly authorized and approved by all corporate action necessary on behalf of Buyer. Subject to such Board approval, this Agreement and each Related Agreement to which Buyer is a party constitutes, or upon execution and delivery will constitute, the legal, valid and binding obligation of Buyer, enforceable in accordance with its terms, except as such enforcement may be limited by general equitable principles or by applicable bankruptcy, insolvency, moratorium, or similar laws and judicial decisions from time to time in effect which affect creditors' rights generally.

4.03 **No Default or Consents.** Except as otherwise set forth in Schedule 4.03, neither the execution and delivery of this Agreement nor the carrying out of the transactions contemplated hereby will:

- (i) violate or conflict with any of the terms, conditions or provisions of Buyer's Certificate of Incorporation or bylaws;
- (ii) violate any Legal Requirements applicable to Buyer, or
- (iii) require Buyer to obtain or make any waiver, consent, action, approval or authorization of, or registration, declaration, notice or filing with, any private non-governmental third party or any Governmental Authority other than the Surface Transportation Board (the "STB") approvals as set forth in Section 5.07.

4.04 **No Proceedings.** No suit, action or other proceeding is pending or, to Buyer's knowledge, threatened before any Governmental Authority seeking to restrain Buyer or prohibit its entry into this Agreement or prohibit the Closing, or seeking damages against Buyer or its properties as a result of the consummation of this Agreement.

ARTICLE V
OBLIGATIONS PRIOR TO CLOSING

From the date of this Agreement through the Closing

5.01 Buyer's Access to Information and Properties. The Company shall and shall cause its Subsidiaries to permit Buyer and its authorized employees, agents, accountants, legal counsel and other representatives to have access to the books, records, employees, counsel, accountants, and other representatives of the Company and its Subsidiaries at all times reasonably requested by Buyer for the purpose of conducting an investigation of the Company's and the Subsidiaries' financial condition, corporate status, operations, prospects, business and Properties. The Company shall make available to Buyer for examination and reproduction all documents and data of every kind and character relating to the Company and the Subsidiaries in possession or control of, or subject to reasonable access by, the Company, any of its Subsidiaries and/or any Seller, including, without limitation, all files, records, data and information relating to the Properties (whether stored in paper, magnetic or other storage media) and all agreements, instruments, contracts, assignments, certificates, orders, and amendments thereto. Also, the Company shall allow Buyer access to, and the right to inspect, the Properties

5.02 Company's Conduct of Business and Operations. The Company and each Seller shall keep Buyer advised as to all material operations and proposed material operations relating to the Company and the Subsidiaries. The Company shall and shall cause each of its Subsidiaries to (a) conduct its business in the ordinary course and in a manner consistent with good business practices, (b) keep available the services of present employees, (c) maintain and operate its Properties in a good and workmanlike manner, (d) pay or cause to be paid all costs and expenses (including but not limited to insurance premiums) incurred in connection therewith in a timely manner, (e) use reasonable efforts to keep all contracts listed or required to be listed on Schedule 3.20 in full force and effect, (f) comply with all of the covenants contained in all such material Contracts, (g) maintain in force until the Closing Date insurance policies equivalent to those in effect on the date hereof, (h) exercise, but only after notice to the Buyer and receipt of the Buyer's prior written approval, any renewal pursuant to terms of any of the Leases which by their terms would otherwise expire, and (i) comply in all material respects with all applicable Legal Requirements. Except as otherwise contemplated in this Agreement, the Company will use its best efforts to preserve the present relationships of the Company and the Subsidiaries with persons having significant business relations therewith

5.03 General Restrictions. Except as otherwise expressly permitted or required by this Agreement, without the prior written consent of Buyer, neither of the Company nor any of its Subsidiaries shall:

- (i) declare, set aside or pay any dividends, or make any distributions or other payments in respect of its equity securities (other than to the Company or another Subsidiary), or repurchase, redeem, or otherwise acquire any such securities;
- (ii) merge into or with or consolidate with, any other corporation or acquire the business or assets of any person;
- (iii) purchase any securities of any person;
- (iv) amend its charter or bylaws;
- (v) issue any capital stock or other securities, or grant, or enter into any agreement to grant, any options, convertibility rights, other rights, warrants, calls or agreements relating to its securities;
- (vi) create, incur, assume, guarantee or otherwise become liable or obligated with respect to any indebtedness, or make any loan or advance to, or any investment in, any person, except in each case in the ordinary course of business,
- (vii) make any change in any existing election, or make any new election, with respect to any tax law in any jurisdiction which election could have an effect on the tax treatment of the Company, any Subsidiary or their business operations;

- (viii) enter into, amend or terminate any material agreement,
- (ix) enter into or amend any agreement with an Affiliate of the Company or Subsidiary,
- (x) sell, transfer, lease, mortgage, encumber or otherwise dispose of, or agree to sell, transfer, lease, mortgage, encumber or otherwise dispose of, any Properties except pursuant to any agreement specified in Schedule 3.20;
- (xi) settle any material claim or litigation, or file any material motions, orders, briefs or settlement agreements in any proceeding before any Governmental Authority or any arbitrator;
- (xii) other than in the ordinary course of business consistent with past practices, incur or approve, or enter into any agreement or commitment to make, any single expenditure or series of related expenditures in excess of \$25,000 (other than those required pursuant to any agreement specified in Schedule 3.20);
- (xiii) maintain its books of account other than in the usual, regular and ordinary manner in accordance with GAAP and on a basis consistent with prior periods or make any change in any of its accounting methods or practices,
- (xiv) accelerate or delay collection of any notes or accounts receivable in advance of or beyond their regular due dates or the dates when they would have been collected in the ordinary course of business consistent with past practices;
- (xv) delay or accelerate payment of any accrued expense, trade payable or other liability beyond or in advance of its due date or the date when such liability would have been paid in the ordinary course of business consistent with past practices;
- (xvi) allow its levels of fuel inventory to vary in any material respect from the levels customarily maintained;
- (xvii) adopt, enter into or amend any employee benefit plan, collective bargaining agreement or other agreement or arrangement with respect to employees or increase the compensation payable to any employee (including, without limitation, any increase pursuant to any bonus, profit-sharing or other incentive plan or commitment);
- (xviii) engage in any one or more activities or transactions outside the ordinary course of business;
- (xix) enter into any transaction or make any commitment which could result in any of the representations, warranties or covenants of the Company and/or any Seller contained in this Agreement not being true and correct after the occurrence of such transaction or event;
- (xx) engage in any transaction which could reasonably be expected to have a material adverse effect on the business, operations, assets, financial condition or prospects of the Company; or
- (xxi) commit to do any of the foregoing

5.04 **Notice Regarding Changes.** The Company and each Seller shall promptly inform Buyer in writing of (i) the loss of any customer or receipt of a written or oral notice from any shipper that they intend to cease shipping on the Company's Truck and (ii) any change in facts and circumstances that could render any of the representations and warranties made herein by the Company and/or any Seller inaccurate or misleading if such representations and warranties had been made upon the occurrence of the fact or circumstance in question. The Buyer shall promptly inform the Sellers' Representative in writing of any change in facts and circumstances that could render any of the representations and warranties made herein by it inaccurate or misleading if such representations and warranties had been made upon the occurrence of the fact or circumstance in question.

5.05 Ensure Conditions Met Subject to the terms and conditions of this Agreement, each party hereto shall use all commercially reasonable efforts to take or cause to be taken all actions and do or cause to be done all things required under applicable Legal Requirements in order to consummate the transactions contemplated hereby, including, without limitation, (i) obtaining all Permits, authorizations, consents and approvals of any Governmental Authority or other person which are required for or in connection with the consummation of the transactions contemplated hereby and by the Related Agreements, (ii) taking any and all reasonable actions necessary to satisfy all of the conditions to each party's obligations hereunder as set forth in Article VI, and (iii) executing and delivering all agreements and documents required by the terms hereof to be executed and delivered by such party on or prior to the Closing.

5.06 Employee Matters

(a) The Company shall take all actions necessary or appropriate to cause each employee benefit plan or other agreement or arrangement with respect to employees in effect on the date of this Agreement (as described or required to be described on Schedule 3.15(d)) to remain in full force and effect; provided, however, that to the extent requested in writing by Buyer, the Company shall, effective as of the Closing Date, cease to sponsor, maintain or contribute to any employee benefit plan or other agreement or arrangement with respect to employees specified by Buyer in such written request.

