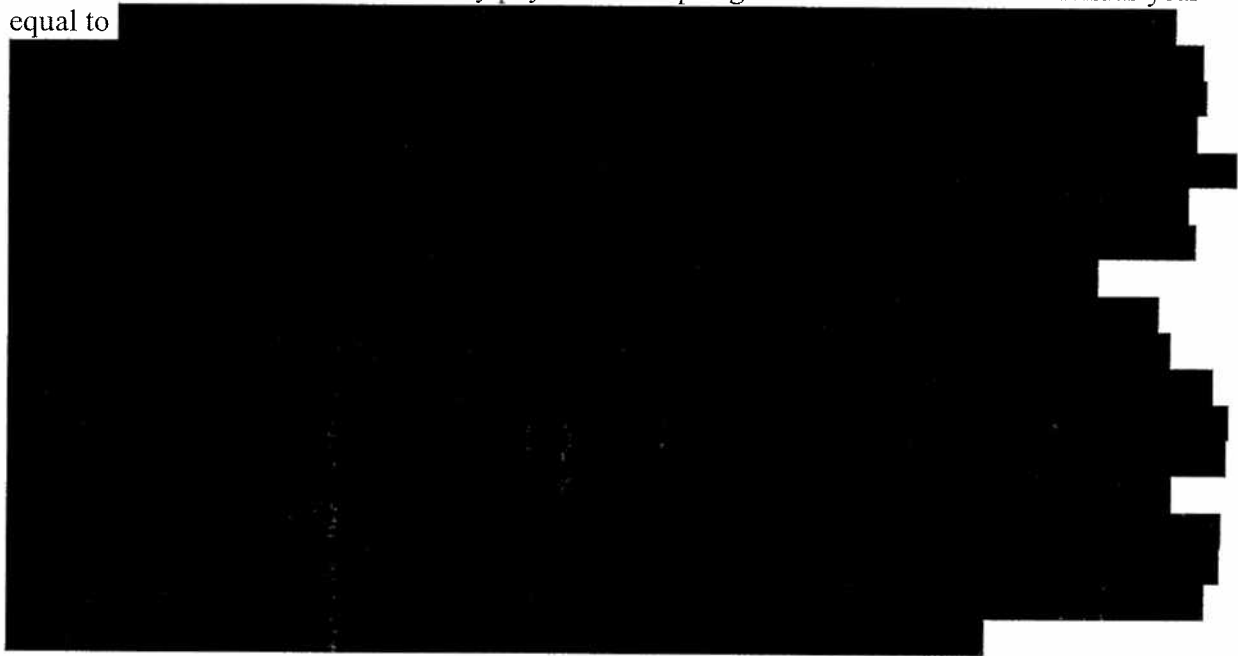


APPENDIX C – OPERATING FEE

The Operating Fee shall consist of the following two elements:

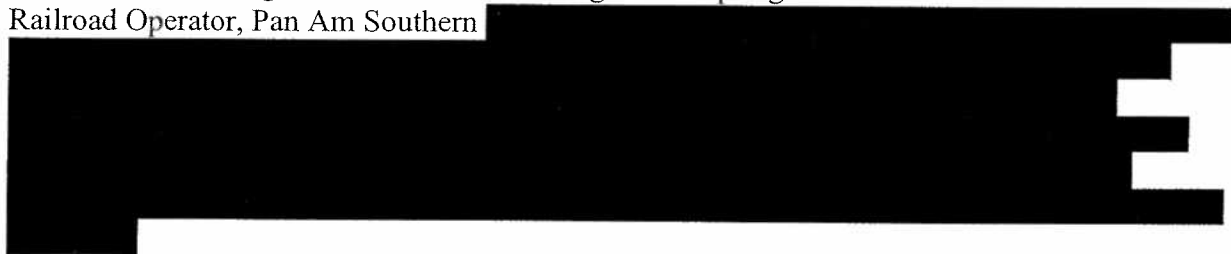
1. Operating Fee Base Element

As partial progress payments for the payment of the annual Operating Fee Base Element, Pan Am Southern shall make monthly payments to Springfield Terminal in each calendar year equal to

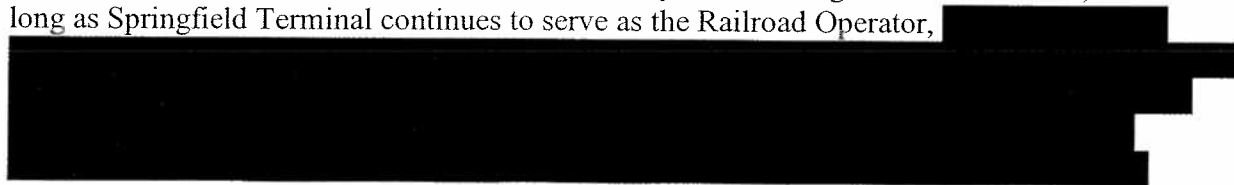


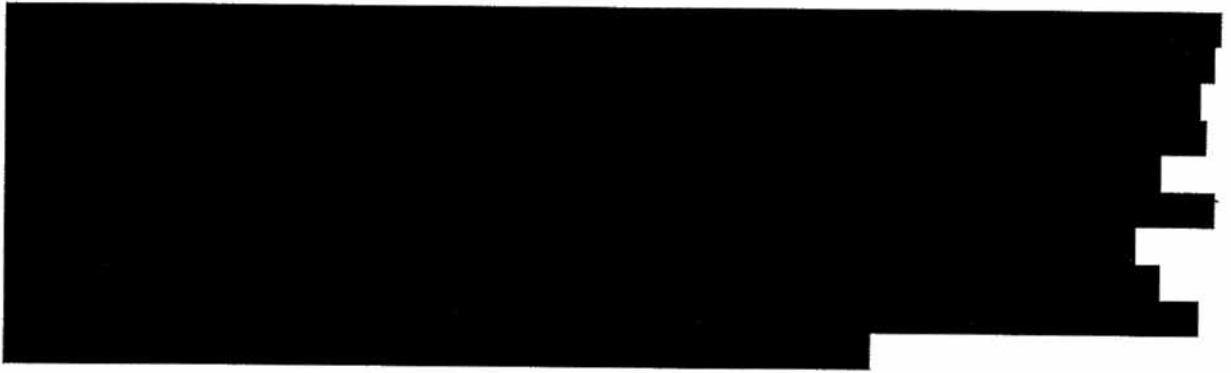
2. Operating Fee Additive Element

For the first full fiscal year, and separately for any partial fiscal year prior to the first full fiscal year, following the Effective Date during which Springfield Terminal serves as the Railroad Operator, Pan Am Southern



For each fiscal year after the first full fiscal year following the Effective Date, and for so long as Springfield Terminal continues to serve as the Railroad Operator,





APPENDIX D – OPERATING EXPENSE ACCOUNTING PLAN

This Appendix D sets forth the methodology for determining (i)

[REDACTED]

[REDACTED]

[REDACTED]

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Reports, Audit Rights and General Principles

Springfield Terminal shall be responsible for generating the data called for by this Appendix and shall update and provide to NSR and Pan Am Southern copies of all tables as of the end of each calendar year to reflect changes applicable thereto for each such calendar year. All such data, including without limitation underlying data used to calculate ratios and any and all financial data of Springfield Terminal from which any such data is derived, shall be subject to audit by NSR and by Pan Am Southern.

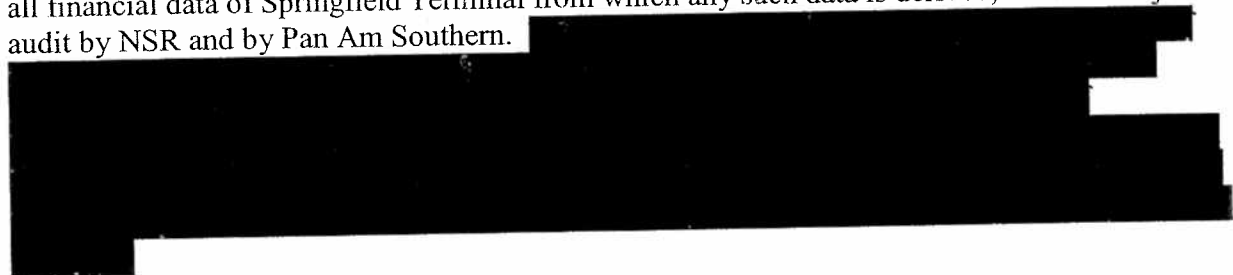


EXHIBIT 2D

CAPITAL PROJECTS AND FACILITY MANAGEMENT AGREEMENT

This CAPITAL PROJECTS AND FACILITY MANAGEMENT AGREEMENT (this "Agreement") is entered into as of this ____ day of _____, 2008, by and among Pan Am Southern LLC, a Delaware limited liability company ("Pan Am Southern"), Springfield Terminal Railway Company, a Vermont company ("Springfield Terminal"), Pan Am Railways, Inc., a Delaware corporation ("Pan Am"), and Norfolk Southern Railway Company, a Virginia corporation ("Norfolk Southern"). Pan Am Southern, Springfield Terminal, Pan Am and Norfolk Southern are referred to individually herein as a "Party" and collectively as the "Parties".

RECITALS:

WHEREAS, Pan Am, Boston and Maine Corporation ("B&M"), Springfield Terminal (collectively with Pan Am and B&M, the "Pan Am System Parties"), and Norfolk Southern entered into a Transaction Agreement (the "Transaction Agreement"), dated as of [], 2008, which provides, among other things, for Norfolk Southern and B&M to form Pan Am Southern pursuant to a Limited Liability Company Agreement of Pan Am Southern between Norfolk Southern and B&M, dated as of [], 2008 (the "LLC Agreement"); and

WHEREAS, the Transaction Agreement provides for B&M and the other Pan Am System Parties to sell in part, and contribute in part, certain railroad lines and trackage rights owned or operated generally in New York, Vermont, Connecticut, Massachusetts, and New Hampshire (the "Line", as more specifically defined in the Transaction Agreement) and certain other related assets to Pan Am Southern; and

WHEREAS, as contemplated by the Transaction Agreement, the Parties now wish to set forth the terms and conditions on which (i) the performance and oversight of Capital Projects and Mechanicville Projects (as hereinafter defined) will be allocated and (ii) Norfolk Southern will oversee the hiring of the operators of Pan Am Southern's intermodal facility in Ayer, MA, automotive facility in Ayer, MA (upon the expiration of the lease thereof to CSX Transportation, Inc.), automotive facility to be constructed in Sanvel and intermodal/automotive facility to be constructed in Mechanicville, NY (each a "Facility" and collectively the "Facilities"); and

WHEREAS, the Parties wish to have equal rights to observe the work performed in connection with the Capital Projects; and

WHEREAS, Norfolk Southern can use its remedies under the Master Norfolk Southern Joint Use Agreement (as hereinafter defined) to terminate the Facility Operating Agreements (as hereinafter defined) that are entered into pursuant to this Agreement.

NOW, THEREFORE, the Parties, intending to be legally bound, agree as follows:

SECTION 1. DEFINITIONS AND INTERPRETATION

- (a) Interpretation Generally.

Unless otherwise defined herein, all words, terms and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.

(b) Capitalized Terms.

All capitalized terms shall have the defined meaning set forth below:

“Agreement” shall have the meaning given to that term in the introductory paragraph.

“B&M” shall have the meaning given to that term in the Recitals.

“Capital Improvement Agreement” shall mean any agreement pursuant to which a third party contractor shall effect one or more Capital Projects for Pan Am Southern, which such agreement shall in all cases include the Capital Project Specifications applicable to the Capital Project.

“Capital Projects” shall mean those capital expenditures relating to the Line as approved in accordance with the LLC Agreement, other than a Mechanicville Project.

“Capital Project Specifications” shall mean the specifications and instructions applicable to a Capital Project or a Mechanicville Project, as approved by the CPC in accordance with the LLC Agreement.

“CPC” shall mean the Capital Project Committee of Pan Am Southern established pursuant to the LLC Agreement.

“Construction Bid Process” shall have the meaning given to that term in Section 2(c).

“Delaware Courts” shall have the meaning given to that term in Section 11(c)(i).

“Dispute” shall have the meaning given to that term in Section 11(a).

“Effective Date” shall have the meaning given to that term in Section 8(a).

“Facility” and **“Facilities”** shall have the meaning given to those terms in the Recitals.

“Facility Operating Agreement” shall have the meaning given to that term in Section 4(b).

“Indemnified Party” shall have the meaning given to that term in Section 6(a).

“Indemnifying Party” shall have the meaning given to that term in Section 6(a).

“JOC” shall mean the Joint Operating Committee of Pan Am Southern established pursuant to the LLC Agreement.

“JV Transaction Agreement” shall have the meaning given to that term in the LLC Agreement.

“Line” shall have the meaning given to that term in the Recitals.

“LLC Agreement” shall have the meaning given to that term in the Recitals.

“Master Norfolk Southern Joint Use Agreement” shall mean the Master Norfolk Southern Joint Use Agreement, dated as of the date hereof, by and among Pan Am Southern, Springfield Terminal and Norfolk Southern.

“Mechanicville Bid Process” shall have the meaning given to that term in Section 2(d).

“Mechanicville Construction Agreement” shall have the meaning given to that term in Section 2(d).

“Mechanicville Project” shall mean a project related to the construction of an intermodal/automotive facility in Mechanicville, New York as approved in accordance with the LLC Agreement.

“Norfolk Southern” shall have the meaning given to that term in the introductory paragraph.

“NS Entity” shall have the meaning given to that term in Section 2(b).

“NS Option Project” shall have the meaning given to that term in Section 2(b).

“NS Project” shall have the meaning given to that term in Section 2(b).

“Operator Bid Process” shall have the meaning given to that term in Section 4(b).

“Pan Am” shall have the meaning given to that term in the introductory paragraph.

“Pan Am Entity” shall mean Pan Am or an affiliated company of Pan Am.

“Pan Am System Parties” shall have the meaning given to that term in the Recitals.

“Party” and **“Parties”** shall have the meaning given to those terms in the introductory paragraph.

“Pan Am Southern” shall have the meaning given to that term in the introductory paragraph.

“Railroad Operating Agreement” shall mean the Railroad Operating Agreement, dated as of the date hereof, by and among Pan Am Southern, Pan Am, Norfolk Southern and Springfield Terminal, generally concerning the railroad operating and administrative services provided by Springfield Terminal for Pan Am Southern.

“Rules” shall have the meaning given to that term in Section 11(c)(ii).

“Springfield Terminal” shall have the meaning given to that term in the introductory paragraph.

“ST Facility Operation” shall have the meaning given to such term in Section 4(a).

“ST Option Project” shall have the meaning given to such term in Section 2(a).

“ST Project” shall have the meaning given to such term in Section 2(a).

“Transaction Agreement” shall have the meaning given to that term in the Recitals.

(c) Construction of Certain Terms and Phrases.

Unless the context otherwise requires, (i) words of any gender include each other gender; (ii) words using the singular or plural number also include the plural or singular number, respectively; (iii) the terms “hereof,” “herein,” “hereby” and derivative or similar words refer to this entire Agreement; (iv) the terms “Article” or “Section” refers to the specified Article or Section of this Agreement; (v) the terms “and” and “or” include the term “and/or” when the context is appropriate; (vi) the terms “include” or “including” also include the words “without limitation” when the context is appropriate. Whenever this Agreement refers to a number of days, such number shall refer to calendar days. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under generally accepted accounting principles, as in effect in the United States of America. All dollar amounts set forth herein are in United States currency. Whenever this Agreement refers to an Appendix, Exhibit or Schedule attached hereto, the Appendix, Exhibit or Schedule shall be deemed to be incorporated by reference. References herein to any agreement or contract mean such agreement or contract as amended.

