

LAW OFFICES OF  
**LOUIS E. GITOMER, LLC.**

LOUIS E. GITOMER  
Lou@lgraillaw.com

MELANIE B. YASBIN  
Melanie@lgraillaw.com  
410-296-2225

600 BALTIMORE AVENUE, SUITE 301  
TOWSON, MARYLAND 21204-4022  
(410) 296-2250 • (202) 466-6532  
FAX (410) 332-0885

**235942**

April 21, 2014

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

**ENTERED**  
**Office of Proceedings**  
**April 21, 2014**  
**Part of**  
**Public Record**

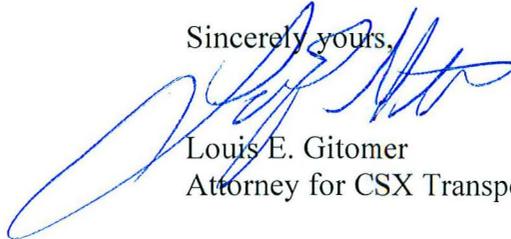
Re: Finance Docket No. 33744 (Sub-No. 1), *CSX Transportation, Inc. –  
Trackage Rights Exemption-Louisville & Indiana Railroad Company*

Dear Ms. Brown:

Enclosed are the original and 10 copies of the Notice of Exemption, a diskette containing a WORD and pdf version of the Notice, and a check in the amount of \$1,200 is to cover the filing fee.

Please time and date stamp the extra copy of the filing and return it in the enclosed pre-paid envelope. Thank you for your assistance. If you have any questions, please contact me.

Sincerely yours,



Louis E. Gitomer  
Attorney for CSX Transportation, Inc.

Enclosures

**FILED**  
**April 21, 2014**  
**Surface Transportation Board**

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**FEE RECEIVED**  
**April 21, 2014**  
**Surface Transportation Board**

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 33744 (SUB-NO. 1)

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CSX TRANSPORTATION, INC.—TRACKAGE RIGHTS EXEMPTION—  
LOUISVILLE & INDIANA RAILROAD COMPANY

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VERIFIED NOTICE OF EXEMPTION

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Steven C. Armbrust, Esq.  
CSX Transportation, Inc.  
500 Water Street J-150  
Jacksonville, FL 32202  
(904) 359-1229

Louis E. Gitomer, Esq.  
Law Offices of Louis E. Gitomer, LLC  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(410) 296-2250  
Lou@lgrailaw.com

Attorneys for: CSX Transportation, Inc.

Dated: April 21, 2014

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 33744 (SUB-NO. 1)

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CSX TRANSPORTATION, INC.—TRACKAGE RIGHTS EXEMPTION—  
LOUISVILLE & INDIANA RAILROAD COMPANY

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VERIFIED NOTICE OF EXEMPTION

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CSX Transportation, Inc. (“CSXT”) submits this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. §1180.2(d)(7) to modify the compensation provisions<sup>1</sup> for the trackage rights previously granted to CSXT by the Louisville & Indiana Railroad Company (“LIRC”).<sup>2</sup> The Amended and Restated Trackage Rights Agreement dated as of January 1, 2014 (the “2014 Trackage Rights”) attached as Exhibit A-1 contains the new compensation provisions.<sup>3</sup> There will be no change in CSXT’s operation of the 106.5-mile railroad line between CSXT’s connection with LIRC in Indianapolis, IN, milepost 4.0, and CSXT’s connection with LIRC in Louisville, KY, milepost 110.56 (the “Line”) that was exempted in the *Initial Trackage Rights*. CSXT will continue to be able to enter and exit the Line at Seymour, IN. LIRC’s operations also will not change.

The current compensation paid by CSXT to LIRC consists of a Fixed Annual Fee and a

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<sup>1</sup> See *Union Pacific Railroad Company—Trackage Rights Exemption—Chicago, Central & Pacific Railroad Company*, Finance Docket No. 34116, (served November 7, 2001), where the modification of compensation terms to existing trackage rights was exempted.

<sup>2</sup> *CSX Transportation, Inc.-Trackage Rights Exemption-Louisville & Indiana Railroad Company*, STB Finance Docket No. 33744 (served June 21, 2001) (the “*Initial Trackage Rights*”).

<sup>3</sup> CSXT is filing a redacted version of the 2014 Trackage Rights with this Notice and an unredacted version with a concurrently filed Motion for Protective Order.

Per Car Fee, which varies depending on the number of carloads moved over the Line by CSXT. The charges are adjusted annually for inflation. See Article 20 of the Amended and Restated Trackage Rights Agreement dated as of November 13, 2000 (the “2000 Trackage Rights”).<sup>4</sup> LIRC is responsible for maintenance of the Line at its own expense. Article 6 of the 2000 Trackage Rights. Under the 2014 Trackage Rights, CSXT will: (1) pay LIRC a one-time fee to complete the annual fee payments, Exhibit B, Section 1; (2) pay LIRC a per car-mile fee, Exhibit B, Section 2; (3) allocate maintenance expenses based on use of the Line, Exhibit B, Section 3; (4) allocate operating expenses based on use of the Line, Exhibit B, Section 4; and (5) include an annual inflation adjustment.

The parties have entered a written agreement for the trackage rights, which are not sought as a responsive application in a rail consolidation proceeding. The 2014 Trackage Rights will replace the 2000 Trackage Rights. The 2014 Trackage Rights will be superseded by the Joint Use Agreement if approved by the Surface Transportation Board (the “Board”) in a pending proceeding.<sup>5</sup>

Pursuant to the Board’s regulations at 49 C.F.R. § 1180.4(g), CSXT submits the following information:

**Section 1180.6 Supporting Information**

**(a)(1)(i) Description of Proposed Transaction**

CSXT acquired overhead trackage rights over the 106.5-mile railroad line between CSXT’s connection with LIRC in Indianapolis, IN, milepost 4.0, and CSXT’s connection with

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<sup>4</sup> Filed with the *Initial Trackage Rights*. A redacted copy of the 2000 Trackage Rights is attached as Exhibit A-2 and an unredacted version is being filed concurrently with the Motion for Protective Order.

<sup>5</sup> *CSX Transportation, Inc.-Joint Use-Louisville & Indiana Railroad Company, Inc.*, Docket No. FD 35523 (served July 11, 2013) accepting the application.

LIRC in Louisville, KY, milepost 110.56, including the ability to able to enter and exit the Line at Seymour, IN. A map of the Line is attached hereto in Exhibit C.

The carriers involved in this transaction and their business addresses are:

CSX Transportation, Inc.  
500 Water Street J-150  
Jacksonville, FL 32202

Louisville & Indiana Railroad Company  
500 Willinger Lane  
Jeffersonville, IN 47130

Questions and correspondence concerning this notice may be addressed to:

Louis E. Gitomer  
Law Offices of Louis E. Gitomer, LLC  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(401) 296-2250  
Lou@lgrailaw.com

**(a)(1)(ii) Consummation Date**

The transaction is scheduled to be consummated on or shortly after May 21, 2014.