(b) The Company shall permit Buyer to contact and make arrangements with the Company's and its Subsidiaries' employees for the purpose of assuring their continued employment by the Company and its Subsidiaries after the Closing and for the purpose of ensuring the continuity of the Company's business, and the Company agrees not to discourage any such employees from consulting with Buyer.

(c) The Company shall use its best efforts to keep available the services of its and the Subsidiaries' present employees through the Closing Date.

5.07 Surface Transportation Board Buyer shall prepare and file such documents, if any, as may be required to secure approval, or exemption from approval, of this transaction by the STB in connection with the transactions contemplated hereby. Buyer shall use all reasonable efforts to make such filing (and any responses to requests for additional information in respect of such filing) in a timely fashion. Each Seller and the Company shall cooperate with the Buyer and provide the Buyer in a timely fashion with all information necessary or desirable to include in any such documents.

5.08 Payoff of Existing Indebtedness and Release of Guarantees. Prior to Closing, (a) the Sellers' Representative shall request payoff and estoppel letters with respect to all Existing Indebtedness, which letters shall contain payoff amounts, per diems, wire transfer instructions and an agreement to deliver, upon full payment, UCC-3 termination statements, other appropriate releases and any original promissory notes or other evidences of indebtedness marked canceled; (b) the Sellers' Representative will provide the Buyer and the Escrow Agent with a written statement of the

and (c) the Company shall provide Buyer with evidence of satisfaction in full or release of all guarantees, notes, or obligations of the Company or any of its Subsidiaries to or on behalf of any Seller or any other Affiliate of the Company.

5.09 No Shop. From the date hereof to the Closing, none of the Sellers nor the Company shall, or cause any agent on its behalf to, offer any of the Shares, the Company (or a material part of its assets in one transaction or a series of transactions) or any Subsidiary (or a material part of its assets or securities in one transaction or a series of transactions) for sale or lease, or solicit offers to buy or lease the Shares, the Company (or a material part of its assets in one transaction or in a series of related transactions) or any Subsidiary (or a material part of its assets or securities in one transaction or a series of related transactions), or hold discussions with any party (other than Buyer) looking toward such an offer or solicitation or toward a merger, share exchange or consolidation of the Company or any Subsidiary with or into another entity or any similar transaction. From the date hereof to the Closing, no Seller, directly or indirectly, shall, nor shall the Company or any Subsidiary, enter into any agreement with any party other than Buyer with respect to the sale, lease or other disposition of either the capital stock or the assets of the Company or any Subsidiary (except for surplus or non-essential assets disposed of for fair market value

In the ordinary course of the Company's or Subsidiary's operations consistent with past practices) or with respect to any merger, share exchange, consolidation or similar transaction involving the Company or any Subsidiary.

5.10 Auditors. The Company and each Seller agrees, upon the Buyer's request, to engage at the Buyer's expense auditors selected by the Buyer and to provide the auditors with access to all relevant information required by such auditors, including, but not limited to the Company's books and records and to assist the auditors in their audit of the Company.

ARTICLE VI CONDITIONS TO SELLERS' AND BUYER'S OBLIGATIONS

6 01 Conditions to Obligations of the Sellers. The obligations of the Sellers to carry out the transactions contemplated by this Agreement are subject, at the option of the Sellers, to the satisfaction or waiver of the following conditions

(a) All representations and warranties of Buyer contained in this Agreement shall be true and correct at and as of the Closing, and Buyer shall have performed and satisfied all covenants and agreements required by this Agreement to be performed and satisfied by Buyer at or prior to the Closing. Sellers' Representative shall have received a certificate, dated as of the Closing Date, signed by the President or any Vice President of the Buyer certifying the foregoing

(b) As of the Closing Date, no suit, action or other proceeding shall be pending or threatened before any Governmental Authority for the purpose or with the probable or reasonably likely effect of enjoining or preventing the consummation of this Agreement or seeking damages on account thereof.

(c) The Buyer shall have furnished Sellers' Representative with a certified copy of all necessary corporate action on its behalf approving the Buyer's execution, delivery and performance of this Agreement.

(d) The Buyer shall have delivered the Escrow Agreement signed by the Buyer.

6 02 Conditions to Obligations of Buyer. The obligations of Buyer to carry out the transactions contemplated by this Agreement are subject, at the option of Buyer, to the satisfaction, or waiver by Buyer, of the following conditions.

(a) All representations and warranties of the Company and the Sellers contained in this Agreement shall be true and correct at and as of the Closing, and the Company and the Sellers shall have performed and satisfied all agreements and covenants required by this Agreement to be performed and satisfied by them at or prior to the Closing. Buyer shall have received certificates dated as of the Closing Date, signed by the President or Vice President of the Company and each Seller, certifying the foregoing.

(b) As of the Closing Date, no suit, action or other proceeding shall be pending or threatened before any Governmental Authority for the purpose or with the probable or reasonably likely effect of enjoining or preventing the consummation of this Agreement or seeking damages on account thereof.

(c) Since the Balance Sheet Date and up to and including the Closing, except as set forth on Schedule 3.17(a), there shall not have been any event, circumstance, change or effect that, individually or in the aggregate, had or might have a material adverse effect on the Company's or any Subsidiary's business, operations, prospects, Properties or financial condition. Buyer shall have received certificates dated as of the Closing Date, signed by the President or any Vice President of the Company, certifying the foregoing.

(d) The Company shall have furnished Buyer with a certified copy of all necessary corporate actions on its behalf approving the execution, delivery and performance of this Agreement and the Related Agreements.

(e) Except as set forth on Schedule 6.02(e), all agreements, commitments and understandings between the Company and any Affiliates thereof shall have been terminated in all respects on terms satisfactory to Buyer, and all obligations, claims or entitlements thereunder shall be unconditionally waived and

released by such Affiliates and written evidence thereof satisfactory in form and substance to Buyer shall have been delivered to Buyer.

(f) Buyer shall have completed its due diligence investigation, and the results thereof shall not have revealed that any of the representations of the Company or any Seller set forth herein are untrue or incorrect in any respect or otherwise be unsatisfactory to Buyer.

(g) All proceedings to be taken by the Company in connection with the transactions contemplated hereby, and all documents incident thereto shall be satisfactory in form and substance to Buyer and its counsel, and Buyer and said counsel shall have received all such counterpart originals or certified or other copies of such documents as it or they may reasonably request.

(h) All consents and approvals (if any) required in connection with the execution, delivery and performance of this Agreement shall have been obtained and, if applicable, the STB shall have approved the transactions contemplated hereby.

(i) Each Seller and the Company shall have delivered such good standing certificates, officers' certificates and similar documents and certificates as counsel for the Buyer shall have reasonably requested prior to the Closing Date.

(j) Buyer shall have received resignations from all of the directors of the Company and such employees of the Company or any Subsidiary as Buyer has designated on Schedule 6.02(j). These same individuals shall deliver general releases in favor of the Company and its Subsidiaries, but those releases shall not relate to rights or obligations arising under this Agreement.

(k) The Buyer shall have received copies of "payoff" or "estoppel" letters or other evidence, reasonably satisfactory to it, of the termination, at or prior to Closing, of all Existing Indebtedness and any and all Liens that encumber the Company's Properties pursuant thereto.

(l) The Buyer shall have received a written statement of the total amount of the

(m) Buyer shall have received possession of all Records of the Company and the Subsidiaries

(n) The Buyer shall have received a certification signed under penalty of perjury by the Company and each Seller to the effect that such Person is not a "foreign person" as defined in Section 1445 of the Code.

(o) The Buyer shall have received the opinion of the Law Firm, dated as of the Closing Date, addressed to the Buyer and in form and substance reasonably satisfactory to the Buyer, to the effect set forth on Exhibit A hereto. In rendering such opinions, the Law Firm may rely as to factual matters on certificates of officers, directors and shareholders of each respective Company and on certificates of governmental officials.

(p)

(q) The Buyer shall have received the Escrow Agreement signed by the Company and the Sellers.