SECTION 2. CAPITAL PROJECT BID PROCESS

(a) To the extent that Springfield Terminal’s collective bargaining agreements (subject to applicable law) would have, assuming the transaction contemplated by the Transaction Agreement had not occurred, required that Springfield Terminal employees perform certain services required in connection with a Capital Project or a Mechanicville Project (an “ST Option Project”), then Springfield Terminal shall perform such services unless it obtains a waiver, which Springfield Terminal may, but shall not be obligated to, pursue in its sole discretion, of such requirements under its collective bargaining agreements. Pan Am Southern shall give Springfield Terminal notice of each ST Option Project at least sixty (60) days prior to the anticipated commencement thereof, and Springfield Terminal shall have no less than thirty

(30) days within which to provide written notice to Pan Am Southern and Norfolk Southern to the effect that it will perform such ST Option Project or has obtained a waiver under its collective bargaining agreements as referred to above. If Springfield Terminal is to perform any such ST Option Project (an “ST Project”), its performance thereof shall be governed by the terms and conditions set forth in Appendix A.

(b) To the extent that a Capital Project is not an ST Project (an “NS Option Project”), Norfolk Southern shall have the option, but not the obligation, to perform, either directly or through an affiliated company (an “NS Entity”), some or all of the services required in connection therewith. Pan Am Southern shall give Norfolk Southern notice of each NS Option Project within thirty (30) days following receipt of the notice from Springfield Terminal referred to in Section 2(a), and Norfolk Southern shall have fifteen (15) days within which to exercise its option to perform such NS Option Project by written notice to Pan Am Southern. If an NS Entity elects to perform any such NS Option Project (an “NS Project”), its performance thereof shall be governed by the terms and conditions set forth in Appendix A.

(c) To the extent that a Capital Project is not an ST Project or an NS Project, Springfield Terminal shall manage the bid process for the selection of one or more contractors to perform such Capital Projects pursuant to the procedures set forth in Appendix B (the “Construction Bid Process”). No NS Entity or Pan Am Entity shall be permitted to bid to perform such Capital Projects. Springfield Terminal shall determine a preliminary bid winner in accordance with the requirements of the Construction Bid Process and shall submit a related Capital Improvement Agreement between such preliminary bid winner and Pan Am Southern to the CPC for its consideration. Norfolk Southern and Pan Am shall cause their respective representatives on the CPC to approve any Capital Improvement Agreement submitted for its approval by Springfield Terminal hereunder unless Springfield Terminal shall have failed to comply with the requirements of this Section 2(c).

(d) Norfolk Southern shall develop all specifications and instructions for each Mechanicville Project. To the extent that a Mechanicville Project is not an ST Project, Norfolk Southern shall manage the bid process, pursuant to competitive bidding in accordance with Norfolk Southern’s corporate procedures for similar bidding processes that it conducts on its own behalf, for the selection of one or more third party contractors to perform the Mechanicville Project (the “Mechanicville Bid Process”). No NS Entity or Pan Am Entity shall be permitted to bid to perform such Mechanicville Projects with the exception of the provision of materials for use in connection therewith. Norfolk Southern shall determine a preliminary bid winner in accordance with the Mechanicville Bid Process and shall submit one or more related agreements governing the construction projects to be performed by such contractors (a “Mechanicville Construction Agreement”) to the CPC for its consideration. Unless Norfolk Southern shall have failed to comply with the Mechanicville Bid Process, Norfolk Southern and Pan Am shall cause their respective representatives on the CPC to approve each such Mechanicville Construction Agreement.

SECTION 3. CAPITAL PROJECT MANAGEMENT

(a) Each of the Parties shall have the equal right, at its own expense, to observe all aspects of the applicable third party contractor's performance of each Capital Project or Mechanicville Project to ensure compliance with the applicable Capital Improvement Agreement or Mechanicville Construction Agreement. Such right shall include without limitation the right to appoint qualified representatives to personally observe the third party contractor's day-to-day performance on-site at the work location. Pan Am Southern shall provide each of Springfield Terminal, Pan Am and Norfolk Southern with (i) such information as may be reasonably available to Pan Am Southern, (ii) site access at the relevant property of Pan Am Southern and (iii) such other cooperation, in each case as may be reasonably required to facilitate the exercise of the rights granted under this Section 3(a).

(b) With respect to Capital Projects where a third party is the contractor, Springfield Terminal shall be responsible for the oversight and direction of the project on behalf of Pan Am Southern to ensure compliance with the applicable Capital Improvement Agreement. Notwithstanding the foregoing, Norfolk Southern shall have the right to cause Springfield Terminal to provide specific direction to the third party contractor that is not inconsistent with the applicable Capital Improvement Agreement. To the extent that action by Pan Am Southern is deemed, by either Norfolk Southern or Springfield Terminal, necessary or desirable to enforce Pan Am Southern's rights with respect to any Capital Project where a third party is the contractor, Springfield Terminal shall have the affirmative obligation to take such action on behalf of Pan Am Southern and Norfolk Southern shall have the right, but not the affirmative obligation, to cause Springfield Terminal to take such action. Springfield Terminal acknowledges that it may not abrogate its affirmative obligations under the preceding sentence by relying on the right of Norfolk Southern to cause it to take such action. Springfield Terminal shall be compensated for its performance under this Section 3(b) under the terms of the Railroad Operating Agreement.

(c) Norfolk Southern shall be responsible for the oversight and direction of each Mechanicville Project on behalf of Pan Am Southern to ensure compliance with the applicable Mechanicville Construction Agreement. To the extent that action by Pan Am Southern is deemed, by either Norfolk Southern or Springfield Terminal, necessary or desirable to enforce Pan Am Southern's rights with respect to any Mechanicville Project, Norfolk Southern shall have the affirmative obligation to take such action on behalf of Pan Am Southern and Springfield Terminal shall have the right, but not the affirmative obligation, to cause Norfolk Southern to take such action. Norfolk Southern acknowledges that it may not abrogate its affirmative obligations under the preceding sentence by relying on the right of Springfield Terminal to cause it to take such action.

(d) Norfolk Southern shall have the right to observe and inspect any work done in furtherance of ST Projects on behalf of Pan Am Southern to ensure compliance with Appendix A. To the extent that action by Pan Am Southern is deemed necessary or desirable by Norfolk Southern to enforce Pan Am Southern's rights with respect to any such project, Norfolk Southern shall have the right, but not the affirmative obligation, to take such action on behalf of Pan Am Southern.

(e) Springfield Terminal shall have the right to observe and inspect any work done in furtherance of NS Projects on behalf of Pan Am Southern to ensure compliance with Appendix A. To the extent that action by Pan Am Southern is deemed necessary or desirable by Springfield Terminal to enforce Pan Am Southern's rights with respect to any such project, Springfield Terminal shall have the right, but not the affirmative obligation, to take such action on behalf of Pan Am Southern.

(f) A copy of any notice delivered by any Party with respect to a Capital Project or a Mechanicville Project shall be sent contemporaneously to each of the other Parties.

SECTION 4. FACILITY OPERATION BID PROCESS

(a) To the extent that Springfield Terminal's collective bargaining agreements would have, assuming the transaction contemplated by the Transaction Agreement had not occurred, required that Springfield Terminal employees perform certain services required in connection with the operation of the Facilities (such as switching, security, maintenance and other similar services), Springfield Terminal shall perform such services unless it obtains a waiver which Springfield Terminal may, but shall not be obligated to, pursue in its sole discretion, under its collective bargaining agreements, (such services as Springfield Terminal elects to perform the "ST Facility Operation"). Springfield Terminal's performance of the ST Facility Operation shall be governed by the terms and conditions of the Railroad Operating Agreement.

(b) Except with respect to the ST Facility Operation, Norfolk Southern shall manage the bid process for the selection of the initial operator and each subsequent operator of each Facility pursuant to competitive bidding in accordance with its corporate procedures for similar bidding processes that it conducts on its own behalf (the "Operator Bid Process"). No NS Entity or Pan Am Entity shall be permitted to bid to become the operator of any Facility. After evaluating all bids submitted by prospective operators of a Facility pursuant to the Operator Bid Process, Norfolk Southern shall select the winning bidder and present a related agreement governing the operation of such Facility (a "Facility Operating Agreement") to the JOC for approval on behalf of Pan Am Southern. Norfolk Southern and Pan Am shall cause their respective representatives on the JOC to approve any such Facility Operating Agreement unless Norfolk Southern shall have failed to comply with the Operator Bid Process.

(c) Each Facility Operating Agreement shall include, without limitation, the following: (i) a requirement that the operator of the respective Facility submit invoices to Pan Am Southern and to each user of such Facility, with the invoices that are sent to users reflecting a pro rata allocation of the Facility operator's fees in accordance with the usage of such Facility by each such user and (ii) a provision stipulating that Pan Am Southern be required to pay all such invoices, but that payment received from Facility users shall be applied toward satisfaction of Pan Am Southern's payment obligation.

SECTION 5. OVERSIGHT BY PAN AM SOUTHERN

Pan Am Southern (through the CPC as to Sections 2 and 3 and through the JOC as to Section 4), shall have the right, at its own expense, to oversee, observe and review all aspects of

the performance of Springfield Terminal and Norfolk Southern under Sections 2, 3 and 4 hereof, to ensure compliance with the terms thereof. Such right shall be exercised through reasonable means and shall include, without limitation, the right to audit, at reasonable intervals, locations and times, the related records of Springfield Terminal and Norfolk Southern pertaining to such performance.

SECTION 6. INDEMNIFICATION FOR THIRD PARTY CONSTRUCTION OVERSIGHT

(a) Each of the Parties (as applicable, the “Indemnifying Party”) shall indemnify, defend and hold harmless the other Parties and their respective affiliated and subsidiary companies and its and their directors, officers, employees and agents (as applicable, the “Indemnified Parties”) from and against any and all claims, demands, suits, judgments, liability, damages, losses, costs (including reasonable attorneys’ fees) and expenses, arising from or in connection with:

(i) any alleged loss of life of or personal injury to the officers, employees or agents of the Indemnifying Party or damage to or loss of the property of the Indemnifying Party or its officers, employees or agents, that occurred during and in the course of the observance, oversight or direction of third party contractors under Section 3 hereof, unless such injury, death, loss or damage was caused solely by the negligence or intentional misconduct of one or more of the Indemnified Parties; provided, however, that if under the law applicable to enforcement of this Agreement an agreement to indemnify a party against its own negligence is invalid, then the Indemnifying Party’s obligation to indemnify the Indemnified Party shall be reduced in proportion to the negligence of the Indemnified Party, if any, that proximately contributed to such loss of life, personal injury or property loss or damage; and

(ii) except to the extent governed by subsection (a)(i) above, any alleged loss of life of or personal injury to any person or the loss of or damage to any property that occurred during and in the course of the observance, oversight or direction of third party contractors under Section 3 hereof, to the extent caused by the Indemnifying Party’s negligence or intentional misconduct.

(b) The indemnification obligations set forth in this Section 6 shall be the exclusive remedy of the Parties against each other with respect to personal injuries (including death) and/or property damage or loss to whomsoever or whatsoever that arise from or relate to the observance, oversight or direction of third party contractors under Section 3 hereof.

SECTION 7. FORCE MAJEURE

The obligations of Springfield Terminal and Norfolk Southern under this Agreement shall be subject to force majeure (consisting of flood, earthquake, hurricane, tornado, or other such severe weather or climatic condition, riot, explosion, Acts of God, act of terrorism and public enemy, war, blockage, insurrection, vandalism or sabotage, fire, strike, lockout or labor dispute, embargoes or AAR service orders, or governmental laws, orders or regulations, and

other causes or circumstances beyond the control of Springfield Terminal or Norfolk Southern, as the case may be), but only as long as, and to the extent that, such force majeure shall reasonably prevent performance of such obligations. In the event that force majeure impairs Springfield Terminal's or Norfolk Southern's ability to fulfill its obligations under this Agreement, Springfield Terminal or Norfolk Southern, as the case may be, shall take all commercially reasonable measures to restore performance of its obligations in a timely manner.

SECTION 8. TERM AND TERMINATION

(a) This Agreement shall become effective following the latest date of: (a) the date first written above; (b) receipt of any required regulatory approvals or exemptions; and (c) the expiration of any time periods required by the issuance of labor notices by the Parties, should such labor notices be required (the "Effective Date"). The Parties shall determine the Effective Date through an exchange of written correspondence.

(b) This Agreement shall commence on the Effective Date and shall continue until terminated by mutual agreement; provided that this Agreement automatically shall terminate upon any termination of the Railroad Operating Agreement.

(c) Termination of this Agreement shall not relieve or release any Party from any obligations assumed or from any liability which may have arisen or been incurred by such Party under the terms of this Agreement prior to termination hereof.

SECTION 9. SUCCESSORS AND ASSIGNS.

(a) This Agreement shall inure to the benefit of and be binding upon each of the Parties and their respective successors and permitted assigns. No Party may assign this Agreement, or any of its rights, interests or obligations hereunder, including by operation of law, without the prior consent in writing of the other Parties, which consent may be withheld at the discretion of such other Parties.

(b) In the event of a sale of substantially all of the assets or business of a Party, or the merger or consolidation of such Party into or with a firm or corporation not controlled by such Party, such Party may, without the prior consent of the other Parties, assign this Agreement to such firm or corporation acquiring substantially all of its assets or business or merging or consolidating with it; provided, however, that such assignment shall not extinguish or (except in the case of merger or consolidation) transfer any liability or obligation of such Party under this Agreement that existed prior to such assignment.

SECTION 10. NOTICE

Any notice required or permitted to be given by one Party to the other Party under this Agreement shall be deemed given on the date sent by certified mail, or by such other means as the Parties may mutually agree, and shall be addressed as follows:

(a) If to Pan Am Southern:

Chairman
Pan Am Southern LLC
c/o Pan Am Railways
Iron Horse Park
North Billerica, MA 01862-1692

with a copy to:

Vice President Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

(b) If to Springfield Terminal:

David A. Fink
President
Springfield Terminal Railway Company
c/o Pan Am Railways
Iron Horse Park
North Billerica, MA 01862-1692
(978) 663-1186
(978) 663-6907 (fax)

with a copy to:

Robert Culliford
Vice President Law
Pan Am Systems
Iron Horse Park
North Billerica, MA 01862-1692
(603) 766-2002
(603) 766-2094 (fax)

(c) If to Pan Am:

David A. Fink
President
Springfield Terminal Railway Company
c/o Pan Am Railways
Iron Horse Park
North Billerica, MA 01862-1692
(978) 663-1186
(978) 663-6907 (fax)

with a copy to:

Robert Culliford
Vice President Law
Pan Am Systems
Iron Horse Park
North Billerica, MA 01862-1692
(603) 766-2002
(603) 766-2094 (fax)

(d) If to Norfolk Southern:

Mike R. McClellan
Vice President – Intermodal and
Automotive Marketing
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

with a copy to:

Vice President Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

Any Party may provide notice of changes in its address listed above to the other Party by personal service or certified mail.

SECTION 11. DISPUTE RESOLUTION

(a) Any dispute, controversy or claim between or among the Parties and arising out of or relating to this Agreement or the breach, termination or validity thereof (“Dispute”) shall be referred to the involved Parties for resolution. Except as otherwise provided in the LLC Agreement, Disputes involving Pan Am Southern shall be handled for Pan Am Southern by the JOC and, if necessary, may be escalated by the JOC to the Management Committee, as defined in the LLC Agreement.

(b) Any Dispute not resolved within sixty (60) days after receipt by a Party of written notice of such Dispute shall be submitted by any Party (by the Management Committee in the case of Pan Am Southern) for formal dispute resolution pursuant to Section 11(c).

(c) Formal Dispute Resolution:

(i) Submission to Jurisdiction. Each of the Parties hereby (A) consents to submit itself to the exclusive jurisdiction of any Federal or state court located in the State of

Delaware (the "Delaware Courts") in any action to enforce or in aid of the agreement to arbitrate in Section 11(c)(ii) herein or for provisional relief to maintain the status quo or prevent irreparable harm pending the appointment of the arbitrator, and to the non-exclusive jurisdiction of the Delaware Courts for enforcement of any award issued hereunder, (B) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, and (C) waives any objection based on forum non conveniens or any other objection to venue thereof.

(ii) Dispute Resolution. Each of the Parties stipulates and agrees that any Dispute that is not resolved pursuant to Sections 11(a) shall be submitted for formal dispute resolution, if at all, to mandatory and binding arbitration, in Washington, D.C., by a single arbitrator, under the Commercial Arbitration Rules and the Large Complex Case Procedures of the AAA then in effect (the "Rules"), under the following terms and conditions:

(A) Selection of Arbitrator. A single independent arbitrator shall be appointed by the AAA using the listing, ranking and striking procedure in the Rules. Any arbitrator appointed by the AAA shall be a retired judge or a practicing attorney with no less than fifteen years of experience with large commercial cases and an experienced arbitrator.