**(a)(1)(iii) Purpose Sought to be Accomplished**

CSXT will use the Line to serve overhead traffic and enter and exit the Line at Seymour, IN.

**(a)(5) List of States in which the Party's Property is Situated**

CSXT owns and operates about 21,000 miles of railroad in the States of Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, the District of Columbia, and the Provinces of Ontario and Québec.

LIRC owns railroad property in the State of Indiana and the Commonwealth of Kentucky.

The overhead and local trackage rights are located in the State of Indiana and the Commonwealth of Kentucky.

**(a)(6) Map**

A color map illustrating the involved trackage rights is attached as Exhibit C.

**(a)(7)(ii) Agreement**

A copy of the redacted executed Amended and Restated Trackage Rights Agreement is attached as Exhibit A.

**Labor Protection**

Any employees of CSXT or LIRC who may be adversely affected by the modification for the compensation paid by CSXT to LIRC for using the trackage rights that is the subject of this Notice are entitled to protection under the conditions imposed in *Norfolk and Western Railway Ry. Co.–Trackage Rights–BN*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc.–Lease and Operate*, 360 I.C.C. 653 (1980).

**Section 1180.4(g)(4)(i) Supporting Information**

(i)(A) There are no limitations on future interchange with a third party connecting carrier in the Amended and Restated Trackage Rights Agreement.

(i)(B) A redacted copy of the Amended and Restated Trackage Rights Agreement is attached hereto in Exhibit A-1.

**Environmental and Historic Matters**

Environmental and historic impacts associated with trackage rights transactions generally are considered to be insignificant. Therefore, environmental and historical reports and

documentation normally need not be submitted for this type of transaction, pursuant to 49 C.F.R. § 1105.6(c)(4) and § 1105.8(b)(3).

Respectfully submitted,



Steven C. Armbrust, Esq.  
CSX Transportation, Inc.  
500 Water Street J-150  
Jacksonville, FL 32202  
(904) 359-1229

Louis E. Gitomer, Esq.  
Law Offices of Louis E. Gitomer, LLC  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(410) 296-2250  
Lou@lgraillaw.com

Attorneys for: CSX Transportation, Inc.

Dated: April 21, 2014

**VERIFICATION**

State of Florida            )  
  )ss  
County of Duval            )

I, Joanna Griffith, being duly sworn, depose and state that I am Director – Joint Facilities & Network Rationalization of CSX Transportation, Inc., that I am authorized to make this verification, and that I have read the foregoing Notice of Exemption, and know the facts asserted therein are true and accurate to the best of my knowledge, information and belief.

Joanna Griffith  
Joanna Griffith

Subscribed and sworn to before me this 21st day of April 2014.

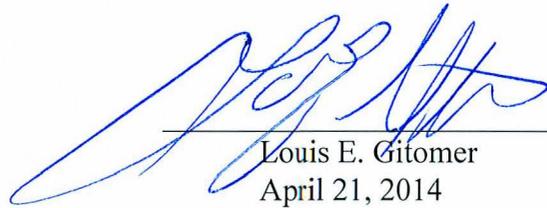
Stephanie Reynolds  
Notary Public



My Commission expires: 9-11-2016

CERTIFICATE OF SERVICE

I hereby certify that I have caused the Verified Notice of Exemption in Finance Docket 33744 (Sub-No. 1), *CSX Transportation, Inc.—Trackage Rights Exemption— Louisville & Indiana Railroad Company*, to be served by first class mail, postage pre-paid on the Secretary of the United States Department of Transportation, the Attorney General of the United States, the Federal Trade Commission and the Governor, Public Service Commission, and Department of Transportation of the State of Indiana and the Commonwealth of Kentucky.

  
\_\_\_\_\_  
Louis E. Gitomer  
April 21, 2014

# **EXHIBIT A-AGREEMENTS**

**EXHIBIT A-1-JANUARY 1, 2014  
AMENDED AND RESTATED TRACKAGE  
RIGHTS AGREEMENT**

**THIS AMENDED AND RESTATED TRACKAGE RIGHTS AGREEMENT** (the “Agreement”), dated as of the 1st day of January 2014, is made and entered into by and between LOUISVILLE & INDIANA RAILROAD COMPANY, an Indiana corporation, (hereinafter referred to as “Owner” or L&I”) and CSX TRANSPORTATION, INC., a Virginia corporation, (hereinafter referred to as “User” or “CSXT”, in connection with the letter agreement between L&I and CSXT dated June 14, 2000 (the “Settlement Agreement”). L&I and CSXT are sometimes referred to herein individually as “Party” and together as “Parties”

**WITNESSETH:**

WHEREAS, Owner operates a line of railroad between Louisville, KY and vicinity of Indianapolis, IN; and

WHEREAS, Owner and User are Parties to a Trackage Rights Agreement, dated October 21, 1997 (the “Original Agreement”), where by Owner granted to User overhead trackage rights over Owner’s line from Louisville, KY to Indianapolis, IN; and

WHEREAS, Owner and User entered an Amended and Restated Trackage Rights Agreement, dated November 13, 2000 (the “Amended Agreement”); and

WHEREAS, the Parties desire to amend and restate the Original Agreement and Amended Agreement as set forth herein.

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

**ARTICLE 1. AMENDMENT**

Effective as of the later of January 1, 2014, or the date upon which any required Notice of Exemption before the Surface Transportation Board (the “Board”) becomes effective (the “Effective Date”), the Original Agreement and Amended Agreement are amended and restated as set forth herein, and all the rights and obligations of the parties with respect to the Trackage Rights (as defined in Article 2 hereof) shall be as set forth herein. Nothing in this Agreement is intended to modify or supersede any prior agreement between the Parties (other than the Original Agreement and the Amended Agreement) with respect to the Subject Trackage, except to the extent expressly set forth herein. Without limiting the generality of the foregoing, the provisions of Section 3 of the Master Agreement between the Parties, dated November 13, 2000, as amended by the provisions of Section 5 of the letter agreement between the Parties, dated January 5, 2012, shall remain in full force and effect.

**ARTICLE 2. GRANT OF TRACKAGE RIGHTS**

Subject to the terms and conditions herein provided, Owner hereby grants to User the right to operate its trains, locomotives, cars and equipment with its own crews (hereinafter referred to as the “Trackage Rights”) over the following segment of railroad operated by Owner:

L&I's main line between the connection of the Parties at L&I Milepost ("MP") 110.56± at Eleventh Street, Louisville, KY and connection of the Parties at L&I MP 4.0 ± at Indianapolis, IN, a distance of approximately 106.5 miles, (the "Main Line"), and the designated sidings adjacent to and accessing from the Main Line (the "Sidings") all as shown on the map appended hereto as Exhibit A. The Main Line and Siding are referred to together herein as the "Subject Trackage." User shall have a right to entry and exit at the aforementioned endpoints and at the connection of the Parties at L&I MP 59.15± at Seymour, IN. All operations by CSXT will be overhead moves. CSXT will not have the right to serve customers on the Subject Trackage or to interchange with other rail carriers from the Subject Trackage.