ARTICLE VII
POST-CLOSING OBLIGATIONS

7.01 Survival of Representations and Warranties. All representations and warranties made by each party in this Agreement and in each Schedule shall survive the Closing Date for a period of thirty-six (36) months after the Closing notwithstanding any investigation at any time made by or on behalf of the other party; provided, however, that the representations and warranties set forth in Sections 3.01, 3.02, 3.03(a), 3.15, 3.23 and 3.28 and any intentional fraud shall survive until the expiration of the applicable statute of limitations. All representations and warranties related to any claim asserted in writing prior to the expiration of the applicable survival period shall survive (but only with respect to such claim) until such claim shall be resolved and payment in respect thereof, if any is owing, shall be made.

7.02 Indemnification.

(a) The Sellers, jointly and severally, shall, subject to the limitations set forth in the last sentence of this Section 7.02(a), indemnify and defend and hold harmless the Buyer and its officers, directors, employees, agents, representatives, affiliates, and their respective successors and assigns (the "Seller Indemnified Parties") against and with respect to any and all damages, claims, losses, penalties, liabilities, actions, fines, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) (all of the foregoing hereinafter collectively referred to as a "Loss"), regardless of whether an action has been filed or asserted against the Buyer after the Closing Date, arising from, in connection with or with respect to the following items: (i) (A) any misrepresentation of a surviving representation or breach of a surviving warranty by the Company or any Seller under Article III hereof, or (B) any failure to fulfill any agreement or covenant on the part of the Company or any Seller; and (ii) any and all actions, suits, proceedings, judgments, settlements (to the extent approved or entered into by the Sellers as hereinafter provided), costs, penalties and legal and other expenses incident to any of the foregoing. The remedies provided in this Section 7.02 shall be the exclusive remedies afforded to Buyer Indemnified Parties with respect to breaches of the representations and warranties set forth in Article III. Notwithstanding anything to the contrary contained in this Agreement, none of the Sellers shall have an obligation to indemnify the Buyer Indemnified Parties pursuant to this Section 7.02(a) unless the aggregate amount of Losses incurred by the Buyer to which the Buyer has the right to be indemnified under this Section 7.02(a) exceeds \$25,000 at which point, the Sellers, jointly and severally, shall indemnify the Buyer for the full amount of such Losses. Any Working Capital Adjustment shall not be included in the aforementioned indemnity basket of \$25,000 and shall be paid according to the provisions of this Agreement.

(b) The Buyer shall, subject to the limitations set forth in the last sentence of this Section 7.02(b), indemnify and defend and hold harmless the Sellers and their employees, agents, representatives, affiliates and their respective assigns (the "Buyer Indemnified Parties") against and with respect to any and all Losses, regardless of whether an action has been filed or asserted against any of the Sellers after the Closing Date, arising from, in connection with or with respect to the following items: (i) any misrepresentation, breach of any surviving warranty, or failure to fulfill any agreement or covenant on the part of the Buyer under this Agreement; and (ii) any and all actions, suits, proceedings, judgments, settlements (to the extent approved or entered into by Buyer as hereinafter provided), costs, penalties and legal and other expenses incident to any of the foregoing. The remedies provided in this Section 7.02 shall be the exclusive remedies afforded to Sellers with respect to breaches of the representations and warranties set forth in Article IV. Notwithstanding anything to the contrary contained in this Agreement, the Buyer shall have no obligation to indemnify any Seller pursuant to this Section 7.02(b); unless the aggregate amount of Losses incurred by such Seller to which such Seller has the right to be indemnified under this Section 7.02(b) exceeds \$25,000, at which point the Buyer shall indemnify such Seller for the full amount of such Losses. Any Working Capital Adjustment shall not be included in the aforementioned indemnity basket of \$25,000 and shall be paid according to the provisions of this Agreement.

(c) Any Seller Indemnified Party or Buyer Indemnified Party seeking indemnification hereunder (the "Indemnified Party") promptly shall give to the party obligated to provide indemnification to such Indemnified Party (the "Indemnitor") a written notice (a "Claim Notice") describing in reasonable detail the facts giving rise to the claim for indemnification hereunder and shall include in such Claim Notice (if then known) the amount or the method of computation of the amount of such claim, and a reference to the provision of this Agreement or any other agreement, document or instrument executed hereunder or in connection herewith upon which such claim is based, provided, however, that the failure of any Indemnified Party to give the Claim Notice

promptly as required by this section shall not affect such Indemnified Party's rights under this Section 7.02 except to the extent such failure actually prejudices the Indemnitor or occurs following the expiration of the survival period applicable to such claim.

(d) After the giving of any Claim Notice pursuant hereto, the amount of indemnification to which an Indemnified Party shall be entitled under this Section 7.02 shall be determined: (i) by the written agreement between the Indemnified Party and the Indemnitor; (ii) by a final determination of a court of competent jurisdiction pursuant to Section 10.02; or (iii) by any other means to which the Indemnified Party and the Indemnitor shall agree. The Indemnified Party shall have the burden of proof in establishing the amount of Loss suffered by it. All amounts due to the Indemnified Party as so finally determined shall be paid by wire transfer within thirty (30) calendar days after such final determination ("Final Determination Date"), except with respect to such amounts due to Seller Indemnified Parties which obligation shall first be applied against the Holdback, up to the available Holdback balance existing on Final Determination Date.

(e) In order for a party to be entitled to any indemnification provided for under this Agreement in respect of, arising out of or involving a claim or demand made by any third Person against the Indemnified Party, such Indemnified Party must notify the Indemnitor in writing, and in reasonable detail, of the third Person claim promptly after receipt by such Indemnified Party of written notice of the third Person claim. Thereafter, the Indemnified Party shall deliver to the Indemnitor, within five (5) calendar days after the Indemnified Party's receipt thereof, copies of all notices and documents (including court papers) received by the Indemnified Party relating to the third Person claim. Notwithstanding the foregoing, should a party be physically served with a complaint with regard to a third Person claim, the Indemnified Party must notify the Indemnitor with a copy of the complaint within ten (10) calendar days after receipt thereof and shall deliver to the Indemnitor within ten (10) calendar days after the receipt of such complaint copies of notices and documents (including court papers) received by the Indemnified Party relating to the third Person claim (or in each case such earlier time as may be necessary to enable the Indemnitor to respond to the court proceedings on a timely basis) provided, however, that the failure of any Indemnified Party to give such notice or deliver such deliverables promptly as required by this section shall not affect such Indemnified Party's rights under this Section 7.02 except to the extent such failure actually prejudices the Indemnitor or occurs following the expiration of the survival period applicable to such claim.

(f) In the event of the institution of any legal proceeding against the Indemnified Party by a third Person, the Indemnitor shall have the sole and absolute right after the receipt of notice, at its option and at its own expense, to be represented by counsel of its choice and to control, defend against, negotiate, settle or otherwise deal with any proceeding, claim, or demand which relates to any Loss indemnified against hereunder. The Indemnified Party shall have the right to participate in any such defense at its sole cost and expense except in the case where the Indemnified Party shall have reasonably concluded in good faith that representation of both parties by the same counsel would be inappropriate, due to actual or potential differing interests between them, in which case the cost and expenses of counsel to the Indemnified Party shall be paid by the Indemnitor. Notwithstanding the foregoing, if an Indemnified Party determines in good faith that there is a reasonable probability that a proceeding may adversely affect it or its Affiliates other than as a result of monetary damages for which it would be entitled to indemnification under this Agreement, the Indemnified Party may, by notice to the Indemnitor, assume the exclusive right to defend, compromise, or settle such proceeding, but the Indemnitor will not be bound by any determination of a proceeding so defended or any compromise or settlement effected without its consent (which may not be unreasonably withheld or delayed). The parties hereto agree to cooperate fully with each other in connection with the defense, negotiation or settlement of any such legal proceeding, claim or demand. Such cooperation shall include the retention and the provision of records and information that are reasonably relevant to such third Person claim, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. To the extent the Indemnitor elects not to defend such proceeding, claim or demand, and the Indemnified Party defends against or otherwise deals with any such proceeding, claim or demand, the Indemnified Party may retain counsel, at the expense of the Indemnitor, and control the defense of such proceeding. Neither the Indemnitor nor the Indemnified Party may settle any such proceeding, which settlement obligates the other party to pay money, to perform obligations or to admit liability without the written consent of the other party, such consent not to be unreasonably withheld or delayed; provided that the consent of the Indemnified Party shall not be required if the Indemnitor agrees in writing to pay any amounts payable pursuant to such settlement and such settlement (i) does not obligate the Indemnified Party to admit any liability and (ii) includes a full and conditional release of the Indemnified Party. After any final

judgment or award shall have been rendered by a court, arbitration board or administrative agency of competent jurisdiction and the time in which to appeal therefrom has expired, or a settlement shall have been consummated, or the Indemnified Party and the Indemnitor shall arrive at a mutually binding agreement with respect to each separate matter alleged to be indemnifiable by the Indemnitor hereunder, the Indemnified Party shall forward to the Indemnitor notice of any sums due and owing by it with respect to such matter and the Indemnitor shall pay all of the sums so owing to the Indemnified Party by wire transfer within thirty (30) calendar days after the date of such notice.