(B) Conduct of Arbitration. The arbitration shall be held and the award shall be issued in Washington, D.C. In addition to money damages, the arbitrator may award any remedy provided for under applicable law and the terms of this Agreement, including, without limitation, specific performance or other forms of injunctive relief. The arbitrator shall apply the law of the State of Delaware to the substance of the Dispute and will have no power or authority, under the rules of the AAA or otherwise, to amend or disregard any provision of this Agreement.

(C) Replacement of Arbitrator. Should the arbitrator refuse or be unable to proceed with arbitration proceedings, a replacement arbitrator will be selected using the same method of selection as the original arbitrator.

(D) Findings and Conclusions. The arbitrator will, after reaching judgment and award, prepare and distribute to the parties a written award including the findings of fact and conclusions of law relevant to such award and containing an opinion setting forth the reasons for the giving or denial of any award.

(E) Time is of the Essence. The arbitrator is hereby instructed that time is of the essence in the arbitration proceeding, and that the arbitrator shall have the right and authority to issue monetary sanctions against any party if, upon a showing that such party is unreasonably delaying the proceeding.

(F) Temporary Equitable Relief. By agreeing to arbitration, the parties do not intend to deprive any Delaware Court of its jurisdiction to issue a pre-arbitral injunction, pre-arbitral attachment, or other order in aid of arbitration proceedings and the enforcement of any award. Without prejudice to such provisional remedies as may be available under the jurisdiction of a Delaware Court, the arbitrator shall have full authority to grant provisional remedies and to direct the parties to request that any court modify or vacate any temporary or

preliminary relief issued by such court, and to award money damages for the failure of any party to respect the arbitrator's orders to that effect.

(G) Consolidation. The Parties are committed to the prompt and efficient resolution of disputes. Accordingly, if more than one dispute arise under this Agreement and/or any JV Transaction Agreement, such disputes may be brought in a single arbitration. If more than one arbitration is brought with respect to disputes under this Agreement and/or any JV Transaction Agreement, then any Party may request that any arbitration or any new dispute arising under this Agreement or the JV Agreement be consolidated into any prior arbitration. The new dispute or arbitration shall be so consolidated, provided that the arbitrator for the prior (or first filed) arbitration determines that (x) the new dispute or arbitration presents significant issues of law or fact common with those in the pending arbitration; (y) no Party would be unduly prejudiced and (z) consolidation under such circumstances would not result in undue delay for the prior arbitration. Any order of consolidation issued by such arbitrator shall be final and binding upon the parties. Unless the parties otherwise agree, the arbitrator appointed first in time shall serve as the arbitrator for the consolidated arbitration. The Parties waive any right they have to appeal or to seek interpretation, revision or annulment of such order of consolidation under the Rules or in any court. The Parties agree that upon such an order of consolidation, they will promptly dismiss any arbitration brought under this Agreement, the subject of which has been consolidated into another arbitral proceeding.

(H) Discovery. Recognizing the express desire of the parties for an expeditious means of dispute resolution, the arbitrator will allow for limited discovery as may be reasonable under the circumstances.

(I) Costs and Attorneys' Fees. Notwithstanding any rule of the AAA to the contrary, the arbitrators rendering judgment under this Section 11(c) will have the power to award the costs of the arbitration, including reasonable attorneys' fees and expenses to the prevailing party or parties in the arbitration. In any action to enforce this agreement to arbitrate or any arbitral award rendered hereunder, the court may award costs and attorneys' fees against the party resisting enforcement.

(J) Miscellaneous. The arbitrator shall not have the power to award consequential or punitive damages or to determine violations of criminal or antitrust laws. Pending the written decision of the arbitrator, there shall be no interruption in the transaction of business under this Agreement, and all payments in respect thereto shall be made in the same manner as prior to the arising of the dispute until the matter in dispute shall have been fully determined by arbitration, and thereupon such payment or restitution shall be made as required by the written decision of the arbitrator.

SECTION 12. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement, or in connection with an audit by the Internal Revenue Service or other tax authority, or as may be necessary or appropriate for a Party to enforce its rights under this Agreement, during the term of this Agreement (including any extensions thereof), and for a period of three (3) years after termination or expiration of this

Agreement, the terms and provisions of this Agreement and all information to which access is provided or which is obtained hereunder shall be kept confidential and shall not be disclosed to any person other than its members, officers, employees, independent auditors, and attorneys, without the prior written approval of all affected Parties. Notwithstanding anything to the contrary, any Party may disclose this Agreement in connection with an audit by its external auditors, the Internal Revenue Service or other tax authority.

SECTION 13. MISCELLANEOUS PROVISIONS

(a) This Agreement and each and every provision hereof is for the exclusive benefit of the Parties. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of damages or otherwise against any of the Parties.

(b) This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes any and all oral understandings between the Parties.

(c) No term or provision of this Agreement may be changed, waived, discharged, or terminated except by an instrument in writing and signed by all Parties.

(d) The division of this Agreement into articles, sections, and subsections and the insertion of headings and references are for convenience of reference only, and shall not affect the construction or interpretation of this Agreement. Unless the context otherwise requires, all references to articles, sections or subsections are to articles, sections or subsections of this Agreement.

(e) This Agreement is the result of mutual negotiations between the Parties, none of whom shall be considered the drafter for purposes of contract construction.

(f) No consent or waiver, expressed or implied, by a Party of any breach or default by any other Party in the performance by such other Party of its obligations hereunder shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance hereunder by such other Party. Failure on the part of a Party to complain of any act or failure of any other Party or to declare such other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such first mentioned Party of its rights hereunder.

(g) If any provision of this Agreement or the application thereof to any Party or to any circumstance shall be determined by a court of competent jurisdiction to be invalid or unenforceable to any extent or for any reason, the remainder of this Agreement or the application of the provisions thereof to such Party or circumstance, other than those determined to be invalid or unenforceable, shall not be affected thereby and shall be enforced to the fullest extent permitted by law, and the Parties shall promptly enter into such other agreement(s) as their respective legal counsel may deem appropriate in order to replace such invalid or unenforceable provisions in a manner that produces a result which is substantially equivalent to the original terms of this Agreement in all material respects.

(h) Nothing herein shall be interpreted as creating an association, partnership, joint venture or other joint undertaking between or among any of the Parties. Springfield Terminal is an independent contractor and shall not be deemed to be an employee or agent of any of the Parties by reason of its obligations under this Agreement.

(i) This Agreement shall be governed by and interpreted in accordance with the laws of the State of Delaware, without regard to application of the choice of law principles thereof.

(j) This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same instrument.

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

WITNESS: PAN AM SOUTHERN LLC
By: _____

As to Pan Am Southern

WITNESS: SPRINGFIELD TERMINAL RAILWAY COMPANY
By: _____

As to Springfield Terminal

WITNESS: PAN AM RAILWAYS, INC.
By: _____

As to Pan Am

WITNESS: NORFOLK SOUTHERN RAILWAY COMPANY
By: _____

As to Norfolk Southern

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APPENDIX A

CAPITAL PROJECT PERFORMANCE STANDARDS

These Capital Project Performance Standards apply to the performance of ST Projects by Springfield Terminal and to the performance of NS Projects by any NS Entity. As used in this Appendix A, the following terms shall have the following meanings:

“Contractor” shall mean, as applicable, Springfield Terminal or the relevant NS Entity performing the applicable Project.

“Contractor Engineer” shall mean a competent and experienced engineering officer (including his or her appointed representatives) of Contractor who shall be appointed by Contractor to set a construction schedule, provide general oversight and coordination of all Work and perform all other responsibilities given thereto with respect to the applicable Project under this Appendix A.

“Indemnified Parties” shall mean and include, collectively and singularly, Pan Am Southern and the Overseer; affiliates and subsidiaries of Pan Am Southern and the Overseer; and its and their officers, directors, employees and agents.

“Overseer” shall mean, as applicable, Springfield Terminal or Norfolk Southern in the performance of their respective obligations under Sections 3(c) and 3(d) of the Agreement, as applicable.

“Overseer Engineer” shall mean an engineering officer (including his or her appointed representatives) of the Overseer who shall be appointed by the Overseer to perform all responsibilities given thereto with respect to the applicable Project under this Appendix A.

“Project” shall mean the applicable ST Project or NS Project to be performed hereunder.

“Work” shall mean the furnishing of all superintendence, labor, equipment, tools, supplies, signs, transportation and materials and the performance of all services necessary or appropriate to complete the Project.

All capitalized terms used but not otherwise defined in this Appendix A shall have the meaning given to such terms in the Capital Projects and Facility Management Agreement to which this Appendix A is attached. Any deviation from the provisions of this Appendix A shall require the approval of the CPC.

1. Performance. Contractor shall give constant and efficient attention to the faithful and diligent prosecution of the Work in strict accordance with the Capital Project Specifications applicable to the Project. Contractor shall, whether or not specified in the Capital Project Specifications, furnish all additional material and perform all additional services reasonably necessary or appropriate to accommodate the occurrence or discovery of unanticipated conditions in connection with the completion of the applicable Project; provided that Contractor is given an opportunity to revise its cost estimates under Section 2 hereof in response to any such

change.. Contractor shall cure any failure to comply with the applicable Capital Project Specifications at Contractor's sole cost and expense without compensation hereunder.

2. Costs and Estimates. Contractor shall perform the Work at cost plus allowable cost additives intended to approximate internal costs necessary to support the Work, it being acknowledged and understood that Contractor shall not be entitled to profit from the performance of the Work except with respect to materials sourced directly from an affiliate of Contractor. Allowable additives specifically exclude direct costs that would have been incurred by Contractor even if Contractor were not engaged to perform the Work, but do include applicable overheads; provided, however that, where Springfield Terminal is the Contractor, applicable overheads shall not include those for which Springfield Terminal is already compensated under the Railroad Operating Agreement, the express intent of the parties being not to double count any such overheads. Notwithstanding anything to the contrary herein, Contractor shall not be entitled to any compensation for any matter described herein as being at Contractor's sole cost and expense or otherwise payable by Contractor, nor shall Contractor be entitled to reimbursement for any amounts payable under its indemnification obligations hereunder. Together with its written notice to Pan Am Southern indicating that it will perform the Work, Contractor shall submit to Pan Am Southern and the Overseer (a) an estimated schedule for the completion of the Work, including the total time required to complete the Work, and (b) an estimated total cost to complete the Work (including allowable additives), itemized by category including a break-out of material costs separate from labor costs. Contractor shall submit quarterly updates to the foregoing estimates to the Overseer and, before incurring any expense that is inconsistent with the most recently submitted estimates, promptly shall submit revised estimates to the Overseer for approval by Pan Am Southern.

3. Changes. If Contractor determines that a deviation from the applicable Capital Project Specifications is necessary in order to complete the Project, Contractor shall promptly notify Pan Am Southern and the Overseer thereof. The CPC shall then promptly review the details of the requested deviation and, if appropriate, revise the Capital Project Specifications accordingly. Pan Am Southern shall have the right to alter or change the Capital Project Specifications at any time, either before or after commencement of the Work; provided that Contractor is given an opportunity to revise its cost estimates under Section 2 hereof in response to any such change.

4. Workmanship and Material Standards. All materials and workmanship of every description furnished by Contractor shall be of the quality specified in the Capital Project Specifications. Contractor shall replace any materials or workmanship failing to comply with the Capital Project Specifications at Contractor's sole cost and expense without compensation hereunder.

5. Procurement of Materials for Springfield Terminal. Notwithstanding anything to the contrary in this Appendix A, if Springfield Terminal is the Contractor, Norfolk Southern may elect to procure any and all materials necessary for the completion of the Project if it can procure such materials at a lower cost than indicated in Springfield Terminal's cost estimates delivered pursuant to Section 2 of this Appendix A. Risk of loss therefor shall transfer to Springfield Terminal when notice is given by Norfolk Southern that the materials have been placed for unloading or are otherwise available for Springfield Terminal's use. Springfield Terminal shall

unload such materials. Should the materials require further transportation from such delivery point to the work site, such further transportation, and any reloading and subsequent unloading arising out of such further transportation, shall be performed or arranged for by Springfield Terminal; provided that Contractor is given an opportunity to revise its cost estimates under Section 2 hereof in response to any such change..

6. Period for Completion. Contractor shall commence the Work on the starting date fixed in the notice from Pan Am Southern delivered pursuant to Section 2(a) or 2(b) of the Agreement, as applicable, and shall complete the Work in strict accordance with the schedule of dates specified in the applicable Capital Project Specifications. Time is of the essence and all applicable dates, deadlines, time limits and schedules must be strictly followed and met. The starting times and hours of the performance of the Work by Contractor's employees may be varied to meet Pan Am Southern's operating and administrative requirements. Night work may be required to complete the Work on schedule. If night work is required to complete the Work on schedule, Contractor shall provide ample and suitable lighting. Contractor shall not be entitled to additional compensation, except for overtime, for work at night, during legal holidays, or at other than regular business or construction hours.

7. Risk of Loss. Until completion and acceptance of the Project: (a) the Work shall be performed at the sole risk and responsibility of Contractor in every respect and (b) Contractor shall be responsible for and assumes all risk of loss in connection with material furnished or delivered in connection with the Work. Contractor shall be responsible for the safe and suitable storage of all material at the Work site. Contractor shall receive, tag, warehouse, properly store and distribute all equipment and materials and shall account for all equipment and materials, including equipment and materials furnished or procured by other persons or entities for use by Contractor in connection with the Work. Storage locations and method of storage shall in no way interfere with Pan Am Southern's railroad operations. Pan Am Southern may designate material storage locations and require Contractor to move material from storage locations; provided that designation of material storage locations by Pan Am Southern shall in no way effect the risk of loss applicable thereto.

8. Use of Property. Contractor shall have the right and license to enter upon Pan Am Southern's premises to the extent necessary to perform the Work. Before entering upon or making use of any private property in connection with the Work, Contractor shall ensure that Pan Am Southern has obtained the written permission of the owner of such property for such use. Pan Am Southern shall pay any amounts required to be paid to gain access to such properties; provided that Contractor shall be responsible for and shall indemnify Pan Am Southern from and against any access to or use of private property without first ensuring that Pan Am Southern has obtained permission for such access and use. If it shall become necessary or desirable to acquire additional property in connection with the Project, Contractor shall notify Pan Am Southern of such need or desire for consideration by the CPC. Any such acquisition of additional property shall be made, if at all, by Pan Am Southern for Pan Am Southern's benefit.

9. Cooperation with Construction Oversight. Contractor shall cooperate with the other Parties to permit the Construction Oversight and shall cooperate with the Overseer and the Overseer Engineer to permit the performance of their obligations with respect to the Project.

Contractor shall designate a Contractor Engineer as its principal contact person for representatives of the Parties, including the Overseer Engineer, with respect to matters related to each Project.

10. Ecology and Hazardous Commodities.

(a) In its use and occupancy of Pan Am Southern's premises under this Appendix A, Contractor shall comply with all federal, state and local laws, rules, regulations and ordinances controlling air, water, noise, solid wastes and other pollution or relating to the storage, transport, release or disposal of hazardous materials, substances or waste. Contractor shall, at its own expense, make all modifications, repairs or additions to Contractor's equipment and shall install and bear the expense of any and all structures, devices or equipment that may be required under such laws, rules, regulations or ordinances. Contractor shall furnish Pan Am Southern written notice of any and all releases of hazardous wastes or substances whenever such releases are required to be reported to any federal, state or local authority. Such written notice shall identify the substance released, the amount released, and the measures undertaken to clean up and remove the released material and any contaminated soil or water, and shall further certify that no contamination remains. Contractor shall also provide Pan Am Southern with copies of any and all reports made to any governmental agency that relate to the use or occupancy of Pan Am Southern's premises.