### **ARTICLE 3. TERM AND REGULATORY APPROVAL**

This Agreement shall become effective on the Effective Date and shall remain in effect until August 31, 2015 ("Initial Term"), subject to Section 3(b) of this Agreement. Following the Initial Term, this Agreement shall remain in effect, except, until terminated by User on six (6) months' prior written notice to Owner, subject to Section 3(b) of this Agreement. The period from the end of the Initial Term through the termination of this Agreement shall be referred to herein as the "Extended Term." Following written notice of termination, User shall promptly and in good faith make any necessary regulatory filings in connection with the termination of this Agreement and the rights granted hereunder. If User fails to make a necessary regulatory filing within thirty (30) days after termination of this Agreement, Owner shall be deemed to have power of attorney to make such filing in the name of the User, at User's expense.

- (a) Within thirty (30) days following the date of this Agreement, CSXT, at its sole expense, shall submit to the Board (or successor agency) regulatory filing(s) to obtain any necessary authority or exemption to exercise the Trackage Rights. L&I will join in any such application or pleading to the Board, upon request of CSXT. CSXT shall provide Owner with an opportunity to review and comment on CSXT's regulatory filing prior to their submission to the Board. In the event that one or more parties oppose the granting of the regulatory authority or exemption sought by CSXT or appeal a determination to grant such authority or exemption, CSXT shall promptly respond to such opponents and shall pursue in good faith appeals of any adverse decision by the Board.
- (b) If and when the Parties enter into an easement agreement covering the Subject Trackage, the Agreement shall become dormant and the Initial Term, if still in effect, shall expire, but the Agreement, as it may be amended, shall automatically reactivate in the event of the termination of the easement agreement, and the Agreement, as it may be amended, shall be considered to be in the Extended Term.

**ARTICLE 4.            USE OF SUBJECT TRACKAGE**

- (a) There is no limitation on the number of trains that CSXT may operate over the Subject Trackage. CSXT may use the Subject Trackage to operate through trains in both directions in overhead service only. Such trains may contain loaded and empty cars and combinations thereof. The Parties shall exchange projections of traffic over the Subject Trackage in accordance with the procedures set forth in Appendix 1 to Exhibit B hereto.
- (b) The efficient daily operation of the Subject Trackage as herein contemplated will require close coordination and cooperation between the respective operating officers of both Parties. Should that not occur or should any dispute not be resolved to the mutual satisfaction of the operating officers of both Parties, the dispute shall be brought to the attention of the senior management of both Parties. In the event that they are unable effectively to resolve the conflict within thirty (30) days, then either Party may invoke arbitration procedures specified in Article 17 of this Agreement.
- (c) Except as provided in Article 16 of this Agreement, during the Initial Term (but not the Extended Term), Owner shall not grant trackage rights or other rights to operate trains or locomotives over all or any portion of the Subject Trackage, excluding emergency detours, to any other party without the prior written consent of User; provided, that Owner shall have the right to permit third parties to utilize portions of the Subject Trackage for purposes of interchange with Owner so long as such usage does not materially interfere with User's rights hereunder; provided, further, that this Article 4(c) shall not apply to any arrangements between Owner and third parties that are in place as of the date of this Agreement.
- (d) Except as may otherwise be provided by this Agreement, User may use the Subject Trackage for overhead traffic purposes only. User shall not use any part of the Subject Trackage for the purposes of switching, storage or servicing of cars or equipment, or the making or breaking up of trains, or local freight service to an industry, except that nothing contained herein shall, upon prior approval of Owner, preclude the emergency use by User of such auxiliary tracks and sidings as may be designated by Owner for such purposes. As of the Effective Date, User does not reach and cannot serve any shipper on the Subject Trackage. In the event User in the future extends its tracks or otherwise becomes able to serve any shipper(s) served from the Subject Trackage, User shall not use any part of the Subject Trackage to handle traffic for, or for the account of such shipper(s).
- (e) Except as provided herein or otherwise agreed to by the Parties, Owner shall have exclusive control of the management and operation of the Subject Trackage. User shall not have any claim against Owner for liability on account of loss or damage of any kind in the event the use of the Subject Trackage by User is interrupted or delayed at any time from any cause, except as otherwise provided in Article 6 and 13(i) hereof.

- (f) When operating over the Subject Trackage, User's locomotives and crews will be equipped to communicate with Owner on radio frequencies normally used by Owner in directing train movements on the Subject Trackage.
- (g) Procedures for qualification and occupancy of the Subject Trackage will be arranged by the local supervision of each Party. L&I will provide pilots at CSXT's expense until CSXT's crews are qualified on L&I's rules. All control and usage will be subject to the approval of Owner's representative or his designee.
- (h) Before User's locomotives enter into the Subject Trackage, User shall request permission from Owner's dispatcher or other designated representative. Further, User shall ascertain that the Subject Trackage is clear and shall await confirmation from Owner's representative that such permission has been issued to allow User's movement on the Subject Trackage. Upon completing its operations and clearing the Subject Trackage, User will notify Owner's designated representative that User has completed its operations and that its equipment has cleared the Subject Trackage. User shall not reenter the Subject Trackage without again obtaining permission from Owner's representative. User shall provide and maintain at its expense all communication facilities needed and as may be reasonably required by Owner to permit User to use the Subject Trackage.

**ARTICLE 5.            PAYMENT OF BILLS**

- (a) All payments called for under this Agreement shall be made by User within thirty (30) days after the date of the bills therefor from the Owner. No payments shall be withheld because of any dispute as to the correctness of items in the bills rendered, and any discrepancies reconciled between the Parties hereto shall be adjusted in the accounts of a subsequent month. The records of each Party hereto, insofar as they pertain to matters covered by this Agreement shall be open at all reasonable times to inspection by the other Party for a period of three (3) years from the date of billing.
- (b) Bills rendered pursuant to the provisions of this Agreement, except bills prepared pursuant to Article 20, shall include direct labor and materials costs, together with the surcharges, overhead percentages and equipment rentals as specified by Owner at the time any work is performed by Owner for User or shall include actual costs and expense, upon mutual agreement of the Parties.