(g) Any indemnification payment shall be considered an adjustment to the Purchase Price.

7.03 Further Assurances. Following the Closing, the Company, each Seller and the Buyer shall execute and deliver such documents, and take such other action, as shall be reasonably requested by any other party hereto to carry out the transactions contemplated by this Agreement.

7.04 Publicity. None of the parties hereto shall issue or make, or cause to have issued or made, any public release or announcement concerning this Agreement or the transactions contemplated hereby, without the advance approval in writing of the form and substance thereof by each of the other parties, except as required by law (in which case, so far as possible, there shall be consultation among the parties prior to such announcement), and the parties shall endeavor jointly to agree on the text of any announcement or circular so approved or required.

7.05 Transition Services. For a period of thirty (30) days following the Closing Date, Blansett shall assist in the transition of ownership of the Company from the Sellers to the Buyer. The transition services provided by Blansett shall include but not be limited to those services that she currently provides to the Company. Blansett's compensation for this interim employment will be at the same rate as her current compensation.

ARTICLE VIII TAX MATTERS

8.01 Representations and Obligations Regarding Taxes. The Company and the Sellers jointly and severally represent and warrant to and agree with the Buyer as follows, in each case except to the extent set forth on Schedule 8:

(a) Except for all Tax Returns related to the Tax Indebtedness, the Company has timely filed all Tax Returns that it was required to file. Except for all Tax Returns related to the Tax Indebtedness, all of those Tax Returns were correct and complete in all respects. Schedule 8.01(a) lists all Federal, state, local and foreign Tax Returns filed with respect to the Company for taxable periods ending after December 31, 2001. The Company has delivered to Buyer correct and complete copies of all Federal income Tax Returns and all state and local income or franchise Tax Returns for any taxable period ending after December 31, 2001. All material elections with respect to Taxes affecting the Company are disclosed on or attached to a Tax Return of the Company. Schedule 1.02(a) sets forth all Tax Indebtedness.

(b). Except for the _____ and except as set forth in the second succeeding sentence, all Taxes owed by the Company (whether or not shown on any Tax Return and whether or not any Tax Return was required) have been paid. The Company has made adequate accrual in its financial statements for all Taxes through the date hereof not yet due and payable and will have made adequate accrual in its financial statements for all Taxes through the Closing Date not yet due and payable. Except for the _____, the Company has withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder or other third party. Except for all _____

(i) did not, as of the most recent fiscal month end, exceed the reserve for Tax liability (rather than any reserve for deferred Taxes established to reflect timing differences between book and Tax income) set forth on the face of the most recent balance sheet (rather than in any notes thereto) and (ii) will not exceed that reserve as adjusted for the passage of time through the Closing Date in accordance with the past custom and practice of the Company in filing its Tax Returns.

(c) The Company is not currently the beneficiary of any extension of time within which to file any Tax Return. All private letter rulings issued by the Internal Revenue Service to the Company (and any

corresponding ruling or determination of any state, local or foreign taxing authority) have been disclosed on Schedule 8-01(e), and there are no pending requests for any rulings (or corresponding determinations). There is no power of attorney with respect to any Tax executed or filed with any taxing authority

(d)

Schedule 8-01(d) lists those Tax Returns filed with respect to the Company for taxable periods ended on or after December 31, 2001 that have been audited or that have been the subject of any written or unwritten notice of any audit, examination, investigation or other proceeding. The Company has delivered to Buyer correct and complete copies of all audit, examination, revenue agent's and other reports of, and any closing agreement with, any taxing jurisdiction with respect to taxable periods ended on or after December 31, 2001.

no issue relating to Taxes has been raised in writing by a taxing authority during any pending audit or examination, and no issue relating to Taxes was raised in writing by a taxing authority in any completed audit or examination, that reasonably can be expected to recur in a later taxable period.

(i) claimed or raised by any taxing authority in writing or (ii) as to which any of the directors or officers (or employees responsible for Tax matters) of the Company has knowledge. No claim has ever been made by a taxing authority in a jurisdiction where the Company does not file Tax Returns that it is or may be subject to taxation by that jurisdiction or that it satisfies or may satisfy the nexus requirements to be subject to taxation by that jurisdiction.

and except to the extent set forth on Schedule 8-01(d), no director or officer (or employee responsible for Tax matters) of the Company expects any taxing authority to assert liability for any additional Taxes for any period for which Tax Returns have been filed.

(e) The Company has not made any payments, is not obligated to make any payments and is not a party to any agreement that under certain circumstances could obligate it to make any payments that will not be deductible under section 280G of the Code or that would give rise to any obligation to indemnify any person for any excise tax payable pursuant to section 4999 of the Code. The Company has not entered into any sale leaseback or leveraged lease transaction that fails to satisfy the requirements of Revenue Procedure 75-21 or Revenue Procedure 2001-28 (or similar provisions of foreign law) or any safe harbor lease transaction, and the Company is not a lessor or lessee of any tangible property located outside the United States. None of the property of the Company is tax-exempt use property within the meaning of section 168(h) of the Code, is property that is required to be treated as being owned by any other person pursuant to the safe harbor lease provisions of former section 168(f)(8) of the Code or is property that directly or indirectly secures any debt the interest on which is exempt from federal income tax pursuant to section 103 of the Code. The Company is not a controlled corporation or a distributing corporation in respect of a distribution to which section 355(a) of the Code could apply by reason of the acquisition of the Company's shares pursuant to this agreement. No indebtedness of the Company consists of "corporate acquisition indebtedness" within the meaning of section 279 of the Code. The Company has not made any consent to the application of section 341(f)(2) with respect to any asset held or to be acquired by the Company.

(f) The Company has not been a United States real property holding corporation within the meaning of section 897(c)(2) of the Code during the applicable period specified in section 897(c)(1)(A)(ii) of the Code. The Company does not have, and has not had, a permanent establishment in any foreign country, as defined in any applicable income tax treaty to which the United States and the foreign country are parties or under the law of the foreign country. The Company does not have an overall foreign loss within the meaning of section 904(f) of the Code.

(g) The Company is not a party to any Tax allocation or sharing agreement. The Company (i) has not been a member of an Affiliated Group filing a consolidated Federal income Tax Return and (ii) has no liability for the Taxes of any Person under Treasury regulation section 1.1502-6 (or any similar provision of state, local or foreign law), as a transferee or successor, by contract or otherwise. The Company is not a party to any joint venture, partnership or other arrangement or contract that could be treated as a partnership for Federal income tax purposes.

(h) The Company has disclosed on its Federal Income Tax Returns all positions taken therein that could give rise to a substantial understatement of Federal Income Tax within the meaning of section 6662 of the Code. The Company has not engaged in any "listed transaction" or "reportable transaction" within the meaning of section 6707A(c) of the Code or Treasury regulation section 1.6011-4(b) or any transaction (i) that was marketed to the Company in writing as a transaction that is intended to generate substantial tax benefits and (ii) with respect to which the Company has paid a promoter of the transaction total fees in excess of \$100,000.

(i) Neither the Company nor any of its Subsidiaries has been an S corporation (within the meaning of section 1361(a)(1) of the Code)

(j) The Company will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any (i) change in method of accounting for a taxable period ending on or prior to the Closing Date, (ii) intercompany transactions or any excess loss account described in Treasury regulations under Section 1502 of the Code (or any corresponding or similar provision of state or local income tax law), (iii) installment sale or open transaction disposition made on or prior to the Closing Date or (iv) prepaid amount received on or prior to the Closing Date.