(b) Regardless of acquiescence by Pan Am Southern, Contractor shall indemnify and hold harmless the Indemnified Parties from and against all liability, fines or penalties resulting from violation of subsection (a) above and shall reimburse the Indemnified Parties for all costs and expenses incurred thereby in eliminating or remedying such violations unless such liability, fines or penalties arise from the negligence of another Party. Regardless of any acquiescence by Pan Am Southern, Contractor also shall reimburse and hold harmless the Indemnified Parties from and against any and all costs, expenses, attorneys' fees and all penalties or civil judgments obtained against the Indemnified Parties as a result of Contractor's use or release onto the ground or into the water or air of any hazardous substance or waste from or upon the premises of Pan Am Southern or any other person or entity, unless resulting from the negligence of another Party. Nothing in this Section 10 shall in any way limit the more general indemnification provisions set forth in Section 26 of this Appendix A.

11. Protection of Pan Am Southern Property; No Interference with Train Operations.

(a) Contractor shall use special care and vigilance to avoid damage to trains, tracks or other facilities of Pan Am Southern and shall conduct its work so as not to interfere with or delay the movement of trains or other operations of Pan Am Southern. Contractor shall not proceed with any work that might endanger or interfere with the movement of trains or operations or other facilities until Contractor submits a proposed method thereof to Pan Am Southern, provided that such approval shall not relieve Contractor from liability for damages caused by such method. Contractor must exercise care when performing the Work near, under or over tracks and structures carrying railway traffic. If trains, tracks or other facilities are or may become endangered by the operations of Contractor, Contractor shall immediately do such work as may be necessary to restore safety and, upon failure of Contractor to carry out such orders

immediately, Pan Am Southern may take whatever steps are necessary to restore safe conditions. The cost and expense to Pan Am Southern of restoring safe conditions or of any damages to trains, tracks or other facilities caused by Contractor's operations shall be charged against and paid by Contractor or may be deducted from any amounts due, or that become due, to Contractor under this Appendix A. The cost of furnishing trainmen or flagmen deemed necessary by Pan Am Southern for continuity and safety of train operations shall be borne by Pan Am Southern; provided, however, that if such protection is required because of Contractor's failure to comply with the applicable Capital Project Specifications, Contractor shall bear the cost of furnishing such protection.

(b) Contractor shall not be permitted to transport material along or between Pan Am Southern's tracks except as authorized by Pan Am Southern. No blasting close to or near operated tracks, tunnels, structures, wires, pole lines, and other facilities of Pan Am Southern or of tenants on the right of way or property of Pan Am Southern shall be permitted until authorized by Pan Am Southern and proper precautions have been taken and arrangements made with Pan Am Southern to protect such property and to quickly clear all debris from the track. Blasted material must be controlled and smothered wherever such material may endanger tracks, tunnels, structures, wires, pole lines or other property.

12. Safety. Except as provided in Section 11 with respect to train operations, Contractor shall furnish and maintain all requisite watchmen, flagmen, lights, barricades, safeguards, fences and other facilities for the protection of the Work and the safety of the general public and of employees of Pan Am Southern, the Overseer and Contractor. Contractor shall exercise precaution at all times for protection of persons and property. Contractor shall observe the safety provisions of applicable laws and building and construction codes. Machinery and equipment and other hazards shall be guarded in accordance with the safety provisions of the most recent edition of the Manual of Accident Prevention in Construction, published by the Associated General Contractors of America, to the extent that such provisions are consistent with applicable law or regulation.

13. Temporary Roads, Structures and Other Changes. Contractor shall construct and maintain all roads necessary for its use in the Work. No separate compensation shall be due to Contractor for any temporary walkways, scaffolds, roads, bridges, trestles, tracks, structures or detours that Contractor may construct for its own use to carry on or facilitate the Work. Whenever it is necessary for material to be transported across operated track, tracks, or structures, the location and character of the crossing must be approved by Pan Am Southern. The material and labor required to install and maintain such crossing shall be furnished, installed and maintained by Contractor. Such crossing shall be operated and protected in accordance with all safety requirements, and shall be removed by Contractor when it has served its intended purpose. If, in the conduct of the Work, any temporary changes or alterations in pipelines, sewers, drains, conduits, fences, tracks, power or communication lines, or other facilities are necessary, either for the convenience of Contractor or for the performance of the Work, the responsibility for making such changes shall rest with Contractor unless otherwise provided elsewhere in this Appendix A.

14. Inspection. All Work, including all materials, tools and supplies, must be at all times open to inspection, acceptance or rejection by the Overseer at the site of the Work or at plant locations removed from the site of the Work. Contractor must provide reasonable and necessary facilities for such inspection, including whatever samples may be required for making tests and examinations, and all labor and tools required for examining material and workmanship.
15. Order of Completion. Contractor shall complete any portion or portions of the Work in such order and according to the schedule specified in the applicable Capital Project Specifications. Pan Am Southern shall have the right to take possession of and use any completed or partially completed portions of the Work, even though the time for completing the entire Work or such portions thereof may not have expired; but such taking possession and use shall not be deemed an acceptance of the Work so taken or used or any part thereof. If such possession and prior use delays the Work, Contractor shall be entitled to a corresponding extension of time.
16. Contiguous Work. Wherever work being performed by Pan Am Southern forces or by other contractors is contiguous to the Work related to a Project, the respective rights of the various interests involved shall be established by Pan Am Southern.
17. Project Termination. Contractor may terminate its obligation to perform a Project by written notice to Pan Am Southern provided that it has secured a waiver of the contractual obligations referred to in Section 2(a) of the Agreement. Pan Am Southern shall have the right to terminate a Project at any time upon written notice to Contractor.
18. Removal of Equipment. Upon completion of the Work, or in case of termination of a Project before completion for any cause whatever, Contractor shall promptly remove all of its equipment, materials, tools and supplies from the premises of Pan Am Southern and shall promptly clean up all premises occupied by Contractor in connection with performing the Work and leave such premises in a neat and orderly condition. If Contractor fails to do so within five (5) days after notice from Pan Am Southern, Pan Am Southern shall have the right to remove such equipment, materials, tools and supplies at the expense of Contractor.
19. Sales and Use Taxes. Unless otherwise specified, Contractor shall be responsible for and pay all sales and use taxes properly assessed, under any federal, state or local law in effect during the term of this Appendix A, against any materials, tools, supplies, services and equipment furnished directly by Contractor and used in carrying out the Work.
20. Monthly Invoices. Except as otherwise provided, payments for the Work shall be made monthly as the Work progresses. Contractor shall submit to Pan Am Southern an invoice by the tenth day of each month for all amounts payable to Contractor hereunder in connection with the Project with respect to the calendar month preceding such invoice. So long as the Work is performed in accordance with the provisions of this Appendix A, and with such progress as may be satisfactory to Pan Am Southern, the undisputed amount of each such invoice, less a retained amount of five percent (5%), shall be paid to Contractor promptly thereafter. Work and material included in such monthly invoices shall be the property of Pan Am Southern. No payment made

under this Appendix A shall be construed as an acceptance of defective work or improper materials.

21. Final Acceptance. The Work shall be inspected for acceptance by Pan Am Southern promptly upon receipt of written notice from Contractor that the Work has been completed and is ready for such inspection; provided, however, that Pan Am Southern shall not be obligated to accept any part or parts of the Work until the Work as a whole shall have been completed. Notwithstanding anything to the contrary in this Appendix A, (a) Contractor shall not be relieved by any such acceptance of any unperformed obligation that shall have accrued under this Appendix A prior to such acceptance and (b) acceptance by Pan Am Southern of all or any part of the Work shall not constitute any waiver or relinquishment of any warranty, right or remedy with respect to defects not apparent or discoverable upon reasonable inspection.

22. Final Invoice. Upon acceptance of the Work in accordance with Section 21 above, Contractor shall submit a final invoice for all consideration remaining payable under this Appendix A. The undisputed amount of such invoice shall be paid to Contractor promptly thereafter, including all amounts retained pursuant to Section 20 above.

23. Charges Against Contractor. Pan Am Southern shall have the right to apply any sums due or to become due to Contractor under this Appendix A in payment of any liabilities of Contractor, or of any of Contractor's permitted subcontractors, to Pan Am Southern for freight charges, rental of equipment, furnishing labor, materials or supplies, or for any other charges originating from or in connection with this Appendix A.

24. Withholding of Payment. Before any payment is made under this Appendix A, if requested by Pan Am Southern, Contractor shall furnish satisfactory evidence, including but not limited to final releases, waivers of liens and contractor/subcontractor affidavits, that (a) all payrolls and other obligations outstanding for labor, bills for materials and other indebtedness in connection with the Work ("Indebtedness") have been paid, (b) all liens, claims, demands or suits for labor performed or materials or supplies furnished in connection with the Work ("Liens") have been released, dismissed or satisfied and (c) any other claims arising out of or in connection with Contractor's performance under this Appendix A made against Pan Am Southern by any person other than Contractor ("Other Claims") have been released, dismissed or satisfied. Pan Am Southern may withhold from any payment otherwise required under this Appendix A such sums as Pan Am Southern may deem ample to protect it against and assure payment of any Indebtedness, Liens and Other Claims until it receives adequate assurance of the payment, release, dismissal or satisfaction thereof. Alternatively, Pan Am Southern may apply such sums in such manner as Pan Am Southern may deem proper for such protection and assurance. Such application shall be deemed payments for Contractor's account.

25. Daily Reports and Accounting Information. Contractor shall furnish daily or other periodic statements of labor, material and equipment as to each item of Work performed, showing hours worked and rates for the various classes of labor. Upon completion of the Work, Contractor shall furnish to Pan Am Southern a complete list of unit quantities, unit costs and such other information as may be required by Pan Am Southern to comply with its accounting

requirements. If requested, Contractor shall furnish Pan Am Southern “as built” plans of the Work.

26. Indemnification.

Contractor shall indemnify and hold harmless the Indemnified Parties from and against any and all liability, damages, claims, suits, judgments, costs and expenses (including, but not limited to, litigation costs, investigation costs, reasonable attorney fees, environmental clean-up costs), fines, penalties and losses arising from or in connection with:

(a) (i) any alleged loss of life of or personal injury to the officers, employees or agents of Contractor or damage to or loss of the property of Contractor, its officers, employees or agents, arising from, incident to or occurring in connection with the performance by Contractor of the Work or the presence of the officers, employees or agents of Contractor on the property of Pan Am Southern, except to the extent that such loss of life, personal injury or property loss or damage was caused by the negligence or intentional misconduct of the Overseer during and in the course of providing oversight hereunder; provided, however, that if, under the law applicable to enforcement of this Appendix A, an agreement to indemnify a party against its own negligence is invalid, then in that event Contractor’s obligation to indemnify the Indemnified Parties under this Section shall be reduced in proportion to the negligence or intentional misconduct, if any, of the Indemnified Parties that proximately contributed to such loss of life, personal injury or property loss or damage;

(ii) except with respect to persons and property covered by subsection (a)(i) above, any alleged loss of life of or personal injury to any person or the loss of or damage to any property arising from, incident to or in connection with the negligent acts or omissions or intentional misconduct of Contractor; except to the extent that the loss of life or personal injury or property loss or damage was caused by the negligent acts or omissions or intentional misconduct of the Overseer during and in the course of providing oversight hereunder.

(b) any alleged violation of any law, statute, code, ordinance or regulation of the United States or of any state, county or municipal government (including, without limitation, those relating to air, water, noise, solid waste and other forms of environmental protection, contamination or pollution or to discrimination on any basis) that results in whole or in part, directly or indirectly, from the activities of Contractor or its officers, agents, employees or subcontractors related in any way to this Appendix A or from any other act or omission of Contractor, its officers, agents, employees or subcontractors contributing to such violation, regardless of whether such activities, acts or omissions are intentional or negligent, and regardless of any specification by Pan Am Southern without actual knowledge that it might violate any such law, statute, code, ordinance or regulation.

The Parties acknowledge that the Overseer shall not have any liability to any other Party for any loss of life of or personal injury to any person whomsoever or loss of or damage to any property whatsoever alleged to have occurred as a result of, but after, the performance of its obligations as the Overseer under this Appendix A.

27. Compliance With Laws. Contractor shall comply with all laws, statutes, codes, ordinances and regulations of the United States or of any state, county or municipal government (including, without limitation, those relating to air, water, noise, solid waste and other forms of environmental protection, contamination or pollution or to discrimination on any basis) in any way relating to the Work. Without limiting the foregoing, Contractor's employees shall use appropriate personal protective equipment whenever they are exposed to one or more potentially harmful airborne contaminants, such as dust, fumes, mists, sprays, gases or vapors in excess of regulatory permissible exposure limits.

28. Permits. Contractor shall procure, at Contractor's expense and in a timely manner, all permits, licenses, surveys, inspections, certificates and authorizations, of any description, that may be necessary for the performance and completion of the Work as required by this Appendix A. Contractor shall furnish the Overseer Engineer all certificates of inspection for any part of the Work for which a certificate may be required.

29. Liens. If the Work or any part of Pan Am Southern's premises becomes subject to any lien or encumbrance chargeable to or through Contractor, Contractor shall immediately cause such lien or encumbrance to be discharged and released of record without cost to Pan Am Southern.

30. Independent Contractor. Contractor shall be and remain an original and independent party hereunder, and all matters to be performed by Contractor shall be its own separate business, under its management, supervision and direction. Contractor shall employ, pay from his own funds and discharge all persons engaged in the performance of the Work, and all such persons shall be and remain the sole employees of Contractor.

31. Subcontractors. Contractor shall not be permitted to subcontract out any of the Work without the express written consent of Pan Am Southern.

32. Records and Audits. During any Project and for three years following the completion of each Project, Pan Am Southern and the Overseer, through their duly authorized representatives, shall be permitted access, within a reasonable time after request, to Contractor's books, records, accounts and other related documentation, pertaining to any Work performed by Contractor under this Appendix A for the purpose of auditing and verifying the Work, the cost of the Work and/or any other charges or payments billed hereunder.

33. Applicability of Agreement Provisions. The provisions of Sections 7 through 13 of the Agreement shall apply to this Appendix A as if fully set forth herein.

APPENDIX B

CONSTRUCTION BID PROCESS

All capitalized term used but not otherwise defined in this Appendix B shall have the meaning given to such terms in the Capital Projects and Facility Management Agreement to which this Appendix B is attached. Any deviation from the provisions of this Appendix B shall require the approval of the CPC.

1. Competitive Bidding

Competitive bids shall be solicited from construction firms that are qualified to perform the work and capable of securing the necessary bonds to complete the Capital Project. The request for proposals utilized by Springfield Terminal shall allow for a fair comparison of all bids submitted. All bidders shall be given an equal opportunity to participate in the bidding process, including:

- Where appropriate for the type work to be performed, all bidders shall be given at least 10 business days' notice of and shall be invited to attend any pre-bid meetings with potential bidders where the particular Capital Project is to be discussed.
- All bidders shall be given at least 5 business days following the pre-bid meeting to respond to the bid solicitation.
- For projects that do not require a pre-bid meeting, all bidders shall be given at least 10 business days to respond to the bid solicitation.
- All bidders shall be provided copies of (i) the applicable Capital Project Specifications and (ii) the form of Capital Improvement Agreement that will govern the work (the "Form Agreement"), all of which shall be the same for each bidder and shall be given to each bidder at approximately the same time.
- When technical clarifications are requested by a bidder during the bid process, and the response by Springfield Terminal could potentially affect the bid in a significant way, such information will be provided to all registered bidders.

2. Bid Requirements

In order for a bidder's bid to be considered for selection, the bid must:

- be submitted by the bidding deadline;
- include proposed changes, if any, to the Form Agreement; and
- comply with all Capital Project Specifications applicable to the Capital Project.

3. Contractor Qualification

All bidders must include performance and payment bonds, must have adequate insurance and Springfield Terminal shall check each such bidder's references and obtain a Dun & Bradstreet report thereon. Contractors must have all licenses, permits and other approvals required for the performance of the work on the related Capital Project and must submit evidence thereof. Before awarding any bid to any bidder, Springfield Terminal shall ensure that such bidder is not on Norfolk Southern's restricted vendor list.