**ARTICLE 6.            MAINTENANCE OF SUBJECT TRACKAGE**

- (a) Owner shall maintain, repair and renew the Subject Trackage at its own expense, except to the extent otherwise provide in Exhibits B and C hereto. Owner shall keep and maintain the Subject Trackage in reasonably good condition for the use herein contemplated, but Owner does not guarantee the condition of the Subject Trackage or that operations thereover will not be interrupted. User shall take all reasonable steps

to ensure that any interruptions will be kept to a minimum. Furthermore, except to the extent otherwise provided in this Article 6 and Article 13 hereof, User shall not by reason of failure or neglect on the part of Owner to maintain, repair or renew the Subject Trackage, have or make any claim or demand against Owner or its parent corporation, subsidiaries or affiliates, or their respective directors, officers, agents or employees for any injury to or death of any person or persons whomsoever, or for any damage to or loss or destruction of any property whatsoever, or for any damages of any nature suffered by User resulting from any such failure or neglect. Unless otherwise agreed to by the Parties, User shall have the right to inspect, but shall have no obligation to inspect the Subject Trackage at regular and reasonable intervals, and to request that Owner promptly correct any track defects detected by User and determined by User to be out of compliance with the standards set forth in Article 6(c) below. Owner shall indemnify and hold User harmless from any claims or actions brought against User relating to User's inspection of the Subject Trackage or User's election not to inspect the Subject Trackage.

- (b) Owner shall also perform, at the expense of User, such additional maintenance as User may request.
- (c) Notwithstanding anything in this Article 6, for the Initial Term of this Agreement and, upon reasonable request of User, for the Extended Term, Owner shall:
  - (1) keep and maintain the Main Line to a minimum of FRA Class 2 condition, and a minimum speed of twenty-five (25) miles per hour (subject to force majeure events and slow orders and superintendent bulletins in the ordinary course), taking into account the projected level of traffic over the Subject Trackage.
  - (2) keep and maintain the Sidings to the condition specified in Owner's timetable from time to time: provided, however, that Owner shall maintain the Sidings to a minimum FRA Class 1 condition.

**ARTICLE 7.           EXTRAORDINARY REPAIRS**

- (a) The payment by User of the fees described in Article 20 to Owner is intended to fully compensate Owner for the use of the Subject Trackage by User and to allow Owner to provide maintenance of the Subject Trackage and capital expenditures, to the extent set forth in Exhibits B and C hereto, including but not limited to trackage, signals, bridges, cuts, fills and other features of the right of way as provided herein.
- (b) Due to the long-term nature of this Agreement, it is possible that a large-scale track replacement or extraordinary repairs, such as, by way of example and not limitation, repairs to Owner's Ohio River Bridge, (hereinafter, jointly, "Extraordinary Repairs") may be required. In that event, Owner shall prepare an estimate of such Extraordinary Repairs and provide the estimate to User. User, upon request, shall also have the right to inspect the areas of the Subject Trackage where the Extraordinary Repairs would be made.

- (c) Owner and User shall negotiate in good faith for a period not to exceed ninety (90) days, computed from the date of receipt of the estimate by User, regarding the scope and necessity of such Extraordinary Repairs and an initial sharing of the cost of the Extraordinary Repairs. Both Parties agree now, however, that any and all amounts paid by User on account of Extraordinary Repairs will be offset against future Fixed Annual Fees. The maximum offset against the Fixed Annual Fee in any year, however, is . User shall be obligated to pay for Extraordinary Repairs only to the extent that it agrees to do so in writing. If, following discussions between the Parties, Owner notifies User in writing that a dispute exists as to the need for or funding of the Extraordinary Repairs, then Owner or User, within ninety (90) days after Owner's notice, may cancel this Agreement upon ninety (90) days' notice to the other Party. User, at its sole expense, will file and pursue any necessary regulatory approval of the Board or its successor regarding any such termination under this Article 7.

#### **ARTICLE 8. CONSTRUCTION AND MAINTENANCE OF CONNECTIONS**

- (a) Existing connections or facilities that are jointly used by the Parties hereto under any existing agreements shall continue to be maintained, repaired and renewed by and at the expense of the Party or Parties responsible for such maintenance, repair and renewal under such agreements. Notwithstanding the foregoing, the costs and expenses to maintain, repair and renew the crossing diamond and interlocking at Seymour, IN shall be included 100% in the cost of maintaining the Subject Trackage, and such costs and expenses shall be allocated in accordance with Exhibits B and C hereto. The allocation of these costs and expenses pursuant to this Article 8(a) shall be in lieu of the allocation of such costs and expenses pursuant to the June 6, 1993 crossing and interlocking agreement.
- (b) If, in the opinion of User, a new or upgraded connection(s) to the Subject Trackage is required, such connection(s) shall be constructed, maintained, repaired and renewed as follows:
- (1) User or others shall furnish all labor and material and shall upgrade, construct, maintain, repair, and renew at its sole cost, liability and expense such portions of the track located on the right-of-way of User or others which connect the respective lines of the Parties hereto.
  - (2) Owner shall furnish all labor and material and shall upgrade, construct, maintain, repair and renew at the sole cost, liability and expense of User such portions of the tracks located on the right-of-way owned or operated by Owner which connect the respective lines of the parties hereto. Upon termination of this Agreement, Owner may at its option remove any portion of trackage and appurtenances located on the right-of-way operated by Owner, constructed as a result of this Article, at the sole cost and expense of User.

The salvage material removed shall be released to User unless the Parties agree otherwise. If the Parties agree that trackage and appurtenances located on the right-of-way operated by Owner, constructed as a result of this Article, remain on Owner's right-of-way following termination of this Agreement, Owner will credit User the current fair market value for said salvage.

**ARTICLE 9.            ADDITIONS, RETIREMENTS AND ALTERATIONS**

- (a) Owner, from time to time and at its sole cost and expense, may make changes in, additions and betterments to or retirements from the Subject Trackage, as shall, in Owner's judgment, be necessary or desirable for the economical or safe operation thereof or as shall be required by any law, rule, regulation, or ordinance promulgated by any governmental body having jurisdiction. Such additions and betterments shall become a part of the Subject Trackage and such retirements shall be excluded from the Subject Trackage.
- (b) If the Parties agree that changes in or additions and betterments to the Subject Trackage, including but not limited to switches, power switches, sidings, signals, communications, etc. are required to accommodate User's operations beyond that required by Owner to accommodate its operations, Owner shall construct the additional or altered facilities and User will be responsible for funding that construction/upgrading at actual cost or at a cost mutually agreed to by Owner and User. In addition, during the term of this Agreement, User shall pay to Owner the annual expense of maintaining, repairing, and renewing such additional or altered facilities.
- (c) If User requests Owner to make changes in or additions, betterments, improvements, or upgrades to the Subject Trackage, including without limitation changes in communications or signal facilities for purposes beyond that required for Owner's operation, Owner shall make such changes in or additions, betterments, improvements or upgrades to Subject Trackage and User shall pay to Owner the actual cost thereof. In addition, during the term of this Agreement User shall pay to Owner the annual expense of maintaining, repairing, and renewing such upgraded, additional or altered facilities.