(k) Unless otherwise limited by Section 382 of the Code, the transfer of the Shares to Buyer pursuant to the terms of this Agreement will not result in any Tax liability to the Company or result in a reduction of the amount of any net operating loss, net operating loss carryover, net capital loss, net capital loss carryover, Tax credit, Tax credit carryover, excess charitable contribution or basis of property that otherwise would be available to the Company by reason or as a result of deferred intercompany transactions, excess loss accounts, or otherwise.

8.02 Covenants With Respect To Taxes

(a) The Company shall grant to Buyer or its designees access at all reasonable times to all of the Company's books and records (including tax workpapers and returns and correspondence with tax authorities), including the right to take extracts therefrom and make copies thereof, to the extent the books and records relate to taxable periods ending on or prior to or that include the Closing Date. Buyer shall (i) grant to Sellers' Representative access at all reasonable times to all of the Company's books and records (including tax workpapers and returns and correspondence with tax authorities), including the right to take extracts therefrom and make copies thereof, to the extent that the books and records relate to the operations of the Company during taxable periods ending on or prior to or that include the Closing Date, and (ii) otherwise cooperate with Sellers' Representative in connection with any audit of Taxes that relate to the business of the Company prior to Closing, in each case to the extent relevant to Sellers' indemnification obligations under Section 8.03 hereof.

(b) Neither the Sellers nor the Company has taken or will take any action that could result in a deemed election under section 338 of the Code with respect to Buyer's purchase of the Shares.

(c) Buyer shall be responsible for preparing and filing, or causing the Company to prepare and file, all Tax Returns of the Company required to be filed after the Closing Date. Sellers shall pay to Buyer within five (5) days after the date on which Taxes are paid with respect to periods beginning before the Closing Date and ending on or after the Closing Date an amount equal to the portion of those Taxes that relates to the portion of the taxable period ending on the Closing Date, reduced by the amount of the accrual for those Taxes in the financial statements of the Company described in Section 8.01(b). For purposes of this Agreement, in the case of any period that begins before the Closing Date and ends after the Closing Date, any tax based directly or indirectly on gross or net income or receipts or imposed in respect of specific transactions, and any credits available with respect to any Tax, shall be allocated by assuming that the taxable period ended on the Closing Date, and any other Tax shall be allocated based on the number of days in the taxable period ending on the Closing Date divided by the total number of days in the taxable period.

8.03 Indemnification for Taxes.

(a) the Sellers hereby agree to indemnify, jointly and severally, Buyer and its Affiliates, including, after the Closing, the Company (each herein sometimes referred to as an "Indemnified Taxpayer") against, and

agrees to protect, save and hold harmless each Indemnified Taxpayer from, any and all claims, damages, deficiencies and losses and all expenses, including, without limitation, attorneys', accountants' and experts' fees and disbursements (all herein referred to as "Tax Losses"), resulting from:

(i) A claim by any taxing authority for (A) any Taxes of the Company allocable to any period ending on or prior to the Closing Date or allocable to any period that begins before and ends after the Closing Date, and (B) any Taxes of the Company or any corporation that is or was a member of an Affiliated Group of which the Company was or is a member, or any liability of any of the foregoing for the Taxes of any person, whether as a transferee or successor, by contract or otherwise;

(ii) A claim by any taxing authority for any Taxes arising from or occasioned by the sale of the Company's common stock pursuant to this Agreement;

(iii)

(iv) Any misrepresentation or breach of any representation, warranty or obligation set forth in this Article VIII.

the Sellers shall not be relieved of any obligation to indemnify an Indemnified Taxpayer in respect of any Loss by reason of any knowledge of the Indemnified Taxpayer prior to Closing relating to the matter in respect of which indemnification may be sought.

(b) Subject to the resolution of any Tax contest pursuant to Section 8.02(c)(i), upon notice from Buyer to Sellers' Representative that an Indemnified Taxpayer is entitled to an indemnification payment for a Tax Loss pursuant to Section 8.02(a), Sellers thereupon shall pay to the Indemnified Taxpayer an amount that, net of any Taxes imposed on the Indemnified Taxpayer with respect to the payment, will indemnify and hold the Indemnified Taxpayer harmless from the Tax Loss, except for the amount of Tax Losses or Taxes associated or resulting from any

(c) (i) If a claim shall be made by any taxing authority that, if successful, would result in the indemnification of an Indemnified Taxpayer, the Indemnified Taxpayer shall promptly notify the Sellers' Representative in writing of that fact; provided, however, that any failure to give the notice will not waive any rights of the Indemnified Taxpayer except to the extent the rights of the indemnifying party are actually materially prejudiced

(ii) Sellers, or any Seller, through the Sellers' Representative, shall have the right to defend the Indemnified Taxpayer against the claim with counsel of their choice satisfactory to the Indemnified Taxpayer so long as (A) Sellers' Representative notifies the Indemnified Taxpayer in writing within 15 calendar days after the Indemnified Taxpayer has given notice of the claim that Sellers will indemnify the Indemnified Taxpayer from and against the entirety of any Tax Losses the Indemnified Taxpayer may suffer resulting from, arising out of, relating to, in the nature of, or caused by the claim, (B) Sellers provide the Indemnified Taxpayer with evidence acceptable to the Indemnified Taxpayer that Sellers will have the financial resources to defend against the claim and fulfill their indemnification obligations hereunder, (C) if requested by the Indemnified Taxpayer, Sellers' Representative provides to the Indemnified Taxpayer an opinion, in form and substance satisfactory to the Indemnified Taxpayer, of counsel satisfactory to the Indemnified Taxpayer, that there exists a reasonable basis for the Company to prevail in that contest, (D) if the Indemnified Taxpayer is requested to pay the Tax claimed and sue for a refund, Sellers shall have advanced to the Indemnified Taxpayer, on an interest free basis, the full amount the Indemnified Taxpayer is required to pay, and (E) Sellers conduct the defense of the claim actively and diligently.

(iii) Subject to the provisions of paragraph (ii) above, Sellers shall be entitled to prosecute the contest to a determination in a court of initial jurisdiction, and if Sellers shall reasonably request, to a determination in an appellate court provided that, if requested by the Indemnified Taxpayer, Sellers shall provide to the Indemnified Taxpayer an opinion, in form and substance satisfactory to the Indemnified Taxpayer, of counsel

satisfactory to the Indemnified Taxpayer, that there exists a reasonable basis for the Company to prevail on that appeal.

(iv) Sellers shall not be entitled to settle or to contest any claim relating to Taxes if the settlement of, or an adverse judgment with respect to, the claim would be likely, in the good faith judgment of the Indemnified Taxpayer, to cause the liability for any Tax of the Indemnified Taxpayer or of any Affiliate of the Indemnified Taxpayer for any taxable period ending after the Closing Date to increase (including, without limitation, by making any election or taking any action having the effect of making any election, by deferring the inclusion of any amount in income or by accelerating the deduction of any amount or the obtaining of any credit) or to take a position that, if applied to any taxable period ending after the Closing Date, would be adverse to the interest of the Indemnified Taxpayer or any Affiliate of the Indemnified Taxpayer.

(v) If, after actual receipt by the Indemnified Taxpayer of an amount advanced by Sellers or any Seller pursuant to paragraph (ii)(D) above, the extent of the liability of the Indemnified Taxpayer with respect to the indemnified matter shall be established by the judgment or decree of a court that has become final or a binding settlement with an administrative agency having jurisdiction thereof that has become final, the Indemnified Taxpayer shall promptly pay to Sellers or to such Seller, as applicable, any refund received by or credited to the Indemnified Taxpayer with respect to the indemnified matter (together with any interest paid or credited thereon by the taxing authority and any recovery of legal fees from the taxing authority); provided, however, that the Indemnified Taxpayer shall have been indemnified and held harmless from all Tax Losses by reason of any indemnification payments retained by the Indemnified Taxpayer net of any Taxes imposed on the Indemnified Taxpayers with respect to indemnification payments received by the Indemnified Taxpayer or with respect to the receipt of any payment from the taxing authority. Notwithstanding the foregoing, the Indemnified Taxpayer shall not be required to make any payment hereunder before the time that any Seller shall have made all payments or indemnities then due with respect to Indemnified Taxpayer pursuant to this Article VII.