4. Awarding of Contracts

Contracts shall be awarded to the bidder:

- offering the most cost effective proposal taking into account, among other things, itemized unit costs and total bid cost, as well as the out-of-pocket and lost opportunity costs to Polaris associated with the time required to complete the project as proposed;
- meeting all of the requirements set forth in Sections 2 and 3 above; and
- submitting a bid without significant changes to the liabilities and obligations imposed by the Form Agreement.

5. Change Orders

Once a contract has been entered into with the winning bidder, Springfield Terminal is not authorized to approve any changes to the price or any significant changes to the other requirements applicable to a Capital Project without first obtaining the approval of the CPC. Once approved by the CPC, all approved changes shall be documented in a writing signed by Polaris and the contractor.

**MASTER NORFOLK SOUTHERN
JOINT USE AGREEMENT**

THIS AGREEMENT (the “Agreement”) is entered into as of this ____ day of _____, 2008, by and among Pan Am Southern LLC, a Delaware limited liability Company (“Pan Am Southern”), Springfield Terminal Railway Company (“Springfield Terminal”), a subsidiary of Pan Am Railways, Inc. (“Pan Am”), and Norfolk Southern Railway Company, a Virginia corporation (“Norfolk Southern”). Each of Pan Am Southern, Springfield Terminal, and Norfolk Southern hereinafter are referred to individually as a “Party” and collectively as the “Parties”, and Pan Am Southern and Norfolk Southern hereinafter are referred to individually herein as a “Participant Party” and collectively as the “Participant Parties”.

RECITALS:

WHEREAS, Norfolk Southern, Pan Am, on behalf of itself and its subsidiaries, Boston and Maine Corporation, a subsidiary of Pan Am (“B&M”), and Springfield Terminal entered into a Transaction Agreement (the “Transaction Agreement”), dated as of [], 2008, which provides, among other things, for Norfolk Southern and B&M to form Pan Am Southern; and

WHEREAS, the Transaction Agreement provides for B&M, and, to the extent necessary, for Pan Am to cause any other subsidiary, to sell in part, and contribute in part, certain railroad lines and trackage rights owned or operated generally in New York, Vermont, Connecticut, Massachusetts, and New Hampshire (the “Line”, as more specifically defined in the Transaction Agreement) and certain other related assets to Pan Am Southern (the “Contribution”); and

WHEREAS, Massachusetts Bay Transportation Authority (“MBTA”) operates passenger train service over a portion of the Line; and

WHEREAS, MBTA owns a line of railroad between Milepost 313.77±, CPF WL., near Ayer, MA and Milepost 329.55±, near Fitchburg, MA (the “MBTA Segment”), which constitutes a portion of the operating rights included in the Line; and

WHEREAS, MBTA and one or more of the Pan Am System Parties are parties to several agreements that govern the rights and obligations of each relating to the provision of passenger service, including passenger service on the Line that have been assigned to Pan Am Southern; and

WHEREAS, [the Pan Am System Parties] and Norfolk Southern are parties to that Intermodal Agreement dated as of March 30, 1998, as amended (“1998 Intermodal Agreement”), providing for the provision of haulage services for containers and trailers by the Pan Am System Parties between Mechanicville/Mohawk, NY and certain intermodal terminals; and

WHEREAS, the Transaction Agreement anticipates that, pursuant to a Railroad Operating Agreement, Pan Am Southern initially will hire Springfield Terminal to perform as the designated operator (“Railroad Operator”) for all railroad operations on behalf of Pan Am Southern, including Pan Am Southern railway operations required pursuant to this Agreement; and

WHEREAS, the Parties desire to terminate [the 1998 Intermodal Agreement] and replace it with a new agreement, among other things, to (1) provide a service guarantee, (2) expand the haulage services thereunder to include haulage for multilevels and other rail cars capable of transporting Automotive Traffic, and (3) permit Norfolk Southern to extend haulage services to Canadian Pacific Railway Company ("CP") and/or CP's Delaware and Hudson Railway Company, Inc. subsidiary ("D&H"); and

WHEREAS, the Transaction Agreement provides for Pan Am Southern to grant to Norfolk Southern certain haulage and overhead trackage rights for the movement of traffic in the revenue waybill account of Norfolk Southern ("Norfolk Southern Traffic") and, under certain circumstances, traffic in the revenue waybill account of CP ("CP Traffic") and/or the revenue waybill account of D&H ("D&H Traffic") over the Line; and

WHEREAS, Norfolk Southern, Pan Am, B&M and Springfield Terminal obtained the prior consent of the Surface Transportation Board to consummate the transactions set forth in the Transaction Agreement, including the grant of rights described herein; and

WHEREAS, Norfolk Southern and B&M formed Pan Am Southern in accordance with the Transaction Agreement; and

WHEREAS, Pan Am Southern now wishes to grant Norfolk Southern certain haulage and trackage rights as provided herein; and

WHEREAS, MBTA has granted consent for Pan Am Southern to grant trackage rights over the MBTA Segment to Norfolk Southern as provided herein; and

WHEREAS, given the structure of Pan Am Southern, the Parties desire to grant B&M third-party beneficiary status to enforce this Agreement on behalf of Pan Am Southern; and

WHEREAS, the Parties desire to set forth the terms and conditions upon which Norfolk Southern may use haulage and trackage rights to transport Norfolk Southern Traffic, CP Traffic and D&H Traffic over the Line;

NOW, THEREFORE, the Parties hereto, intending to be legally bound, agree as follows:

SECTION 1. DEFINITIONS AND INTERPRETATION

(a) Interpretation Generally.

(i) Unless otherwise defined herein, all words, terms and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.

(ii) Each definition in this Agreement includes the singular and the plural, and references in this Agreement to the neuter gender include the masculine and feminine

where appropriate. References herein to any agreement or contract mean such agreement or contract as amended. As used in this Agreement, the word “including” means “without limitation”, and the words “herein”, “hereof” and “hereunder” refer to this Agreement as a whole. All dollar amounts stated herein are in United States currency.

(iii) Unless the context requires otherwise, a reference to Pan Am Southern shall be a reference to Pan Am Southern and its Railroad Operator. When Springfield Terminal is operating on behalf of Pan Am, its actions shall not be considered to be those of the Railroad Operator.

(b) Capitalized Terms.

All capitalized terms shall have the defined meaning set forth below:

“1998 Intermodal Agreement” shall have the meaning given to that term in the Recitals.

“Abandonment Notice Period” shall have the meaning given to that term in Section 16(c).

“Abandonment Segment” shall have the meaning given to that term in Section 16(a).

“Agreement” shall have the meaning given to that term in the introductory paragraph.

“AAR” shall mean the Association of American Railroads.

“Automotive Traffic” means finished automobiles, sport utility vehicles, vans (including minivans), trucks and any other vehicles.

“Ayer Automotive Facility” shall mean that facility for the transfer of Automotive Traffic generally located at approximately MP 314 in Ayer, MA.

“Ayer Intermodal Facility” shall mean that intermodal trailer and container transfer facility generally located in Ayer (Devens), MA, but excluding the warehouse complex owned by Pan Am.

“Ayer Switching Agreement” shall mean that Ayer Switching Agreement, dated as of the date hereof, between Springfield Terminal and Pan Am Southern, generally governing the switching by Pan Am Southern of certain railcars of Springfield Terminal.

“B&M” shall have the meaning given to that term in the Recitals.

“Cars” means each loaded or empty railroad freight car (including platform and well rail cars) or similar equipment.

“Chemicals” shall mean traffic moving on STCC 28-xxx-xx and 29-1xx-xx in carload service, excluding STCC 28-2xx-xx and TIH/PIH.

“Contribution” shall have the meaning given to that term in the Recitals.

“Corn Starch” shall mean traffic moving on STCC 20-462-xx.

“Corn Syrup” shall mean traffic moving on STCC 20-461-xx.

“Correction Period” shall have the meaning given to that term in Section 2(b) of Appendix B.

“CP” shall have the meaning given to that term in the Recitals.

“CPFMA” shall have the meaning given to that term in Section 1(a) of Appendix B.

“CP Haulage Cars” shall mean Haulage Cars moving, pursuant to this Agreement, in the revenue waybill account of CP.

“CP Traffic” shall have the meaning given to that term in the Recitals.

“CTC” shall have the meaning given to that term in Section 5(a)(iii).

“D&H” shall have the meaning given to that term in the Recitals.

“D&H Haulage Cars” shall mean Haulage Cars moving, pursuant to this Agreement, in the revenue waybill account of D&H.

“D&H Traffic” shall have the meaning given to that term in the Recitals.

“Destination Facilities” shall refer to the Ayer Automotive Facility, the Ayer Intermodal Facility, and the Sanvel Properties.

“Destination Terminals” shall refer to the Destination Facilities other than the supporting yards.

“Effective Date” shall have the meaning given to that term in Section 11(a).

“End Points” shall mean the “end points” as defined in each of Appendices A, C, D, E and F.

“Equipment” shall mean and be confined to hi-rail vehicles, track inspection equipment and other non-revenue vehicles and machinery (other than locomotives) capable of being operated on railroad tracks that, at the time of an occurrence, are (i) being operated on the trackage upon which such occurrence takes place, or (ii) are on the trackage upon which such

occurrence takes place, or on the adjoining right-of-way, for the purpose of maintenance or repair thereof or the clearing of wrecks thereon.

“Exercise Notice” shall have the meaning given to that term in Section 16(c).

“Flour” shall mean all traffic moving on STCC 20-411-10

“FMV” shall have the meaning given to that term in Section 16(c).

“FRA” shall mean the U.S. Federal Railroad Administration.

“Foreign Railroad” shall mean a railroad that is not a party to this Agreement.

“General Commodities” shall mean Industrial Products other than Hazardous Materials, Plastics, Chemicals, Corn Syrup, Corn Starch and Flour.

“GMX” shall have the meaning given to that term in the introductory paragraph.

“Governmental Authority” shall mean any nation or government, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government or any mediation body or arbitral tribunal, including the STB.

“Haulage Cars” shall mean Cars moved pursuant to the Haulage Rights.

“Haulage Rights” shall have the meaning given to that term in Section 2(b)(i).

“Hazardous Materials” shall mean traffic moving on STCC 49-xxx-xx.

“Industrial Products” shall mean all traffic moving by rail, including automotive and truck parts moving in boxcars, except coal, Automotive Traffic and Intermodal traffic.

“Initial Period” shall have the meaning given to that term in Section 2(a) of Appendix B.

“Intermodal” generally shall mean the movement of containers and trailers onto, on and off of rail cars.

“JOC” shall mean that Joint Operating Committee established pursuant to the LLC Agreement.

“JV Transaction Agreements” shall have the meaning given to that term in the LLC Agreement.

“Line” shall have the meaning given to that term in the Recitals.

“LLC Agreement” shall mean that Limited Liability Company Agreement of Pan Am Southern LLC, by and between Norfolk Southern and B&M, and dated as of [], 2008.

“Loss or Damage” shall have the meaning given to that term in Section 8.

“Major Service Standard Failure” shall have the meaning given to that term in Appendix B.

“Management Committee” shall mean the Management Committee of Pan Am Southern as provided in the LLC Agreement.

“MBTA” shall have the meaning given to that term in the Recitals.

“MBTA Segment” shall have the meaning given to that term in the Recitals.

“Monthly Statement” shall have the meaning given to that term in Section 7(a).

“NECR” shall mean the New England Central Railroad.

“Norfolk Southern” shall have the meaning given to that term in the introductory paragraph.

“Norfolk Southern Haulage Traffic” shall mean the traffic permitted to be moved in accordance with Appendix C, Appendix D, Appendix E and Appendix F.

“Norfolk Southern Intermodal/Automotive Traffic” shall have the meaning given to that term in Section 1(b)(iv) of Appendix B.

“Norfolk Southern Traffic” shall have the meaning given to that term in the Recitals.

“P&W” shall mean the Providence and Worcester Railroad.

“Pan Am” shall have the meaning given to that term in the introductory paragraph.

“Pan Am Southern” shall have the meaning given to that term in the introductory paragraph.

“Pan Am System Parties” shall mean Pan Am, B&M and Springfield Terminal.

“Participant Parties” shall have the meaning given to that term in the introductory paragraph.

“Participant Party” shall have the meaning given to that term in the introductory paragraph.

“Parties” shall have the meaning given to that term in the introductory paragraph.

“Party” shall have the meaning given to that term in the introductory paragraph.

“Person” shall mean an individual or partnership, corporation, trust, association, limited liability company, Governmental Authority or other entity.

“Placement” shall have the meaning given to that term in Section 1(b)(iii) of Appendix B.

“Plastics” shall mean all traffic moving on STCC 28-2xx-xx.

“Qualifying Trains” shall have the meaning given to that term in Section 1(b)(iv) of Appendix B.

“Railroad Operator” shall have the meaning given to that term in the Recitals.

“Release” shall have the meaning given to that term in Section 1(b)(ii) of Appendix B.

“Sanvel Properties” shall mean that facility anticipated to be constructed for the transfer of Automotive Traffic to be located east of Willows Road in Ayer, MA as generally identified as Sanvel on the Ayer Switching Agreement schematic.

“Service Reports” shall have the meaning given to that term in Section 2(a)(ii).

“Springfield Terminal” shall have the meaning given to that term in the introductory paragraph.

“STB” shall mean the Surface Transportation Board or any successor entity thereto.

“Subject Trackage” shall mean the certain lines of railroad covered by any of Appendices A and C through F through I, which appendices identify specific haulage or trackage rights arrangements and the trackage covered thereby.

“Subject Traffic” shall have the meaning given to that term in Section 8(a).

“Termination Period” shall have the meaning given to that term in Section 2(d) of Appendix B.

“TIH/PIH” shall mean, as defined by the definition of “material poisonous by inhalation” to be found at 49 CFR Section 171.8, specifically:

(1) A gas meeting the defining criteria of Section 173.115(c) of Subchapter C (which is titled “Hazardous Materials Regulations”) and assigned to Hazard Zone A, B, C or D in accordance with Section 173.116(a) of Subchapter C;

(2) A liquid (other than as a mist) meeting the defining criteria in Section 173.132(a)(1)(iii) of Subchapter C and assigned to Hazard Zone A or B in accordance with Section 173.133 (a) of Subchapter C; or

(3) Any material identified as an inhalation hazard by a special provision in Column 7 of the Section 172.101 table.

“Trackage Rights” shall have the meaning given to that term in Section 2(a).

“Trackage Rights Notification” shall have the meaning given to that term in Section 2(c) of Appendix B.

“Transaction Agreement” shall have the meaning given to that term in the Recitals.

“Use Invoice” shall have the meaning given to that term in Section 7(a).

“VTR” shall mean the Vermont Railway Company.

“Waiver Notice” shall have the meaning given to that term in Section 16(e).

(c) Successor Laws.

A reference to any particular statute or regulation shall include a reference to any successor statute or regulation.

SECTION 2. TRACKAGE AND HAULAGE RIGHTS

(a) Trackage Rights.

(i) Pursuant to the Transaction Agreement and subject to the terms set forth in this Agreement, Pan Am Southern hereby grants Norfolk Southern trackage rights (collectively, the “Trackage Rights”) between Mechanicville, NY and the Ayer Intermodal Facility, the Ayer Automotive Facility and the Sanvel Properties for Intermodal traffic, Automotive Traffic and CP Traffic and D&H Traffic as more fully described in Appendix A. Norfolk Southern’s use of the Trackage Rights shall be subject to the limitations and restrictions set forth in this Section 2 and Section 3.

(ii) Norfolk Southern shall not exercise its Trackage Rights unless and until a Major Service Standard Failure, as defined in Appendix B to this Agreement, has occurred, and only pursuant to the terms and conditions set forth therein. Pan Am Southern shall provide Norfolk Southern with monthly reports, quarterly reports and annual reports (“Service Reports”) that will provide data to Norfolk Southern sufficient to permit it to determine whether a Major Service Standard Failure has occurred. Failure to exercise its rights under this subsection with respect to any one Major Service Standard Failure time shall not prejudice Norfolk Southern’s rights to exercise its rights with respect to any subsequent Major Service Standard Failure.

(iii) The Trackage Rights shall be for the purpose of Norfolk Southern using the Subject Trackage to operate its trains in overhead movements only and shall not include the right of ingress and egress to any tracks, switches, turnouts, or other track classifications that connect to any point along the Subject Trackage except the End Points.