**ARTICLE 10.            MANAGEMENT AND OPERATIONS**

- (a) User shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and any other 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. All necessary

inspections shall be conducted by CSXT, at its sole expense, prior to CSXT trains, locomotives, cars or equipment entering the Subject Track.

User shall indemnify, protect, defend, and save harmless Owner and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents and employees from and against all fines, penalties and liabilities imposed upon Owner or its parent corporation, subsidiaries or affiliates, or its respective directors, officers, agents and employees under such laws, rules, and regulations by any public authority or court having jurisdiction in the premises, when attributable solely to the failure of User to comply with its obligations in this regard.

- (b) User in its use of the Subject Trackage shall comply in all respects with the safety rules, operating rules and other regulations of Owner, and the movement of User's trains, locomotives, cars, and equipment over the Subject Trackage shall at all times be subject to the orders of the transportation officers of Owner. User's trains shall not include locomotives, cars or equipment which exceed the width, height, weight or other restrictions or capacities of the Subject Trackage as published in *Railway Line Clearances*, 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 Owner's operating rules and regulations without the prior consent of Owner.
- (c) User shall make such arrangements with Owner as may be required to have all of its employees who shall operate its trains, locomotives, cars and equipment over the Subject Trackage qualified for operation thereover, and User shall pay to Owner, upon receipt of bills therefor, any cost incurred by Owner in connection with the qualification of such employees of User, as well as the cost of pilots furnished by Owner, until such time as such employees are deemed by the appropriate examining officer of Owner to be properly qualified for operation as herein contemplated.
- (d) In the event of any investigation or hearing concerning the violation of any operating rule or practice by User's employees while on the Subject Trackage, User shall be notified in advance of any such investigation or hearing, and such investigation or hearing shall be conducted in accordance with the collective bargaining agreements, if any, that pertain to User's employee or employees required to attend such hearings.
- (e) Owner shall have the right to exclude from the Subject Trackage any employee of User determined by the above, to be in violation of Owner's rules, regulations, orders, practices, or instructions issued by Owner's Timetable or otherwise. User shall release, indemnify, defend, and save harmless Owner and its parent corporation, subsidiaries and affiliates, and all of its respective directors, officers, agents and employees from and against any and all claims and expenses resulting from such exclusion.
- (f) Except as provided in this subparagraph, the trains, locomotives, cars and equipment of Owner and User shall be operated without prejudice or partiality to either Party and

in such manner as will afford the most economical and efficient movement of all traffic. The foregoing notwithstanding, all of User's trains are construed to be through trains and shall have priority over Owner's local trains. Through trains of both Parties shall at all times be given priority movement over local trains. Owner's through trains, including trains containing auto parts, perishables or other traffic of a time sensitive nature, shall have equal priority with User's trains.

- (g) In the event that a train of either Party shall be forced to stop on the Subject Trackage, due to mechanical failure of equipment, or any other cause not resulting from an accident or derailment, and such train is unable to proceed, or if a train of either Party fails to maintain the speed required by Owner on the Subject Trackage, or if in emergencies, crippled or otherwise defective cars are set out of either Party's trains on the Subject Trackage, the other Party hereto shall have the option to furnish motive power or such other assistance as may be necessary to haul, help or push such trains, locomotives or cars, or to properly move the disabled equipment off the Subject Trackage, and the Party providing such assistance shall be reimbursed of the cost of same by the disabled Party.
- (h) If it becomes necessary to make repairs to or adjust or transfer the lading of such crippled or defective cars of User in order to move them off the Subject Trackage, User may request that Owner perform such work, and if Owner agrees to do so, User shall reimburse Owner for the cost thereof. User may also elect to perform such work for itself.
- (i) In the event Owner and User agree that Owner should retain employees or provide additional employees for the sole benefit of User, the Parties hereto shall enter into a separate agreement under which User shall bear all cost and expense for any such retained or additional employees provided, including without limitation all cost and expense associated with labor protective payments which are made by Owner and which would not have been incurred had the retained or additional employees not been provided.

**ARTICLE 11.            MILEAGE AND CAR HIRE**

All mileage and car hire charges accruing on cars in User's trains on the Subject Trackage shall be assumed by User and reported and paid by User.

**ARTICLE 12.            CLEARING OF WRECKS**

Whenever User's use of the Subject Trackage requires rerailling, wrecking service or wrecking train service, Owner or its agent shall perform or provide such service, including the repair and restoration of roadbed, track and structures. 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 Article 13 hereof. All locomotives, cars and 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 User at the time of such wreck, shall be promptly delivered to User.

### **ARTICLE 13.        LIABILITY**

Except as provided in Article 13(j) below, the responsibility and liability between the Parties for: (1) any personal injury or death of any person (including employees of the Parties and third persons), (ii) any real or personal property damage of any person (including the Subject Trackage and other property of the Parties and third persons), (iii) any damage or destruction to the environment (including land, air, water, wildlife and vegetation), (iv) any claims of third parties for damages, and (v) all cleanup and remediation expenses, court costs, litigation expenses and attorney's fees resulting from the use of the Subject Trackage by either Party as described herein, all of which (and all costs, judgments and expenses incurred in connection therewith) are collectively referred to as a "Loss", shall be divided as follows:

- (a) If a Loss arises in connection with an incident involving the train(s) and/or locomotive(s) of Owner or User (the "Involved Party") without the involvement of a train and/or locomotive of the other Party, then the Involved Party shall be solely responsible for all Loss in connection therewith, even if caused partially or completely by the other Party.
- (b) If a Loss arises in connection with an incident involving the trains and/or locomotives of both Owner and User (when no trains or locomotives of third parties are involved), then: (i) each is solely responsible for any Loss to its own employees, locomotives and equipment in its own account including lading and (ii) the Parties are equally responsible for any Loss to the Subject Trackage and Loss sustained by third parties, regardless of the proportionate responsibility between them as to the cause of the Loss.
- (c) for purposes of assigning responsibility of a Loss under this Article as between the Parties hereto, a Loss involving one, but not both of the Parties to this Agreement and a third party or parties, shall be construed as being the sole responsibility of that one Party to this Agreement.
- (d) Whenever any Loss is assumed by or apportioned to a Party hereto under the foregoing provisions, that Party shall forever protect, defend, indemnify, and save harmless the other Party to this Agreement and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents, and employees from and against that liability, cost and expense assumed by that Party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance, or misfeasance of the indemnitee or its directors, officers agents, or employees.