(vi) If any of the conditions in Section 8.02(c)(ii) above are or become unsatisfied, (A) the Indemnified Taxpayer may defend against, and consent to the entry of any judgment or enter into any settlement with respect to, the claim in any manner it may deem appropriate (and the Indemnified Taxpayer need not consult with, or obtain any consent from, any Seller in connection therewith), (B) Sellers will reimburse the Indemnified Taxpayer promptly and periodically for the costs of defending against the claim (including, without limitation, attorneys' fees and disbursements) and (C) Sellers will remain responsible for any Tax Losses the Indemnified Taxpayer may suffer to the fullest extent provided in this Section 8.03.

(d) Anything to the contrary in this Agreement notwithstanding, the indemnification obligations of each Seller under this Article VIII shall survive the Closing until the end of the applicable statute of limitations. With respect to any indemnification obligation for any Tax for which a taxing authority asserts a claim within 90 days before the end of the applicable statute of limitations, an Indemnified Taxpayer shall be treated as having provided timely notice to Sellers by providing written notice to Sellers' Representative on or before the 90th day after the Indemnified Taxpayer's receipt of a written assertion of the claim by the taxing authority.

(e) All transfer, documentary, sales, use, stamp, registration and other similar Taxes and fees (including any penalties and interest) incurred in connection with this Agreement shall be paid by Sellers when due, and Sellers will, at their own expense, file all necessary Tax Returns and other documentation with respect to all the transfer, documentary, sales, use, stamp, registration and other Taxes and fees, and, if required by applicable law, Buyer will, and will cause its Affiliates to, join in the execution of any of those Tax Returns and other documentation.

8.04 Defined Terms. As used in this Agreement,

(a) "Affiliated Group" means any affiliated group within the meaning of section 1504(a) of the Code or any similar group defined under a similar provision of state, local or foreign law.

(b) "Code" means the Internal Revenue Code of 1986, as amended, and the administrative interpretations thereof.

(c) "Company" means the Company and/or any corporation that at any time has been a subsidiary of the Company

(d) "Person" means an individual, a partnership, firm, a limited liability company, a corporation, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or other enterprise or a governmental entity (or any department, instrumentality, agency or political subdivision thereof).

(e) "Tax" means any Federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under section 59A of the Code), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax of any kind whatsoever, including any interest, penalty or addition thereto, whether disputed or not, and "Taxes" means any or all of the foregoing collectively.

(f) "Tax Return" means any return, declaration, report, claim for refund or information return or statement relating to any Tax, including any schedule or attachment thereto and including any amendment thereof.

ARTICLE IX TERMINATION

9.01 Termination This Agreement may be terminated.

(a) By mutual written consent of the Sellers' Representative and the Buyer

(b) By the Buyer in the event it is not satisfied with the results of its due diligence investigation

(c) By the Sellers or the Buyer if the Closing shall not have been consummated by January 31, 2008, provided that the terminating party is not then in material breach of any representation, warranty, covenant or agreement contained herein

(d) By the Buyer if any Seller or the Company materially breaches any representation, warranty, covenant or agreement in this Agreement; provided that the Buyer is not then in material breach of any representation, warranty, covenant or agreement contained herein.

(e) By the Sellers if the Buyer materially breaches any representation, warranty, covenant or agreement of this Agreement; provided that neither any Seller nor the Company is then in material breach of any representation, warranty, covenant or agreement contained herein.

9.02 Effect of Termination In the event of termination of this Agreement as provided above, this Agreement shall forthwith become of no further force or effect and, except for a termination resulting from a breach by a party of any of its material obligations under this Agreement, there shall be no liability or obligation on the part of any Seller, the Company, or the Buyer or their respective officers or directors (except as set forth in Articles IX and X hereof, which shall survive the termination). Notwithstanding the foregoing, nothing contained in this Section 9.02 shall relieve any party from liability for willful breach of this Agreement that results in termination of this Agreement. Upon request therefor, each party shall redeliver all documents, work papers and other material of any other party relating to the transactions contemplated hereby, whether obtained before or after the execution hereof, to the party furnishing same.

ARTICLE X MISCELLANEOUS

10.01 Confidentiality

(a) Prior to the Closing, Buyer shall, and shall cause its Affiliates and its and their employees, agents, accountants, legal counsel and other representatives and advisers to, hold in strict confidence all, and not divulge or disclose any, information of any kind concerning the Company, its Subsidiaries and their

business, provided, however, that the foregoing obligation of confidence shall not apply to (i) information that is or becomes generally available to the public other than as a result of a disclosure by Buyer or its Affiliates or any of its or their employees, agents, accountants, legal counsel or other representatives or advisers, (ii) information that is or becomes available to Buyer or its Affiliates or any of its or their employees, agents, accountants, legal counsel or other representatives or advisers on a nonconfidential basis prior to its disclosure by Buyer or its Affiliates or any of its or their employees, agents, accountants, legal counsel or other representatives or advisers and (iii) information that is required to be disclosed by Buyer or its Affiliates or any of its or their employees, agents, accountants, legal counsel or other representatives or advisers as a result of any applicable law, rule or regulation of any Governmental Authority; and provided further that Buyer promptly shall notify the Sellers of any disclosure pursuant to clause (ii) of this Section 10.01(a); and, provided, further, that the foregoing obligation of confidence shall not apply to the furnishing of information by Buyer in bona fide discussions or negotiations with prospective lenders

(b) The Company and each Seller shall, and shall cause their Affiliates and their respective employees, agents, accountants, legal counsel and other representatives and advisers to, hold in strict confidence all, and not divulge or disclose any, information of any kind concerning the transactions contemplated by this Agreement, the Company, its Subsidiaries, Buyer or their respective businesses; provided, however, that the foregoing obligation of confidence shall not apply to (i) information that is or becomes generally available to the public other than as a result of a disclosure by the Company, any Seller or any of their Affiliates or any of their respective employees, agents, accountants, legal counsel or other representatives or advisers, (ii) information that is or becomes available to the Company, any Seller or their Affiliates or any of their respective employees, agents, accountants, legal counsel or other representatives or advisers after the Closing on a nonconfidential basis prior to its disclosure by the Company, any Seller or any of their Affiliates or any of their respective employees, agents, accountants, legal counsel or other representatives or advisers and (iii) information that is required to be disclosed by the Company, any Seller or any of their Affiliates or any of their respective employees, agents, accountants, legal counsel or other representatives or advisers as a result of any applicable law, rule or regulation of any Governmental Authority; and provided further that Sellers shall promptly shall notify Buyer of any disclosure pursuant to clause (iii) of this Section 10.01(b).

10.02 **Brokers.** Regardless of whether the Closing shall occur, (i) the Sellers, jointly and severally, shall indemnify and hold harmless Buyer from and against any and all liability for any brokers or finders' fees arising with respect to brokers or finders retained or engaged by the Company or any Seller in respect of the transactions contemplated by this Agreement, and (ii) Buyer shall indemnify and hold harmless the Sellers from and against any and all liability for any brokers' or finders' fees arising with respect to brokers or finders retained or engaged by Buyer in respect of the transactions contemplated by this Agreement.

10.03 **Costs and Expenses.** Each of the parties to this Agreement shall bear his or its own expenses incurred in connection with the negotiation, preparation, execution and closing of this Agreement and the transactions contemplated hereby (the "Transaction Expenses"); provided, however, that Sellers shall be responsible for and shall discharge all Transaction Expenses incurred by or on behalf of the Sellers and/or the Company (it being the parties' agreement that the Company shall not bear or otherwise be liable for any such expenses).