(iv) Except as may otherwise be permitted by this Agreement, Norfolk Southern shall not use any part of the Subject Trackage for the purpose of switching, storage or servicing Cars or Equipment, or the making or breaking up of trains; provided, however, that Norfolk Southern may use such auxiliary trackage as may be designated by the Pan Am Southern as necessary for the handling of locomotives or cars bad ordered en route.

(v) Norfolk Southern's use of Subject Trackage shall be in common with Pan Am Southern and any other authorized user, and other than as explicitly set forth herein, Pan Am Southern's right to use the Subject Trackage shall not be diminished by this Agreement.

(vi) Norfolk Southern may operate trains in either direction over the Subject Trackage.

(b) Haulage Rights.

(i) Pursuant to the Transaction Agreement and subject to the terms set forth in this Agreement, Pan Am Southern hereby grants Norfolk Southern haulage rights (collectively, the "Haulage Rights") to the extent described in each of the following Appendices:

Appendix C – Haulage Rights between Mechanicville, NY and Gardner, MA to/from an interchange with the P&W, for the movement of any Norfolk Southern Haulage Traffic for which a rate is provided; and

Appendix D – Haulage Rights between Mechanicville, NY and Hoosick Junction for the movement of Norfolk Southern Haulage Traffic to/from an interchange with VTR, for the movement of any Norfolk Southern Haulage Traffic for which a rate is provided; and

Appendix E – Haulage Rights between Mechanicville, NY and East Northfield, MA (and, following reconstruction of the connection at Millers Falls, at Millers Falls, MA), to/from an interchange with the NECR, for the movement of any Norfolk Southern Haulage Traffic for which a rate is provided; and

Appendix F – Haulage Rights between Mechanicville, NY and the Ayer Intermodal Facility, the Ayer Automotive Facility and the Sanvel Properties for

the local delivery of Intermodal traffic, Automotive Traffic and CP Traffic and D&H Traffic.

(ii) Pan Am Southern's obligation to provide Norfolk Southern the Haulage Rights between Mechanicville, NY and the Ayer Intermodal Facility, the Ayer Automotive Facility and the Sanvel Properties hereunder shall cease in the event that Norfolk Southern initiates its Trackage Rights operations pursuant to Section 2(a)(ii) of this Agreement.

SECTION 3. OPERATING AND OTHER RESTRICTIONS

(a) Norfolk Southern Haulage Cars shall at all times remain in the revenue waybill and car hire accounts of Norfolk Southern while moving over the Subject Trackage via the Haulage Rights. CP Haulage Cars shall at all times remain in the revenue waybill and car hire accounts of CP while moving over the Subject Trackage via the Haulage Rights or the Trackage Rights. D&H Haulage Cars shall at all times remain in the revenue waybill and car hire accounts of D&H while moving over the Subject Trackage via the Haulage Rights or the Trackage Rights.

(b) Pan Am Southern shall not be entitled to any line haul revenue for the handling of Norfolk Southern, CP or D&H Haulage Cars, or movement of traffic pursuant to the Trackage Rights, nor shall Pan Am Southern participate in the routing of, nor appear in tariffs, waybills or other shipping documents as a participating carrier in connection with, the movement of any of the same.

(c) Norfolk Southern locomotives and crews operating over the Subject Trackage pursuant to the trackage rights grant shall be equipped to communicate with Pan Am Southern on radio frequencies normally used by Pan Am Southern in directing train movements on the Subject Trackage.

(d) Norfolk Southern's operations over the Subject Trackage shall at all times be subject to the direction and control of the Pan Am Southern and comply in all respects with the safety rules, operating rules and other regulations of the Pan Am Southern.

(e) Norfolk Southern shall make such arrangements with Pan Am Southern as may be required to have each of its employees who shall operate its trains, locomotives, Cars and Equipment over any of the routes traversing the Subject Trackage qualified for operation over the specific route that the employee will operate. Pan Am Southern shall provide, and shall cause its Railroad Operator to provide, reasonable cooperation and assistance in the qualification of Norfolk Southern operating (train and engine) crews for service over the Subject Trackage upon request. Norfolk Southern supervisory personnel who have been qualified to operate over the Subject Trackage may qualify other Norfolk Southern employees for operation of trains over the Subject Trackage.

(f) Except as permitted by Section 2(b) of Appendix F hereto, Norfolk Southern may not, pursuant to this Agreement, grant haulage rights, trackage rights, or other operating rights of any nature on or over the Subject Trackage to any other Person.

SECTION 4. INFRASTRUCTURE

(a) Maintenance.

(i) Pan Am Southern shall be solely responsible for the maintenance, repair, and renewal of the Subject Trackage. Pan Am Southern shall arrange to keep and maintain the Subject Trackage in reasonably good condition for the use herein contemplated, such condition (following the upgrading anticipated by the Transaction Agreement) not to be less than Federal Railroad Administration Class III (or any replacement of it), subject to normal slow orders and the like, but Pan Am Southern does not guarantee the condition of the Subject Trackage or that operations thereover will not be interrupted. Pan Am Southern shall take reasonable steps to ensure that any interruptions will be kept to a minimum and shall use commercially reasonable efforts to avoid such interruptions.

(ii) Existing connections or facilities connecting the trackage owned or operated by Norfolk Southern or with connecting carriers with those of the Subject Trackage shall continue to be maintained, repaired, and renewed by and at the expense of the Person or Persons responsible for such maintenance, repair, and renewal under applicable agreements.

(b) Infrastructure Improvements.

Pan Am Southern from time to time may make changes in, additions and betterments to, or retirements from, the Subject Trackage as shall, in its judgment, be necessary or desirable for the economical or safe operation of the Subject Trackage or as shall be required by any law, rule, regulation, or ordinance promulgated by any governmental entity having jurisdiction, provided that no such retirement shall materially affect operations over the Subject Trackage. Such additions and betterments shall become a part of the Subject Trackage and such retirements shall be excluded from the Subject Trackage.

(c) Loss of Use of the Subject Trackage.

(i) Other than as specifically set forth in this Agreement, Norfolk Southern shall not have, pursuant to this Agreement, any claim against Pan Am Southern for liability on account of Loss or Damage of any kind in the event the use of the Subject Trackage by Norfolk Southern is interrupted or delayed at any time by any cause.

(ii) If the Subject Trackage is unavailable for service due to a derailment, line outage or other interruption of service, then Pan Am Southern shall cooperate and consult, and cause its Railroad Operator to cooperate and consult, with Norfolk Southern in order to address any resulting backlog of trains over a period of time following the resolution of such derailment as may be required to reduce such backlog of Norfolk Southern, CP and D&H Traffic or trains. The operation of such trains shall be prioritized according to service standard protocols to be developed by the JOC.

SECTION 5. MANAGEMENT AND OPERATIONS

(a) Dispatching

(i) Pan Am Southern, through its Railroad Operator, shall have exclusive control over the management and dispatching of the Subject Trackage. Dispatching of the Subject Trackage shall be conducted in a manner as to afford each of Pan Am Southern and Norfolk Southern, and any other present or future user of the Subject Trackage (or any portion thereof) the most economical and efficient movement of its traffic over the Subject Trackage consistent with the demands and needs of other authorized users. For the purposes of dispatching, trains of the same class shall be treated with equal priority, with the four (4) classes of trains (in order of priority) being:

- (1) Passenger;
- (2) Intermodal and Automotive unit trains;
- (3) Regular (other unit and freight trains not scheduled to set off/pick up en route); and
- (4) Other (includes trains and equipment that must operate at restricted speeds, i.e., local, work, or other such equipment movements);

provided, that in the event of a conflict, the dispatcher shall be empowered to deviate from the priorities set forth herein in order to employ best practices to efficiently move all trains.

(ii) Norfolk Southern shall have the right to station a Norfolk Southern employee or agent in the dispatch center operated by Pan Am Southern or its Railroad Operator. Said person shall be present solely as an observer, and shall have no authority to control the movement of trains or otherwise interfere with or adjust the operation of trains, Cars or Equipment operating on the Subject Trackage.

(iii) Pan Am Southern shall cause its Railroad Operator to provide Norfolk Southern with read-only access to the Railroad Operator's central traffic control ("CTC") screens for the Subject Trackage in the offices of Norfolk Southern designated by Norfolk Southern. Pan Am Southern shall be responsible for the cost of modifying its system to the extent necessary to provide Norfolk Southern access to its CTC screens, and Norfolk Southern shall be responsible for the cost of the communications link with Norfolk Southern and the costs to use such link incurred in Norfolk Southern's offices.

(b) Dimensional Loads/Excess Clearance Cars

Norfolk Southern shall not have the right to operate dimensional loads and excess clearance railcars for handling over the Subject Trackage.

(c) Compensation.

Norfolk Southern shall compensate Pan Am Southern for the use of the Subject Trackage in accordance with Appendix G – Compensation.

(d) Mileage and Car Hire.

Norfolk Southern shall assume, report and pay directly all mileage and car hire charges for traffic moving in its revenue waybill account. Norfolk Southern shall cause CP and D&H to assume, report and pay directly all mileage and car hire charges in their respective revenue waybill accounts.

(e) TIH/PIH.

Unless the Parties specifically agree to the contrary, no TIH/PIH traffic shall be permitted in Haulage Cars.

(f) Transfer to Ayer Automotive Facility.

As soon as the Ayer Automotive Facility becomes available upon termination or expiration of the existing lease thereon, the Parties shall cooperate to make the Ayer Automotive Facility operational. Upon reaching operational status (a status that shall be confirmed by an exchange of letters between the Parties) the destination for Automotive Traffic shall be the Ayer Automotive Facility, rather than the Sanvel Properties. Startup costs associated with the transition of Automotive Traffic from the Sanvel Properties to the Ayer Automotive Facility shall be borne by Norfolk Southern. Should there be insufficient capacity at the Ayer Automotive Facility to handle the Norfolk Southern Automotive Traffic, the Sanvel Properties shall remain an automotive distribution facility available to Norfolk Southern pursuant to this Agreement. Pan Am Southern warrants that the Ayer Automotive Facility shall be available for use beginning 2017.

(g) Destination Facility Capacity.

In recognition of the limited capacity of the Destination Facilities, Pan Am Southern shall dedicate all capacity at the Destination Facilities as follows: (i) the Ayer Intermodal Facility shall be dedicated to Norfolk Southern for Intermodal traffic originating or terminating at points west of the facility, and to Springfield Terminal for Intermodal traffic originating or terminating at points on Springfield Terminal east of CPF 312, (ii) the Sanvel Properties shall be dedicated to Norfolk Southern for Automotive Traffic and (iii) as soon as it becomes available upon termination or expiration of the existing lease thereon, the Ayer Automotive Facility shall be dedicated to Norfolk Southern for Automotive Traffic.

SECTION 6. COMPLIANCE WITH APPLICABLE LAWS AND RULES

(a) Each of Pan Am Southern and Norfolk Southern shall comply, and Pan Am Southern shall cause the Railroad Operator to comply, with all applicable federal, state and local

laws, rules, regulations and orders promulgated by any government or governmental agency that relate to the operations contemplated hereunder. If any fine, penalty, cost or charge is imposed or assessed on or against either of them by reason of the other Party's non-compliance (or, in the case of Pan Am Southern, the non-compliance of the Railroad Operator, for which Pan Am Southern shall be responsible) with any such laws, rules, regulations or orders, such non-complying Party shall reimburse and indemnify the other Party for or on account of any such fine, penalty, cost, or charge, and all expenses and attorney's fees incurred in connection therewith, and, to the extent feasible, such non-complying Party shall defend the interests of that other Party in any related legal proceeding free of cost, charge or expense to that other Party.

(b) Without affecting the generality of the foregoing Section 6(a), each of Pan Am Southern and Norfolk Southern shall comply, and Pan Am Southern shall cause the Railroad Operator to comply, with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and any other applicable federal and state and local laws, regulations and rules respecting the operation, condition, inspection and safety of its trains, locomotives, Cars and Equipment while such trains, locomotives, Cars, and Equipment are being operated over the Subject Trackage. Each of those Parties shall indemnify, protect, defend, and save harmless the other from and against all fines, penalties and liabilities imposed upon such Party under such laws, rules, and regulations by any public authority or court having jurisdiction, when attributable solely to the failure of indemnifying Party (or, in the case of Pan Am Southern, the failure of the Railroad Operator, for which Pan Am Southern shall be responsible) to comply with its obligations in this regard.

(c) Trains operated pursuant to this Agreement shall not include locomotives, Cars or Equipment which exceed the width, height, weight or other restrictions or capacities of the Subject Trackage as contained in the clearance file maintained by Pan Am Southern, and no train shall contain locomotives, Cars or Equipment which require speed restrictions or other movement restrictions below the maximum authorized freight speeds as provided by Pan Am Southern's operating rules and regulations, without the prior consent of Pan Am Southern. The JOC shall make proper accommodation for exceptions, should that be reasonable, necessary, and practicable.

(d) If any employee of Norfolk Southern shall neglect, refuse, or fail to abide by Pan Am Southern's rules, instructions and restrictions governing the operation on or along Pan Am Southern's property, such employee shall, upon written request of Pan Am Southern, be prohibited by Norfolk Southern from working on Pan Am Southern's property. If any Person shall deem it necessary to hold a formal investigation to establish such neglect, refusal, or failure on the part of any employee of Norfolk Southern, then upon such notice presented in writing, Norfolk Southern shall promptly hold an investigation in which all Parties concerned shall participate, with each Party bearing the expense for its officers', counsel's, witnesses' and employees' participation. Norfolk Southern shall give notice of such investigations to its employees, and such investigation shall be conducted in accordance with the terms and conditions of schedule agreements between the employer and its employees. If the result of such investigation warrants, such employee shall, upon written request by Pan Am Southern, be withdrawn by Norfolk Southern from service on Pan Am Southern's property and Norfolk

Southern shall release and indemnify Pan Am Southern from and against any and all claims and expenses because of such withdrawal.

SECTION 7. INVOICES AND PAYMENT OF BILLS

(a) On or before the 15th day of each calendar month during the term of this Agreement, the Railroad Operator shall prepare on behalf of Pan Am Southern a monthly statement setting forth the number of Cars operated over the Subject Trackage during the month pursuant to this Agreement (the "Monthly Statement") and an invoice (the "Use Invoice"). The Monthly Statement shall be in electronic format, and shall contain a detailed list of the Cars that moved during the subject month, which list shall include, for each Car, information relating to such Cars that Pan Am Southern may reasonably request in connection with accounting for the use of the services and rights provided hereunder. The Monthly Statement and the Use Invoice shall be delivered to Norfolk Southern and Norfolk Southern shall make payment to Pan Am Southern within thirty (30) days after the date of receipt of such Use Invoice.

(b) Any dispute regarding the amount of a Monthly Statement or Use Invoice shall be reconciled between the Participant Parties pursuant to Section 14, and any adjustment resulting from such reconciliation shall be reflected in a subsequent Use Invoice. If Norfolk Southern disputes any portion of a Use Invoice, it shall nevertheless pay such Use Invoice in full subject to adjustment upon resolution of the dispute; provided, however, that (i) no exception to any charge in a Use Invoice shall be honored, recognized or considered if filed after the expiration of three (3) years from the date of the Use Invoice, and (ii) no invoice shall be rendered more than three (3) years (a) after the last day of the calendar month in which the expense covered thereby is incurred, or (b) in the case of charges disputed as to amount or liability, after the amount owed or liability therefor is established. Any claim for the adjustment of a Monthly Statement or Use Invoice shall be deemed to be waived if not made in writing within three (3) years after the date of the relevant Monthly Statement for statement adjustments and the date of the relevant Use Invoice for invoice adjustments.