- (e) In every case of death or injury suffered by an employee of either User or Owner, when compensation to such employee or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employers' liability or other law, and either of said Parties, under the provisions of this Agreement, is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such Party shall not be released from paying any such future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.
- (f) For purposes of determining liability, pilots furnished by Owner to User pursuant to this Agreement shall be considered as the employees of User while such pilots are on board or getting on or off trains of User.
- (g) For the purpose of determining liability associated with construction, maintenance, repair and renewal of connections as provided in Article 8(b)(2), all work performed by Owner shall be deemed performed for the sole benefit of User and, User shall be fully liable for all cost and expense of any and all loss, damage, destruction, injury and death resulting from, arising out of, incidental to or occurring in connection with said construction, maintenance repair and renewal except when such cost and expense of loss, damage, destruction, injury or death is caused by the sole negligence of Owner. User shall protect, indemnify, and save harmless Owner and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents and employees from and against any and all expense and liability for which User is responsible.
- (h) If any suit or action shall be brought against either Party for damages which under the provisions of this Agreement are in whole or in part the responsibility of the other Party, said other 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 a proportionate part of the judgment and costs, expense and attorneys' fees incurred in such suit according to its liability assumed hereunder.
- (i) In the event of a Loss as set out herein, the Parties to this Agreement shall be bound by the Freight Claim Rules, Principles, and Practices of the Association of American Railroads (AAR) as to the handling of any claims for the loss or damage to lading.
- (j) The provisions set forth in this Article 13 (subarticles a through i) above allocating liability between the Parties or providing for indemnity shall not apply to any incident in which the total liability for damage to property and equipment of the Parties, for damage to property of others, for death or personal injury to employees of the Parties or other persons, for clean up or remediation of environmental damage, and for other damage to the environment including damage to natural resources, and all legal fees and expenses associated with such liability ("Total Costs") exceed

- (k) In the event an incident occurs in which one or both of the Parties assert that the Total Costs will exceed \_\_\_\_\_ such Party or Parties shall promptly notify the other Party.
- (l) The first \_\_\_\_\_ of liability in connection with an incident involving Total Costs in excess of \_\_\_\_\_ shall be allocated as set forth in subarticles (a) through (i) above, and the liability in excess of \_\_\_\_\_ shall be allocated under principles of comparative fault pursuant to binding arbitration as set forth in Article 17.
- (l) Notwithstanding an provision to the contrary herein, neither Party shall be obligated to indemnify the other Party (the "Indemnitee") for punitive damages to the extent such damages are awarded based upon the act or omission of one or more of the officers, directors, employees or agents of the Indemnitee.

#### ARTICLE 14. CLAIMS

- (a) Except as provided in Subarticle (b) below, all claims, injuries, death, property damages and losses arising out of or connected with this Agreement shall be investigated, adjusted and defended by the Party bearing the liability, cost, and expense therefor under the provisions of this Agreement.
- (b) Each Party will investigate, adjust and defend all freight loss and damage claims filed with it in accordance with 49 U.S.C. Section 11706.
- (c) In the event a claim or suit is asserted against Owner or User which is the other's duty hereunder to investigate, adjust or defend, then, unless otherwise agreed, such other Party shall, upon request, take over the investigation, adjustment and defense of such claim or suit.
- (d) All costs and expenses in connection with the investigation, adjustment and defense of any claim or suit under this Agreement shall be included as costs and expenses in applying the liability provisions set forth in this Agreement, except that salaries or wages of full-time agents, full-time attorneys and other full-time employees of either Party engaged directly or indirectly in such work shall be borne by such Party.
- (e) Excluding freight loss and damage claims filed in accordance with 49 U.S.C. Section 11706, neither Party shall settle or compromise any claim, demand, suit or cause of action for which the other Party has any liability under this Agreement without the prior written concurrence of such other Party if the consideration for such settlement or compromise exceeds THIRTY-FIVE THOUSAND DOLLARS (\$35,000).
- (f) Each Party agrees to indemnify and hold harmless the other Party and its parent corporation, subsidiaries and affiliates, and all their respective directors, officers, agents and employees from and 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 its own employees, pursuant to a collective bargaining agreement. Each Party shall bear the full cost of protection of its own employees under employee protective conditions which may be imposed by the Board in connection with this Agreement, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees and each Party will indemnify the other from any such claims and grievances.

- (g) It is understood that nothing in this Article 14 shall modify or waive the conditions, obligations, assumptions or apportionments provided in Article 13.

#### **ARTICLE 15. DEFAULT AND TERMINATION**

In the event of any substantial failure on the part of User to perform a substantial obligation provided under the terms of this Agreement and its continuance in such default (absent a continuing, good faith effort to correct such default) for a period of sixty (60) days after written notice thereof by certified mail from Owner, Owner shall have the right at its option, after first giving thirty (30) days' written notice thereof by certified mail, and notwithstanding any waiver by Owner of any prior breach thereof to terminate this Agreement, subject to the approval of such termination by the Board. The exercise of such right by Owner shall not impair its rights under this Agreement or any cause or causes of action it may have against User for the recovery of damages.

#### **ARTICLE 16. ABANDONMENT, SALE OR LEASE OF SUBJECT TRACKAGE**

- (a) Owner shall have the right, subject to securing any necessary regulatory approval, to abandon, sell or lease the Subject Trackage or any portion thereof. Before filing an application for regulatory approval of such abandonment (or, if in the Initial Term, but not the Extended Term), of a sale or lease of all or a portion of the Subject Trackage to a Class I carrier or to a Class II or Class III railroad or non-railroad that is controlled by or under common control with a Class I carrier (a "Covered Sale/Lease"), Owner must give User ninety (90) days' advanced notice in writing of its intention to do so in order that User may determine whether it desires to acquire (or, if in the Initial Term, to lease in the case of a proposed lease) the Subject Trackage (or portion thereof, if Owner intends to abandon or, if in the Initial Term, sell or lease only a portion of the Subject Trackage).
- (b) If Owner notifies User of its intention to abandon all or a portion of the Subject Trackage and if User desires to acquire the Subject Trackage to be abandoned, it shall submit an offer of financial assistance under 49 U.S.C. Section 10904. In the event Owner receives more than one such offer, Owner will exercise its statutory right to negotiate with User rather than with the other offeror(s).
- (c) In any one of the circumstances listed below User shall be deemed to have determined that it does not desire to acquire (or, if in the Initial Term, lease) the

Subject Trackage that is the subject of a notice of intent to abandon, and that it desires to discontinue its use thereof:

- (1) User fails to submit an offer to purchase (or, if in the Initial Term, lease) the Subject Trackage within the ninety (90) days after receipt of Owner's abandonment notice, or
  - (2) User fails within the statutory period, to request authority from the Board or its successor agency for permission to acquire (or, if in the Initial Term, lease) the Subject Trackage, or
  - (3) User, having requested the proper authority from the Board, either withdraws its offer to purchase, or rejects the Board's order to acquire the Subject Trackage. In such event, User shall promptly file an application with the Board seeking approval of the discontinuance of its operations over the Subject Trackage. If User does not file an application seeking approval of the discontinuance of its operations over the Subject Trackage within sixty (60) days, Owner shall be deemed to have been given User's power of attorney to take such action on User's behalf.
- (d) In the event any application filed by Owner is granted but an application filed by User under Subarticle (c) above is denied by the proper regulatory authority, the Parties shall cooperate in taking such action as is reasonably necessary to effect a sale of the Subject Trackage to User at net liquidation value (including securing any necessary regulatory authority) consistent with the principles of 49 U.S.C. Section 10904. User shall use good faith efforts to obtain regulatory authority to discontinue operations over the Subject Trackage if Owner seeks to abandon such line.
- (e) In the event Owner abandons the Subject Trackage (or portion thereof) under circumstances which (because of changes in the law or otherwise) are not susceptible of handling under the procedures outlined above, the Parties shall cooperate and take such action as is necessary to assure that User either promptly terminates its operations over the segment to be abandoned or purchases said segment at net liquidation value consistent with the principles of 49 U.S.C. Section 10904 as interpreted on the date of this Agreement.
- (f) In the event Owner's application for authority to abandon is denied, User will withdraw any application it has filed under Subarticle (c) above.
- (g) Except as otherwise expressly agreed in writing, in the event any actions taken by the Parties under this Article 16 result in an obligation imposed by any competent authority on either or both Parties hereto to protect the interests of affected employees, the responsibility for bearing the cost thereof shall be borne by the Party which is the employer of the affected employee or employees, notwithstanding the manner in which said cost may be apportioned in any order or decision imposing the protection.

- (h) If Owner notifies User of its intention to enter into a Covered Sale/Lease, such notice shall include the terms and conditions that the putative purchaser/lessee has offered. If User fails to notify Owner in writing of its intent to accept the terms of the proposed Covered Sale/Lease within forty-five (45) days of receipt of written notice thereof, User's right of first refusal shall terminate and Owner may proceed with the proposed transaction. If User gives written notice of its intent to accept the terms of the proposed Covered Sale/Lease, then the Parties shall enter into documentation of the transaction, within thirty (30) days after User's notice. Notwithstanding any provision to the contrary, the terms and provisions in this Section 16(h) apply only during the Initial Term and are not effective during the Extended Term.
- (i) If Owner abandons (or, in the Initial Term, sells or leases) the Subject Trackage or any portion thereof and User discontinues its use thereof, User's obligations to pay any and all future Fixed Annual Fees shall terminate.

#### **ARTICLE 17.        ARBITRATION**

Except as otherwise provided herein, any irreconcilable dispute arising between the Parties with respect to this Agreement shall be submitted for binding arbitration under the commercial Arbitration Rules of the American Arbitration Association (the "AAA"). The Parties shall attempt to agree upon an arbitrator knowledgeable of railroad trackage rights agreements. If the Parties are unable to agree on an arbitrator within thirty (30) days of submission of the dispute to the AAA, either may ask AAA to proceed with the arbitrator selection process. The arbitrator shall be experienced in the railroad industry. The decision of the arbitrator shall be final and conclusive upon the Parties hereto. Each Party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator, if any, shall be borne equally by the Parties hereto. The arbitrator shall not have the power to award consequential or punitive damages or determine violations of criminal or antitrust laws. Pending the award 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 decision or award of the arbitrator.

#### **ARTICLE 18.        SUCCESSORS AND ASSIGNS**

This Agreement is for the sole benefit of the Parties hereto. This Agreement shall not be transferred or assigned in whole or part to any person, firm or corporation without prior mutual consent in writing of the Parties hereto; provided, that (i) if User elects not to exercise its right of first refusal with respect to a Covered Sale/Lease pursuant to Article 16(h) hereof, then this Agreement shall be assignable to the purchaser/lessee of the Subject Trackage without consent of



**ARTICLE 22.        GENERAL PROVISIONS**

- (a) This Agreement and each and every provision hereof is for the exclusive benefit of the Parties hereto and not for the benefit of any third party. 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 either of the Parties hereto.
- (b) This Agreement, including all Exhibits hereto, each of which is hereby incorporated by reference in its entirety as if specifically set forth herein, contains the entire understanding of the Parties hereto 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 both Parties to this Agreement.
- (d) 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.
- (e) All Article headings are inserted for convenience only and shall not affect any interpretation of this Agreement.
- (f) As used in this Agreement, whenever reference is made to the trains, locomotives, cars or equipment of, or in the account of, one of the Parties hereto, such expression means the trains, locomotives, cars and equipment in the possession of or operated by one of the Parties and includes such trains, locomotives, cars and equipment which are owned by, leased to, or in the account of such Party. Whenever such locomotives, cars or equipment are owned or leased by one Party to this Agreement and are in the possession or account of the other Party to this Agreement, such locomotives, cars and equipment shall be considered those of the other Party under this Agreement.
- (g) This Agreement is the result of mutual negotiations of the Parties hereto, neither of whom shall be considered the drafter for purposes of contract construction.
- (h) Neither Party hereto may disclose the provisions of this Agreement to a third party, excluding a parent, subsidiary or affiliate company, without the written consent of the other Party, except as otherwise required by law, regulation or ruling.

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

**CSX Transportation, Inc.**

**WITNESS:**

Joanna Griffith  
Name: Joanna Griffith  
Title: Director - Joint Facilities  
and Network Rationalization

James Allan  
Name: James Allan  
Title: Director Network Planning

**Louisville & Indiana Railroad Company**

**WITNESS:**

Karen Walker  
Name: Karen Walker  
Title: Admin Asst.