10.04 **Notices** Any notice, request, instruction, correspondence or other document to be given hereunder by any party hereto to another (herein collectively called "Notice") shall be in writing and delivered personally or mailed by registered or certified mail, postage prepaid and return receipt requested, or by telecopier, as follows:

IF TO BUYER

Patriot Rail Corp.
One Boca Place
2255 Glades Road
Suite 342W
Boca Raton, Florida 33431
Attn: Gary O. Marino
Telecopy No. (561) 443-5319

With a copy to

Greenberg Traurig, P A
1221 Brickell Avenue
Miami, Florida 33131
Attn Gary Epstein
Michele Keusch
Telecopy No. (305) 579-0717

IF TO THE COMPANY AND/OR THE SELLERS:

Utah Central Railway
P. O. Box 10402
Ogden, Utah 84409
Attn. Beth A. Blansett
Telecopy No. (801) 521-6689

With a copy to

Salt Lake City, Utah 84111

Each of the above addresses for notice purposes may be changed by providing appropriate notice hereunder. Notice given by personal delivery or registered mail shall be effective upon actual receipt. Notice given by telecopier shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next normal business day after receipt if not received during the recipient's normal business hours. All Notices by telecopier shall be confirmed by the sender thereof promptly after transmission in writing by registered mail or personal delivery. Anything to the contrary contained herein notwithstanding, notices to any party hereto shall not be deemed effective with respect to such party until such Notice would, but for this sentence, be effective both as to such party and as to all other persons to whom copies are provided above to be given.

10.05 Governing Law. The provisions of this agreement and the documents delivered pursuant hereto shall be governed by and construed in accordance with the laws of the State of Utah (excluding any conflict of law rule or principle that would refer to the laws of another jurisdiction). Each party hereto irrevocably submits to the jurisdiction of the state or federal courts of competent subject matter jurisdiction located in Weber County, Utah in any action or proceeding arising out of or relating to this Agreement or any of the Related Agreements, and each party hereby irrevocably agrees that all claims in respect of any such action or proceeding must be brought and/or defended in such court. Each party hereto consents to service of process by any means authorized by the applicable law of the forum in any action brought under or arising out of this Agreement or any of the Related Agreements, and each party irrevocably waives, to the fullest extent each may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court. **EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING ARISING HEREUNDER.**

10.06 Entire Agreement; Amendments and Waivers This Agreement, together with the Related Agreements and all exhibits and schedules attached hereto and thereto, constitutes the entire agreement between and among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties, and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof except as set forth specifically herein or contemplated hereby. No supplement, modification or waiver of this Agreement shall be binding unless executed in writing by the party to be bound thereby. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (regardless of whether similar), nor shall any such waiver constitute a continuing waiver unless otherwise expressly provided.

10.07 Binding Effect and Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, but neither this Agreement nor any of the rights, benefits or obligations hereunder shall be assigned, by operation of law or otherwise, by any Seller or the

Company without the prior written consent of the Buyer or by the Buyer other than to an Affiliate or a lender without the prior written consent of the Sellers. Nothing in this Agreement, express or implied, is intended to confer upon any person or entity other than the parties hereto and their respective permitted successors and assigns, any rights, benefits or obligations hereunder.

10.08 Remedies. The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by any party hereto shall not preclude or constitute a waiver of its right to use any or all other remedies. Such rights and remedies are given in addition to any other rights and remedies a party may have by law, statute or otherwise.

10.09 Exhibits and Schedules. The exhibits and Schedules referred to herein are attached hereto and incorporated hereto by this reference. Disclosure of a specific item in any one Schedule shall be deemed restricted only to the Section to which such disclosure specifically relates except where (i) there is an explicit cross-reference to another Schedule, and (ii) Buyer could reasonably be expected to ascertain the scope of the modification to a representation intended by such cross-reference.

10.10 Appointment and Powers of Sellers' Representative

(a) The Sellers hereby acknowledge that the Sellers have appointed Blansett ("Sellers' Representative"), as their representative authorized to take or authorize any action required to be taken or authorized by the Sellers for such other purposes as more fully set forth herein therefore, any notice signed by the Sellers' Representative shall be valid and binding on the Sellers. Sellers' Representative hereby accepts such appointment and agrees to fulfill the obligations as the representative hereunder and thereunder. The Sellers acknowledge and agree that Buyer shall be entitled to rely upon such appointment. Upon the death or disability of Sellers' Representative, all rights, powers and obligations of Sellers' Representative under this Section 10.10 shall be deemed granted and assumed by such successor representative appointed by the Sellers with the prior written approval of Buyer, such approval not to be unreasonably withheld, delayed or conditioned.

(b) Each Seller hereby acknowledges and agrees that such Seller has entered into this Agreement and has appointed Sellers' Representative as agent and representative of such Seller hereunder and thereunder in consideration of each other Seller doing the same.

(c) The Sellers' Representative shall have the power and authority to give and receive notices on behalf of the Sellers, at such times and on such conditions as the Sellers or the Sellers' Representative are required or permitted to give and receive notices pursuant to this Agreement.

(d) The Sellers' Representative shall have the power and authority to give instructions and directions to Buyer with regard to any matter arising out of or in connection with this Agreement.

(e) The Sellers' Representative shall have the power and authority to take any and all actions that the Sellers' Representative shall determine are necessary or desirable in connection with this Agreement, including, without limitation, making decisions with regard to the disposition of any claims made pursuant to this Agreement; exercising such discretion (either alone or jointly with Buyer) as may be granted to the Sellers pursuant to this Agreement; making deliveries to the Buyer; supervising and conducting any defense of any third party claim; supervising and conducting any dispute resolution process in connection with this Agreement.

(f) The Sellers' Representative shall have the power and authority to enter into such agreements and take such actions on behalf of the Sellers as the Sellers' Representative may determine to be necessary or desirable for purposes of (i) carrying out or facilitating any of the transactions and actions referred to in, or contemplated by, this Agreement, (ii) exercising his authority hereunder or thereunder, or (iii) enforcing the terms and provisions contained in this Agreement.

(g) Any right, power, authority, action, determination or decision permitted or required to be exercised, taken or made by the Sellers' Representative hereunder shall be deemed to have been validly exercised, taken or made if approved by the Sellers' Representative in his sole and absolute discretion. Notwithstanding the foregoing sentence, the Sellers' Representative shall be entitled (but not required) to consult with the Sellers in advance of exercising any right, power or authority, taking any action or making any determination.

(h) Each Seller hereby nominates, constitutes and appoints the Sellers' Representative as his true and lawful attorney-in-fact, with full power of substitution, to act for such Seller and in such Seller's name, place and stead for the purposes of facilitating and effecting, and executing any documents and taking any other actions that said attorney-in-fact may in his sole discretion determine to be necessary, desirable or appropriate in connection with, the transactions contemplated by this Agreement. Each Seller hereby grants to said attorney-in-fact full power and authority to execute, deliver, acknowledge and certify on such Seller's behalf any and all documents which said attorney-in-fact may in his sole discretion determine to be necessary, desirable or appropriate, including without limitation any certificate, notice, request, receipt or other document or instrument provided for or contemplated by this Agreement. Each Seller hereby grants to said attorney-in-fact full power and authority to take any and all actions on behalf of such Seller which said attorney-in-fact may in his sole discretion determine to be necessary, desirable or appropriate in connection with the foregoing transactions or the exercise of any of the foregoing powers. Each Seller hereby ratifies and confirms each act that such attorney-in-fact shall perform in exercise of the power hereby conferred, and it is hereby stipulated that any person dealing with said attorney-in-fact in good faith may accept as conclusive evidence of such fact a written statement by said attorney-in-fact to the effect that the action taken by said attorney-in-fact is within the scope of the authority conferred by this power of attorney. The power of attorney granted by each Seller hereunder is coupled with an interest and is irrevocable.

10.11 *Multiple Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10.12 References and Construction

(a) Whenever required by the context, and is used in this Agreement, the singular number shall include the plural and pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identification the person may require. References to monetary amounts, specific named statutes and generally accepted accounting principles are intended to be and shall be construed as references to United States dollars, statutes of the United States of the stated name and United States generally accepted accounting principles, respectively, unless the context otherwise requires.

(b) The provisions of this Agreement shall be construed according to their fair meaning and neither for nor against any party hereto irrespective of which party caused such provisions to be drafted. Each of the parties acknowledge that it has been represented by an attorney in connection with the preparation and execution of this Agreement.

10.13 *Attorneys' Fees.* In the event any suit or other legal proceeding is brought for the enforcement of any of the provisions of this Agreement, the parties hereto agree that the prevailing party or parties shall be entitled to recover from the other party or parties upon final judgment on the merits reasonable attorneys' fees (and sales taxes thereon, if any), including attorneys' fees for any appeal, and costs incurred in bringing such suit or proceeding.