(c) Pan Am Southern and Norfolk Southern shall each have the right, at its own expense, to audit the records of any other Participant Party (including, for operations of Springfield Terminal pursuant to the Railroad Operating Agreement, of Springfield Terminal) pertaining to the use of the Subject Trackage under this Agreement, and any Monthly Statement, Use Invoice or other invoice issued by Pan Am Southern pursuant to this Agreement, provided such audit is initiated at any time within three (3) years of the date of the relevant Use Invoice or other invoice (as applicable) relating to this Agreement. All such audits shall be conducted at reasonable intervals, locations, and times. All such audits shall be prosecuted with reasonable due diligence. Each Participant Party and Springfield Terminal agrees that all information disclosed to it or its representatives in connection with such an audit will be held in strictest confidence and will not be disclosed to any third party (other than to an arbitrator in connection with an arbitration conducted pursuant this Agreement or as required by applicable law). Any adjustment resulting from an audit conducted pursuant to this Section 7(c) with respect to which the Participant Parties are in concurrence shall be reflected in a subsequent Use Invoice.

(d) Invoices rendered pursuant to the provisions of this Agreement, other than Use Invoices, shall include direct labor and material costs, together with the surcharges, overhead percentages, and Equipment rentals as specified by Pan Am Southern at the time any work is performed by Pan Am Southern for Norfolk Southern, or shall include actual costs and expenses, upon mutual agreement of the Participant Parties.

SECTION 8. LIABILITY

Except as provided in Section 5(b) of Appendix F, as between the Parties hereto, responsibility for all claims, liabilities, demands, actions at law or equity, judgments, settlements, losses, damages and expenses of every character, including any loss or destruction of, or damage to, any property whatsoever, and any injury to or death of any person or persons whomever (including employees of the Participating Parties or Springfield Terminal), resulting from, arising out of, incidental to or occurring in connection with this Agreement ("Loss or Damage"), shall be allocated as follows, without regard to considerations of fault or negligence (except as otherwise specifically provided for hereinafter):

(a) Norfolk Southern Cars, D&H Cars and CP Cars moving pursuant to this Agreement shall, for the purposes of this Section 8, be referred to as "Subject Traffic". Otherwise, for the purposes of assigning responsibility for Loss or Damage under this Section 8 (including but not limited to Section 8(e)) as between the Participating Parties, the trains, Cars and Equipment of a Foreign Railroad shall be considered to be the trains, Cars and Equipment of Pan Am Southern. By way of illustration only, if, for example, Pan Am Southern were to grant D&H trackage rights pursuant to a trackage rights agreement, then traffic moving pursuant to that D&H trackage rights agreement would be Pan Am Southern traffic.

(b) Pan Am Southern shall be responsible for Loss or Damage arising, in whole or in part, from any conditions involving, or connected with, the Destination Terminals or any trackage within the Destination Terminals that are owned or otherwise controlled by Pan Am Southern, or the operations or conditions therein or thereon. Norfolk Southern shall be responsible for Loss or Damage arising, in whole, or in part, from any condition involving its terminal or any trackage within its terminal that are owned or otherwise controlled by Norfolk Southern.

(c) Except as set forth in Section 8(b), Norfolk Southern shall be responsible for: (1) Loss or Damage to Equipment in its revenue waybill account and the lading therein; and (2) to the extent not allocated pursuant to Section 8(d)(1), Loss or Damage arising from or growing out of its negligence or willful misconduct or that of its officers, agents, contractors (other than Pan Am Southern, to the extent Pan Am Southern is considered a contractor hereunder, and Springfield Terminal, to the extent Springfield Terminal is a contractor to Pan Am Southern), or employees, either solely or in conjunction with a third party.

(d) Except as set forth in Section 8(b), Pan Am Southern shall be responsible for: (1) Loss or Damage to Equipment in its revenue waybill account and the lading therein; and (2) to the extent not allocated pursuant to Section 8(c)(1), Loss or Damage arising from or growing out

of its negligence or willful misconduct or that of its officers, agents, contractors (including the Railroad Operator), or employees, either solely or in conjunction with a third party.

(e) Except as set forth in Section 8(b), and to the extent not allocated pursuant to Section 8(c)(1) or Section 8(d)(1), Loss or Damage arising from or growing out of the negligence or willful misconduct of both Norfolk Southern and Pan Am Southern (or, as to Pan Am Southern, that of the Railroad Operator, and in each case of Norfolk Southern, Pan Am Southern and the Railroad Operator, their respective officers, agents, contractors or employees) shall be borne by the Participating Parties in proportion to their fault.

(f) To the extent responsibility for Loss or Damage is not allocated pursuant to Section 8(b), 8(c), 8(d) or Section 8(e) such responsibility for Loss or Damages shall be:
(i) borne solely by Norfolk Southern if the involved trains are handling only Subject Traffic, or
(ii) borne by each of Pan Am Southern and Norfolk Southern in proportion to the number of Cars in such trains that are moving in that Party's revenue waybill account or car hire account, with Subject Traffic Cars being counted for this Section 8(f) as if they were Norfolk Southern Cars.

(g) Notwithstanding anything to the contrary in Section 8(b), Section 8(c), Section 8(d), Section 8(e) and Section 8(f) above, when any damage to or destruction of the environment, including without limitation land, air, water, wildlife, and vegetation, or to third parties from substances transported in cars or contained in locomotives occurs with one or more trains handling Subject Traffic Cars being involved, then, as between themselves, (i) Pan Am Southern shall be solely responsible for any damage or destruction to the environment and to third parties which results solely from a substance transported in Pan Am Southern Cars and/or contained in a Pan Am Southern locomotive which was released, (ii) Norfolk Southern shall be solely responsible for any damage or destruction to the environment and to third parties which results solely from a substance transported in Subject Traffic Cars and/or contained in a Norfolk Southern locomotive which was released, and (iii) responsibility for damage or destruction to the environment and to third parties which results from one or more substances which was (or were) being transported in Cars, Equipment or locomotives in the revenue waybill account and car hire accounts of both Norfolk Southern and Pan Am Southern which was (or were) released shall be borne by the Participant Parties in proportion to the total number of such Cars, Equipment or locomotives in that Party's revenue waybill account or car hire account from which there was (or were) such a release, with Subject Traffic Cars being counted for this Section 8(g) as if they were in Norfolk Southern's revenue waybill account or car hire account.

(h) Notwithstanding anything to the contrary in this Section 8, if: (i) Loss or Damage occurs with one or more trains being involved; (ii) one or more of the involved trains is handling (A) only Subject Traffic Cars or (B) both Subject Traffic Cars and Pan Am Southern Cars; (iii) such Loss or Damage is attributable solely to the Gross Negligence or Willful or Wanton Misconduct of only one of the Participant Parties to this Agreement (or of Springfield Terminal in its role as the Railroad Operator for Pan Am Southern); and (iv) such Gross Negligence or Willful or Wanton Misconduct is the direct or proximate cause of such Loss or Damage, then the Party to which such Gross Negligence or Willful or Wanton Misconduct is attributable shall assume all liability, cost and expense in connection with such Loss or Damage. The Parties agree that, for purposes of this Section 8(h), (1) "Gross Negligence or Willful or Wanton

Misconduct” shall be defined as “the intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another; such a gross want of care and regard for the rights of others as to justify the presumption of willfulness and wantonness” and shall include, by definition, acts or omissions of any its employees while under the influence of drugs or alcohol; and (2) Subject Traffic Cars being handled in haulage shall be considered Pan Am Southern Cars.

(i) If any suit or action shall be brought against any Party for Loss or Damage which under the provisions of this Agreement are in whole or in part the responsibility of another Party, said responsible Party shall be notified in writing by the Party sued, and the Party so notified shall have the right and be obligated to take part in the defense of such suit and shall pay its share of the judgment and the costs and expense incurred in such suit in accordance with the terms of this Section 8.

(j) In every case of death or injury suffered by an employee of one of the Parties, when compensation to such employee or employee’s dependents is required to be paid under any present or future state or federal worker’s compensation, occupational disease, employers’ liability or other law, and one or more of the Parties under provisions of this Agreement is/are required to pay same or a portion of same in installments over a period of time, said Party or Parties shall not be released from paying any such future installment(s) by reason of the termination of this Agreement prior to any of the respective date(s) upon which any such future installments are to be paid.

(k) Whenever any liability, cost or expense is assumed by or allocated to a Party under this Section 8, that Party shall: (i) forever protect, defend, indemnify and save harmless the other Party from and against that liability, cost and expense, regardless of whether such liability, cost and expense was caused in whole or in part by the fault, failure, negligence, misconduct, malfeasance or misfeasance of the Party indemnified, or their directors, officers, agents or employees, and (ii) defend such Party against such claims with counsel selected by the responsible Party and reasonably acceptable to the indemnified Party.

(l) Each of Pan Am Southern and Norfolk Southern shall investigate, adjust and defend all cargo related claims filed with it in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract entered into pursuant to 49 U.S.C. Section 10709.

(m) All costs and expenses in connection with the investigation, adjustment and defense of any claim or suit (other than cargo-related claims made against a Party by a customer whose traffic was moving in the revenue and/or car hire account of such Party) under this Agreement shall be included as costs and expenses in applying the liability provisions of this Section 8; provided, however, that salaries or wages of full-time agents, full-time attorneys and other full-time employees of any Party engaged directly or indirectly in such work shall be borne by such Party.

(n) No Party shall settle or compromise any claim, demand, suit or cause of action (other than a cargo-related claim filed with it in accordance with 49 U.S.C. Section 11706 or 49

C.F.R. Section 1005, or in accordance with any applicable transportation contract entered into pursuant to 49 U.S.C. Section 10709) for which another Party has any liability under this Agreement without the concurrence of such other Party if the consideration for such settlement or compromise exceeds Thirty-Five Thousand Dollars (US) (\$35,000). The foregoing amount of Thirty-Five Thousand Dollars (\$35,000) shall be adjusted annually in accordance with the provisions of Section 2 of Appendix G.

(o) Each Party shall indemnify and hold harmless the other Parties against any and all costs and payments, including benefits, allowances, and arbitration, administrative and litigation expenses, arising out of claims or grievances made by or on behalf of or lawsuits brought by or on behalf of its own employees or their collective bargaining representatives, either pursuant to employee protective conditions imposed by a governmental agency upon the agency's approval or exemption of this Agreement and operations hereunder or pursuant to a collective bargaining agreement. It is the Parties' intention that each Party shall bear the full costs of protection of its own employees under employee protective conditions that may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees. Similarly, each Party agrees to indemnify and hold harmless the other Parties against any and all costs and payments, including judgments, damages, attorneys' fees and litigation expenses, arising out of claims, lawsuits and actions brought by or on behalf of its own employees pursuant to any provision of law, including common law, and based on employment arising out of the operations covered by this Agreement, except to extent otherwise specifically provided in this Agreement.

SECTION 9. RERAILING, WRECKING, BAD ORDERS AND REPAIRS

(a) Whenever one or more Cars and/or locomotives in the account of Norfolk Southern requires rerailling, wrecking service or wrecking train service, Pan Am Southern shall arrange for the provision of such service, including the repair and restoration of roadbed, the Subject Trackage and structures. Pan Am Southern shall promptly inform Norfolk Southern of its intent to proceed with wrecking service or wrecking train service, and shall permit a Norfolk Southern representative to be present on the scene, to work in concert with the employees of Pan Am Southern and its Railroad Operator to manage such wrecking service or wrecking train service. The cost, liability and expense of the foregoing, including without limitation loss of, damage to, or destruction of any property whatsoever and injury to and death of any person or persons whomsoever or any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, resulting therefrom shall be apportioned in accordance with the provisions of Section 8 hereof. All locomotives, Cars, Equipment and salvage from the same so picked up and removed which is owned by or under the management and control of or used by Norfolk Southern at the time of such wreck, shall be promptly delivered to it.

(b) If any Cars or locomotives of Norfolk Southern are bad ordered en route on the Subject Trackage and it is necessary that they be set out, those Cars or locomotives shall, after being repaired, be picked up by Pan Am Southern, or if agreed upon by the Participant Parties, Pan Am Southern will transport them to a mutually acceptable location to be picked up by

Norfolk Southern. Pan Am Southern may, upon request of Norfolk Southern and at the expense of Norfolk Southern, unless otherwise provided for in the Field and Office Manuals of the Interchange Rules of the AAR, furnish required labor and material to perform light repairs required to make such bad ordered Cars or locomotives safe and lawful for movement, and billing for this work shall be at rates prescribed in, and submitted pursuant to, the Field and Office Manuals of the Interchange Rules of the AAR.

SECTION 10. FORCE MAJEURE

The obligations, other than payment obligations, of Norfolk Southern and Pan Am Southern under this Agreement shall be subject to force majeure (including flood, earthquake, hurricane, tornado, or other such severe weather or climatic condition, riot, wreck, derailment, washout, explosion, Acts of God, act of terrorism and public enemy, war, blockage, insurrection, vandalism or sabotage, fire, strike, lockout or labor dispute, embargoes or AAR service orders, or governmental laws, orders or regulations, and other causes or circumstances beyond the control of the Party invoking such force majeure as an excuse for nonperformance), but only as long as, and to the extent that, such force majeure shall reasonably prevent performance of such obligations by the affected Party. In the event that an event of force majeure impairs any Party's ability to fulfill its obligations to the other Parties under this Agreement, said Party shall take all commercially reasonable measures to restore performance of its obligations in a timely manner.

SECTION 11. TERM AND TERMINATION

(a) This Agreement shall become effective following the latest date of: (a) the date first written above; (b) receipt of any required regulatory approvals or exemptions; and (c) the expiration of any time periods required by the issuance of labor notices by the Parties, should such labor notices be required ("Effective Date"). The Participant Parties shall determine the Effective Date through an exchange of written correspondence.

(b) This Agreement, and each of the rights covered by Appendices A, C, D, E and F shall commence on the Effective Date and shall continue until terminated by mutual agreement. Upon the termination of any one or more particular the rights covered by Appendices A, C, D, E or F, this Agreement and the rights covered by all remaining appendices shall remain in full force and effect.

(c) Termination of this Agreement, or termination of the rights covered by any particular Appendices A, C, D, E or F, shall not relieve or release any Party hereto from any obligations assumed or from any liability which may have arisen or been incurred by such Party under the terms of this Agreement prior to such termination, nor shall it terminate any underlying right, or contingent right, of movement pursuant to the trackage rights grant.

SECTION 12. SUCCESSORS AND ASSIGNS.

(a) This Agreement shall inure to the benefit of and be binding upon each of the Parties and their respective successors and permitted assigns. Third party beneficiary status shall inure to the benefit of Pan Am and each of its successors and permitted assigns.

(b) Except as otherwise specifically provided hereinafter, a Party may assign this Agreement, or any of its rights, interests or obligations hereunder, including by operation of law, only with the prior consent in writing of the Participant Parties, which consent may be withheld at the discretion of such Participant Parties.

(c) In the event of a sale of substantially all of the assets or business of Norfolk Southern, or the merger or consolidation of Norfolk Southern into or with a firm or corporation not controlled by Norfolk Southern, Norfolk Southern may, without the prior consent of Pan Am Southern, assign this Agreement to such firm or corporation acquiring substantially all of the assets or business of Norfolk Southern, or merging or consolidating with Norfolk Southern; provided, however, that such assignment shall not extinguish or (except in the case of merger or consolidation) transfer any liability or obligation of Norfolk Southern under this Agreement that existed prior to such assignment.

(d) In the event of a sale of substantially all of the assets or business of Pan Am Southern, or the merger or consolidation of Pan Am Southern, Pan Am Southern may, without the prior consent of Norfolk Southern, assign this Agreement to such firm or corporation acquiring substantially all of the assets or business of Pan Am Southern, or merging or consolidating with Pan Am Southern; provided, however, that such assignment shall not extinguish or (except in the case of merger or consolidation) transfer any liability or obligation of Pan Am Southern under this Agreement that existed prior to such assignment.

SECTION 13. NOTICE

Any notice required or permitted to be given by one Party to the other Party under this Agreement shall be deemed given on the date sent by certified mail, or by such other means as the Parties may mutually agree, and shall be addressed as follows:

If to Pan Am Southern:	Chairman Pan Am Southern LLC c/o Pan Am Railways Iron Horse Park North Billerica, MA 01862-1692
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With a copy to
Norfolk Southern
and Pan Am

If to Norfolk Southern:	Mike R. McClellan Vice President – Intermodal and Automotive Marketing
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Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

With a copy to: Vice President – Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510
(757) 629-2374
(757) 533-4872 (fax)

If to Springfield
Terminal: David A. Fink
President
Springfield Terminal Railway Company
c/o Pan Am Railways
Iron Horse Park
North Billerica, MA 01862-1692
(978) 663-1186
(978) 663-6907 (fax)

With a copy to: Robert Culliford
Vice President Law
Pan Am Systems
Iron Horse Park
North Billerica, MA 01862-1692
(603) 766-2002
(603) 766-2094 (fax)

Any Party may provide notice of changes in the above addressees to the other Party by personal service or certified mail.