ARTICLE XI DEFINITIONS

Capitalized terms used in this Agreement are used as defined in this Article XI or elsewhere in this Agreement

11.01 *Affiliate* The term "Affiliate" means, with respect to any person, any other person controlling, controlled by or under common control with such person. The term "Control" as used in the preceding sentence means, with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly or as trustee, personal representative or executor, of the power to direct or cause the direction of the affairs or management of a Person, whether through the ownership of voting securities, as trustee, personal representative or executor, by contract, credit arrangement or otherwise, provided that any Person that owns more than 50% of the interests in another Person shall be deemed to have Control.

11.02 Business Day. The term "Business Day" means any day that is not a Saturday, Sunday, legal holiday or other day on which banks are required to be closed in New York, New York, Miami, Florida or Salt Lake City, Utah.

11.03 Containers. The term "Containers" means above-ground and under-ground storage tanks, vessels and related equipment and containers.

11.04 Contracts. The term "Contracts," when described as being those of or applicable to any person, means any and all contracts, obligations, agreements, franchises, understandings, arrangements, leases, licenses, registrations, authorizations, easements, servitudes, rights of way, mortgages, bonds, notes, guaranties, liens, indebtedness, approvals or other instruments or undertakings to which such person is a party or to which or by which such person or the property of such person is subject or bound, excluding any Permits.

11.05 Current Assets. The term "Current Assets" means the total of the Company's cash, cash equivalents, accounts receivable, inventory (which shall include uninstalled Track), prepaid expenses and deposits as of a particular date, in each case calculated in accordance with GAAP.

11.06 Current Liabilities. The term "Current Liabilities" means the total of the Company's accounts payable and accrued expenses, but excluding Existing Indebtedness and Tax Indebtedness, as of a particular date, in each case calculated in accordance with GAAP.

11.07 Environmental Laws. The term "Environmental Laws" means all statutes, regulations, ordinances, rules, regulations and policies, all court orders and decrees and arbitration awards, and the common law, which pertain to environmental matters or contamination of any type whatsoever. Environmental Laws include, without limitation, those relating to manufacture, processing, use, distribution, treatment, storage, disposal, generation or transportation of Hazardous Materials; air, surface or ground water or noise pollution; Releases; protection of wildlife, endangered species, wetlands or natural resources; Containers; health and safety of employees and other persons; and notification requirements relating to the foregoing.

11.08 Environmental Permits. The term "Environmental Permits" means licenses, permits, registrations, governmental approvals, agreements and consents which are required under or are issued pursuant to Environmental Laws.

11.09 Escrow Agreement. The term "Escrow Agreement" means the escrow agreement dated as of the date hereof between the Buyer, the Sellers and the Company, which shall be in the form of Exhibit B hereto.

11.10 Governmental Authority. The term "Governmental Authority" means any nation or country (including but not limited to the United States) and any state, commonwealth, territory or possession thereof and any political subdivision of any of the foregoing, including but not limited to courts, departments, commissions, boards, bureaus, agencies, ministries or other instrumentalities.

11.11 Hazardous Materials. The term "Hazardous Materials" means pollutants, contaminants, radioactive substances, solid wastes or hazardous or extremely hazardous, special, dangerous or toxic wastes, substances, chemicals or materials, biohazard materials, mold, viruses and fungi within the meaning of any Environmental Law and all pollutants, contaminants, hazardous, dangerous or toxic chemical materials, wastes or any other substances, including without limitation, fuel, lubricating oil and other petroleum substances, PCB's, any industrial process or pollution control waste which could pose a hazard to the environment or the health and safety of any person, or impair the use or value of any portion of the Properties.

11.12 Legal Requirements. The term "Legal Requirements," when described as being applicable to any person, means any and all laws (statutory, judicial or otherwise), ordinances, regulations, judgments, orders, directives, injunctions, writs, decrees or awards of, and any Contracts with, any Governmental Authority, in each case as and to the extent applicable to such person or such person's business, operations or properties.

11.13 Lien. The term "Lien" shall mean any lien, security interest, pledge, bailment, mortgage, hypothecation, deed of trust, conditional sales and title retention agreement (including any lease in the nature

thereof), charge, encumbrance or other similar arrangement or interest in real or personal property, now owned or hereafter acquired, whether such interest is based on common law, statute or contract.

11.14 **Material.** The term "material" shall mean any matter exceeding \$25,000 per occurrence or otherwise material to the operations, business, financial condition, prospects or properties of the Company.

11.15 **New Customer.** The term "New Customer" shall mean any shipper other than a shipper (or Affiliate or successor of a shipper) that has shipped carloads on the Company's Track during the five-year period ending on the Closing Date.

11.16 **Permits.** The term "Permits" means any and all permits, rights, approvals, licenses, authorizations, legal status, orders, certificates or Contracts under any Legal Requirement or otherwise granted by any Governmental Authority.

11.17 **Person.** The term "Person" means any individual, partnership, joint venture, firm, corporation, association, limited liability company, joint stock company, unincorporated organization, trust or other enterprise or any governmental or political subdivision or any agency, department or instrumentality thereof.

11.18 **Properties.** The term "Properties" means any and all properties and assets (real, personal or mixed, tangible or intangible) owned or Used by the Company.

11.19 **Release.** The term "Release" means any spill, seepage, discharge, leak, migration, emission, escape, injection, pouring, pumping, emptying, dumping, disposal or other release or threatened release of any Hazardous Materials into the environment.

11.20 **Regulations.** The term "Regulations" means any and all regulations promulgated by the Department of the Treasury pursuant to the Internal Revenue Code.

11.21 **Related Agreements.** The term "Related Agreements" means any or all of the exhibits to this Agreement and any and all other agreements, instruments or documents required or expressly provided under this Agreement to be executed and delivered in connection with the transactions contemplated by this Agreement.

11.22 **Seller's Knowledge.** The term "Seller's Knowledge" means the actual knowledge of any of the directors, officers or managerial personnel of any Seller, the Company or any Subsidiary with respect to the matter in question, and such knowledge as any of the directors, officers or managerial personnel of any Seller, the Company or any Subsidiary reasonably should have obtained upon diligent investigation and inquiry into the matter in question.

11.23 **Sellers' Representative.** The term "Sellers' Representative" shall mean such Person or any successor appointed pursuant to Section 10.10 hereof.

11.24 **Subsidiaries.** The term "Subsidiaries" means such Persons of which a majority of the outstanding voting securities or other voting equity interests are owned, directly or indirectly, by the Company.

11.25

11.26 **Track.** The term "Track" shall be deemed to include all rails, ties, tie plates, spikes, angle bars, bolts, other fasteners, switches, switch control devices, ballast, signals and other support structures considered necessary to operate a railroad.

11.27 **Used.** The term "Used" means, with respect to the Properties, Contracts or Permits of the Company, those owned, leased, licensed or otherwise held by the Company which were acquired for use or held for use by the Company in connection with the Company's business and operations, whether or not reflected on the Company's books of account.

11.28 Working Capital The term "Working Capital" means the excess of Current Assets over Current Liabilities.

11.29 Working Capital Deficit. The term "Working Capital Deficit" means the excess of Current Liabilities over Current Assets.

[SIGNATURES FOLLOW ON NEXT PAGE]

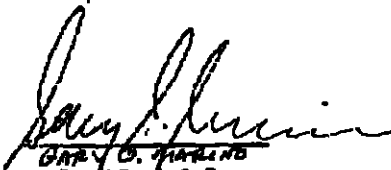
IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives as of the date first written above

BUYER:

Patriot Rail Corp

By

Name
Title


GARY C. PERKINS
PRES. & CEO

SELLER:


Beth A. Blansett

Steve Richards

COMPANY:

Utah Central Railway Company

By


Name Beth A. Blansett
Title President

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives as of the date first written above

BUYER

Patriot Rail Corp

By: _____

Name:
Title:

SELLERS:

Beth A. Blansett


Steve Richards

COMPANY:

Utah Central Railway Company

By: _____

Name:
Title:

Schedule A

<u>Seller</u>	<u>Number of Shares</u>
Beth Ann Blansett	751
Steve M. Richards	220