SECTION 14. DISPUTE RESOLUTION

(a) Any dispute, controversy or claim between the Parties and arising out of or relating to this Agreement or the breach, termination or validity thereof (“Dispute”) shall be referred to the JOC (for Pan Am Southern) and Norfolk Southern for resolution and if the JOC and Norfolk Southern are unable to resolve the dispute, it will be referred to the Management Committee (for Pan Am Southern) and Norfolk Southern to resolve.

(b) Any Dispute not resolved within sixty (60) days after receipt by a Party of written notice of reference of such Dispute to the Management Committee (for Pan Am Southern) and Norfolk Southern pursuant to Section 14(a), shall be submitted, by either (a) Norfolk Southern or (b) any Member (as defined in the LLC Agreement), for Pan Am Southern, for formal dispute resolution pursuant to Section 14(c).

(c) Formal Dispute Resolution:

(i) Submission to Jurisdiction. Each of the Parties hereto hereby (A) consents to submit itself to the exclusive jurisdiction of any Federal or state court located in the State of Delaware (the “Delaware Courts”) in any action to enforce or in aid of the agreement to arbitrate in Section 14(c)(ii) herein or for provisional relief to maintain the status quo or prevent irreparable harm pending the appointment of the arbitrator, and to the non-exclusive jurisdiction of the Delaware Courts for enforcement of any award issued hereunder, (B) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, and (C) waives any objection based on forum non conveniens or any other objection to venue thereof.

(ii) Dispute Resolution. Each of the Parties hereto stipulates and agrees that any Dispute that is not resolved pursuant to Section 14(a) will be submitted for formal dispute resolution, if at all, to mandatory and binding arbitration, in Washington, D.C., by a single arbitrator, under the Commercial Arbitration Rules and the Large Complex Case Procedures of the AAA then in effect (the “Rules”), under the following terms and conditions:

(A) Selection of Arbitrator. A single independent arbitrator shall be appointed by the AAA using the listing, ranking and striking procedure in the Rules. Any arbitrator appointed by the AAA shall be a retired judge or a practicing attorney with no less than fifteen years of experience with large commercial cases and an experienced arbitrator.

(B) Conduct of Arbitration. The arbitration shall be held and the award shall be issued in Washington, D.C. In addition to money damages, the arbitrator may award any remedy provided for under applicable law and the terms of this Agreement, including, without limitation, specific performance or other forms of injunctive relief. The arbitrator shall apply the law of the State of Delaware to the substance of the Dispute and will have no power or authority, under the rules of the AAA or otherwise, to amend or disregard any provision of this Agreement.

(C) Replacement of Arbitrator. Should the arbitrator refuse or be unable to proceed with arbitration proceedings, a replacement arbitrator will be selected using the same method of selection as the original arbitrator.

(D) Findings and Conclusions. The arbitrator will, after reaching judgment and award, prepare and distribute to the parties a written award including the findings of fact and conclusions of law relevant to such award and containing an opinion setting forth the reasons for the giving or denial of any award.

(E) Time is of the Essence. The arbitrator is hereby instructed that time is of the essence in the arbitration proceeding, and that the arbitrator shall have the right and authority to issue monetary sanctions against any party if, upon a showing that such party is unreasonably delaying the proceeding.

(F) Temporary Equitable Relief. By agreeing to arbitration, the Parties do not intend to deprive any Delaware Court of its jurisdiction to issue a pre-arbitral injunction,

pre-arbitral attachment, or other order in aid of arbitration proceedings and the enforcement of any award. Without prejudice to such provisional remedies as may be available under the jurisdiction of a Delaware Court, the arbitrator shall have full authority to grant provisional remedies and to direct the Parties to request that any court modify or vacate any temporary or preliminary relief issued by such court, and to award money damages for the failure of any party to respect the arbitrator's orders to that effect.

(G) Consolidation. The Parties are committed to the prompt and efficient resolution of Disputes. Accordingly, if more than one Dispute arise under this Agreement and/or any JV Transaction Agreement, such Disputes may be brought in a single arbitration. If more than one arbitration is brought with respect to Disputes under this Agreement and/or any JV Transaction Agreement, then any Party may request that any arbitration or any new Dispute arising under this Agreement or the JV Agreement be consolidated into any prior arbitration. The new Dispute or arbitration shall be so consolidated, provided that the arbitrator for the prior (or first filed) arbitration determines that (x) the new Dispute or arbitration presents significant issues of law or fact common with those in the pending arbitration; (y) no Party would be unduly prejudiced and (z) consolidation under such circumstances would not result in undue delay for the prior arbitration. Any order of consolidation issued by such arbitrator shall be final and binding upon the parties. Unless the Parties otherwise agree, the arbitrator appointed first in time shall serve as the arbitrator for the consolidated arbitration. The Parties waive any right they have to appeal or to seek interpretation, revision or annulment of such order of consolidation under the Rules or in any court. The Parties agree that upon such an order of consolidation, they will promptly dismiss any arbitration brought under this Agreement, the subject of which has been consolidated into another arbitral proceeding.

(H) Discovery. Recognizing the express desire of the Parties for an expeditious means of dispute resolution, the arbitrator will allow for limited discovery as may be reasonable under the circumstances.

(I) Costs and Attorneys' Fees. Notwithstanding any rule of the AAA to the contrary, the arbitrators rendering judgment under this Section 14(c) will have the power to award the costs of the arbitration, including reasonable attorneys' fees and expenses to the prevailing Party or Parties in the arbitration. In any action to enforce this agreement to arbitrate or any arbitral award rendered hereunder, the court may award costs and attorneys' fees against the Party resisting enforcement.

(J) Miscellaneous. The arbitrator shall not have the power to award consequential or punitive damages or to determine violations of criminal or antitrust laws. Pending the written decision of the arbitrator, there shall be no interruption in the transaction of business under this Agreement, and all payments in respect thereto shall be made in the same manner as prior to the arising of the dispute until the matter in dispute shall have been fully determined by arbitration, and thereupon such payment or restitution shall be made as required by the written decision of the arbitrator. An arbitrator's award may be appealed in accord with Section 23 of the Uniform Arbitration Act.

(c) As a third party beneficiary, Pan Am may initiate and prosecute arbitration pursuant to Section 14(b) on behalf of Pan Am Southern. Pan Am Southern and Springfield Terminal shall cooperate with Pan Am in the preparation for, and the initiation and prosecution of, such arbitration, at Pan Am Southern's expense.

SECTION 15. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement, or in connection with an audit by the Internal Revenue Service or other tax authority, or as may be necessary or appropriate for a Party hereto to enforce its rights under this Agreement, during the term of this Agreement (including any extensions thereof), and for a period of three (3) years after termination or expiration of this Agreement, the terms and provisions of this Agreement and all information to which access is provided or which is obtained hereunder will be kept confidential and will not be disclosed by any Party to any person other than members, officers, employees, independent auditors, and attorneys, without the prior written approval of the Participant Parties. Notwithstanding anything to the contrary, any Party may disclose this Agreement in connection with an audit by its external auditors, the Internal Revenue Service or other tax authority.

SECTION 16. ABANDONMENT

(a) Pan Am Southern shall have the right, subject to securing any necessary regulatory approval or exemption, to abandon or discontinue service on the Subject Trackage or any portion thereof (the "Abandonment Segment") during the term of this Agreement. Pan Am Southern shall provide Norfolk Southern no less than ninety (90) days prior notice of its intention to seek to abandon or discontinue service over any Abandonment Segment.

(b) If Pan Am Southern elects to abandon or discontinue service over the Subject Trackage (or any portion thereof) pursuant to Section 16(a), this Agreement shall continue to apply in all respects to any remaining portion of the Subject Trackage not abandoned or subject to discontinuance by Pan Am Southern.

(c) Pan Am Southern shall, not less than sixty (60) days prior to any submission to the STB (or successor agency having jurisdiction over said abandonment or discontinuance) of an application or exemption for authority to abandon or discontinue service over an Abandonment Segment(s), first offer Norfolk Southern the first right to purchase such Abandonment Segment(s) for fair market value ("FMV") of such Abandonment Segment(s), and

on such other terms and conditions as are customary with respect to line sales, which such notice shall specifically identify this Section 16 and the time periods for action hereunder. Norfolk Southern shall have forty-five (45) days ("Abandonment Notice Period") within which to advise Pan Am Southern that it will exercise its right to purchase ("Exercise Notice"). If the Participant Parties are unable to agree upon the FMV of the Abandonment Segment(s) that Norfolk Southern wishes to purchase, either Participant Party may refer the issue to arbitration pursuant to Section 14, which arbitration shall determine all other issues relating to terms and conditions for the sale not then (at the time of the initiation of the arbitration) agreed to by the Participant Parties. Such arbitration shall be conducted on an expedited basis, with selection of the arbitrator within thirty (30) days of the initiation of arbitration, all submissions to be made by the Participant Parties within sixty (60) days of the initiation of arbitration, and a written decision to be rendered within thirty (30) days following the final submissions of the Participant Parties.

(d) The Participant Parties shall consummate the sale contemplated by this Section 16 within forty-five (45) days of the latest of: (i) the rendering of a written arbitration decision, should issues related to the sale proceed to arbitration; (ii) the execution of a purchase and sale agreement, should the Participant Parties execute the same; and (iii) the grant of authority, or exemption from the need to obtain a grant of authority, from any regulatory body having jurisdiction over the same.

(e) If Norfolk Southern elects not to purchase the Abandonment Segment, it shall so advise Pan Am Southern within the same forty-five (45) day Abandonment Notice Period by delivering to Pan Am Southern a notice of waiver of right to purchase said segment ("Waiver Notice"). Failure of Norfolk Southern to provide Pan Am Southern (including a copy to Pan Am) with either an Exercise Notice or a Waiver Notice within the aforesaid forty-five (45) day period shall constitute a Waiver Notice.

(f) In the event of a Waiver Notice and Norfolk Southern does not purchase the Abandonment Segment pursuant to its rights in this Agreement, Norfolk Southern shall promptly file such application, petition or exemption notice as may then be required to obtain regulatory authority or exemption for the Abandonment Segment and for the discontinuance of Norfolk Southern's trackage rights over the Abandonment Segment.

SECTION 17. INDEMNITY COVERAGE

As part of the consideration hereof, each Party hereby agrees that each and all of its indemnity commitments in this Agreement in favor of the other Parties shall also extend to and indemnify the parent corporation, subsidiaries and affiliates of such other Party, and all of their respective directors, officers, agents and employees.

SECTION 18. INSURANCE

[REDACTED]



SECTION 19. TERMINATION OF 1998 INTERMODAL AGREEMENT

The Parties hereby terminate the 1998 Intermodal Agreement effective as of the Effective Date. If Guilford Motor Express, Inc. remains a party to the 1998 Intermodal Agreement on the date hereof, then Guilford Motor Express, Inc. hereby consents to the termination of the 1998 Intermodal Agreement effective as of the Effective Date. To the extent an action would be required of any of the Pan Am System Parties to give full and complete effect to this Agreement, but this Agreement fails to provide a reference to one of the Pan Am System Parties, each of the Pan Am System Parties nevertheless agrees to perform said action.

SECTION 20. PERSONNEL

(a) Pan Am Southern's relationship to Norfolk Southern hereunder is that of landlord (with regard to the Trackage Rights) or independent contractor (with regard to the Haulage Rights) providing services over Pan Am Southern's railroad and at the Destination Terminals, as defined in the Appendices. Pan Am Southern shall be solely responsible, and shall cause its contractors to be solely responsible, for employing, supervising and directing all personnel reasonably required, in its judgment, to perform its obligations under this Agreement and the Appendices, including, maintaining all appropriate employment and operating records, and for paying and accounting for all wages, salaries, benefits (including without limitation pension benefits or obligations), employer social security contributions, unemployment insurance, and state, local and federal withholding taxes upon such compensation for its employees. Pan Am Southern shall, and shall cause its contractors to, be responsible for all negotiation and other dealings with any labor organization representing its employees, and for any grievances or other labor claims made by its employees or made by a labor organization on their behalf.

(b) Each Party shall each ensure that its employees meet all requirements imposed by law and/or reasonably and uniformly required in connection with the performance of its respective obligations under this Agreement and the Appendices.

SECTION 21. COVENANT OF GOOD FAITH AND FAIR DEALING

The Parties agree to deal with one another on matters related to this Agreement fairly, honestly, and in good faith. "Good Faith" means honesty in fact and observance of reasonable commercial standards and customs of fair dealing in the transportation industry generally and of the intermodal, automotive and railroad transportation industry in particular.

SECTION 22. MISCELLANEOUS PROVISIONS

(a) This Agreement and each and every provision hereof are for the exclusive benefit of the Parties hereto. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of damages or otherwise against any of the Parties hereto. Pan Am shall have third party status solely for the purpose of enforcing this Agreement, and not by way of recovery for damages hereunder.

(b) This Agreement contains the entire understanding of the Parties hereto with respect to the subject matter hereof and supersedes any and all oral understandings between the Parties.

(c) Any term or provision of this Agreement may be changed, waived, discharged, or terminated but only by an instrument signed by both of the Participant Parties, which such instrument need not be served on any other Party to be effective.

(d) The division of this Agreement into articles, sections, and subsections and the insertion of headings and references are for convenience of reference only, and shall not affect the construction or interpretation of this Agreement. Unless the context otherwise requires, all references to articles, sections or subsections are to articles, sections or subsections of this Agreement.

(e) This Agreement is the result of mutual negotiations between the Parties hereto, none of whom shall be considered the drafter for purposes of contract construction.

(f) No consent or waiver, expressed or implied, by a Party of any breach or default by the other Party in the performance by such other Party of its obligations hereunder shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance hereunder by such other Party. Failure on the part of a Party to complain of any act or failure of the other Party or to declare the other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such first mentioned Party of its rights hereunder.

(g) If any provision of this Agreement or the application thereof to any Party hereto or to any circumstance shall be determined by a court of competent jurisdiction to be invalid or unenforceable to any extent or for any reason, the remainder of this Agreement or the application of the provisions thereof to such Party or circumstance, other than those determined to be invalid or unenforceable, shall not be affected thereby and shall be enforced to the fullest extent permitted by law, and the Parties shall promptly enter into such other agreement(s) as their respective legal counsel may deem appropriate in order to replace such invalid or unenforceable provisions in a manner that produces a result which is substantially equivalent to the terms of this Agreement in all material respects.

(h) Nothing herein shall be interpreted as creating an association, partnership, joint venture or other joint undertaking between any of the Parties.

(i) THE LAWS OF THE STATE OF DELAWARE SHALL GOVERN THE VALIDITY OF THIS AGREEMENT, THE CONSTRUCTION OF ITS TERMS AND THE

INTERPRETATION OF THE RIGHTS AND DUTIES ARISING HEREUNDER WITHOUT REGARD TO ITS PRINCIPLES OF CONFLICTS OF LAWS.

(j) This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same instrument.

(k) This Agreement, including the appendices hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all previous oral or written understandings, agreements, and commitments as to the subject matter hereof. This Agreement and the appendices hereto may not be modified, changed or altered except by written agreement signed by authorized representatives of the Parties. Any Appendix hereto may be amended by the Participant Parties signing a revised version of such Appendix and this Agreement will be deemed to be amended thereby.

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

WITNESS:

PAN AM SOUTHERN LLC

By: _____

As to Pan Am Southern

WITNESS:

SPRINGFIELD TERMINAL RAILWAY
COMPANY

By: _____

As to Springfield Terminal

WITNESS:

NORFOLK SOUTHERN RAILWAY COMPANY

By: _____

As to Norfolk Southern

Solely for the purpose of consent in
accordance with Section 19 hereof:

GUILFORD MOTOR EXPRESS, INC.

By: _____