M. D. Stolzman  
Name: M. D. (Mike) Stolzman  
Title: President

**EXHIBIT A**

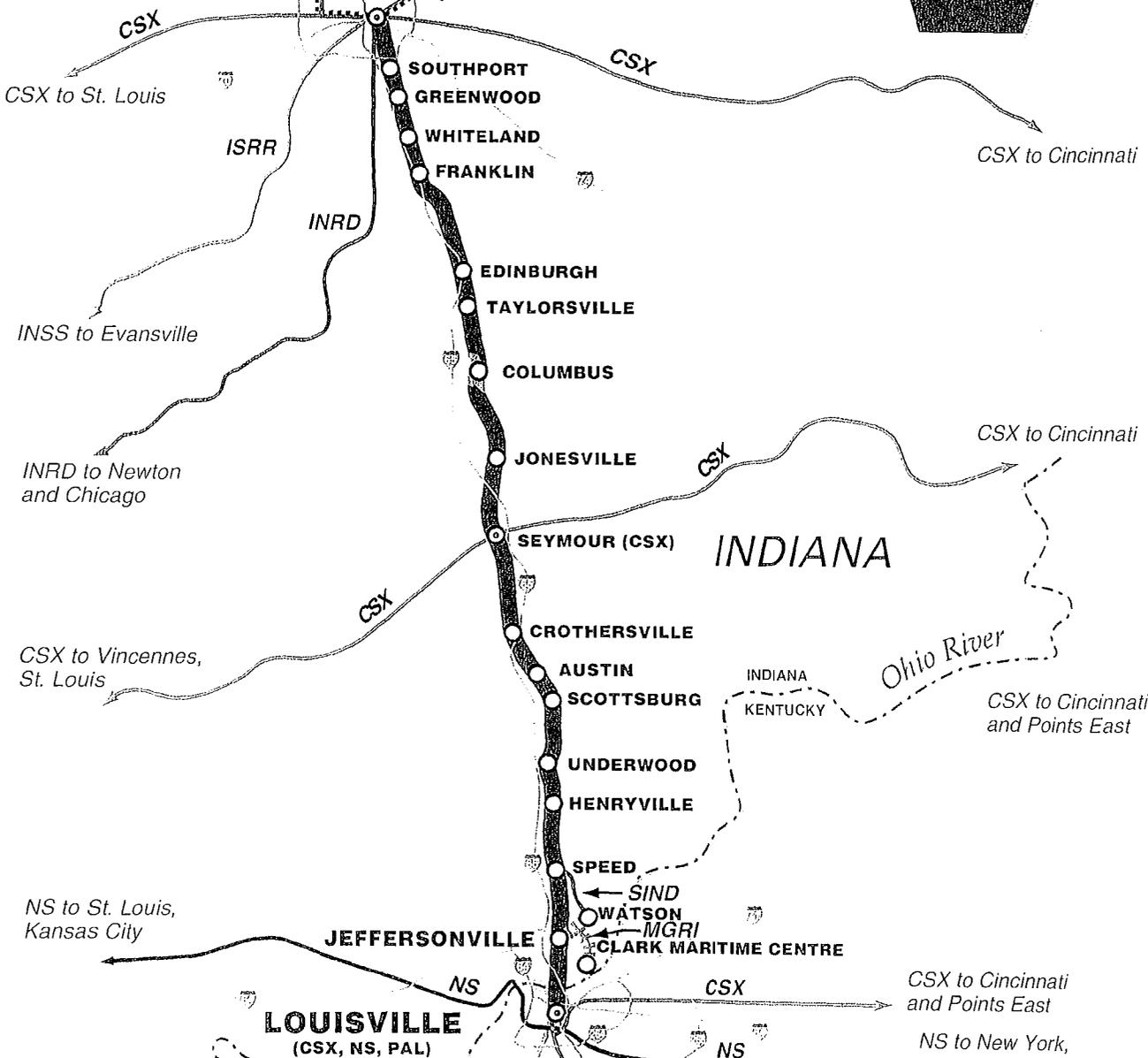
**MAP**

CSX to Chicago  
NS to Lafayette

CSX to Cleveland  
and New York;  
NS to Muncie



**INDIANAPOLIS** (CSX, INRD, ISRR, NS)



	LIRC	LOUISVILLE & INDIANA
	CSX	
	INRD	INDIANA RAIL ROAD
	ISRR	INDIANA SOUTHERN
	MGRI	MG RAIL
	NS	NORFOLK SOUTHERN
	PAL	PADUCAH & LOUISVILLE
	SIND	SOUTHERN INDIANA RY.
		INTERCHANGE

**EXHIBIT B**  
**COST SHARING**

**SECTION 1. ONE TIME FEE**

On September 1, 2014, User shall pay Owner a one-time fee of .....

**SECTION 2. CORRIDOR VALUE FEE**

A. CSXT, for its use of the Subject Trackage and pursuant to the terms of the Agreement (of which this Exhibit B is a part), shall pay to L&I a corridor value fee of . . . . . per car-mile, as adjusted per Section 6.A (the "Car-Mile Fee"), below, for all loaded and empty cars, locomotives or caboose units handled by CSXT over all or any portion of the Subject Trackage (the "Corridor Value Fee").

B. For each loaded or empty car, locomotive or caboose unit moved by CSXT with its own crews and power over all or a portion of the Subject Trackage, the Corridor Value Fee shall be computed by: multiplying: (i) the Car-Mile Fee, by (ii) the number of miles that such loaded or empty car, locomotive or caboose unit moved over the Subject Trackage as determined in accordance with the Mileage Table in Section 2.D below. For purposes of this Agreement, each locomotive unit, each caboose, and each platform of an articulated unit (as determined in accordance with Section 1.C below) shall be counted as one car. For each period in which the Corridor Value Fee is measured under this Agreement, the fees for all cars and units subject to the fee shall be aggregated to determine the Corridor Value Fees payable in the period in question.

C. With respect to articulated units, the number of platforms shall be determined by the AAR Car Type Code as defined in the ULMER Specification Manual. The second character in the Car Type Code field covering codes "Q" and "S" will be the factor in determining the platforms count for an articulated unit. For example, AAR Car Type Code (S566) would equate to a five (5) car count as these type cars have five wells capable of handling 40' to 53' containers in each well. Car count data for articulated units are subject to change upon development of technology to separate units by car numbers. In the event that new types of cars are utilized in the future, and such cars have load carrying capacities that are materially different from existing car types, the Parties shall agree upon an equitable methodology for counting such cars for purposes of determining car counts and car miles under this Exhibit B. In the event that the AAR Car Type Code is modified or ceases to exist, the Parties shall agree on a method for determining the car count of articulated units, for purposes of this Exhibit B that is consistent with the intent of this Section 2.C.

D. Mileage Table

Stations		Louisville	Seymour	Indianapolis
	Mileposts	110.5	59.2	4.0
Louisville	110.5		51.3	106.5
Seymour	59.2	51.3		55.2
Indianapolis	4.0	106.5	55.2	

**SECTION 3. MAINTENANCE EXPENSE ALLOCATION**

A. CSXT and L&I shall share in the costs of Maintenance Expenses and shall allocate those costs in accordance with this Section 3. The term "Maintenance Expenses" shall include the expenses incurred by L&I for maintenance and capital to the extent allocated to the Subject Trackage in Exhibit C to the Agreement. Maintenance Expenses shall exclude those costs that are funded by a third party, e.g., a government grant, shipper funding, or any other type of funding. Any tax credits to which a Party may be entitled shall be retained solely by the eligible Party, and the amount of such tax credits shall not be deducted from the Maintenance Expenses, so long as the credit is based upon amounts allocated to and incurred by such Party (and not the other Party) under this Exhibit B (or, if the credit is based upon some factor other than maintenance expenditures, the Party receiving the credit shall have actually met the requirements for such credit without taking into account acts or circumstances involving the other Party).

B. Maintenance Expense Terms and Definitions.

1. **L&I Maximum Annual Maintenance Expense.** The average annual Maintenance Expenses that L&I incurred over the three full calendar years prior to the calendar year during which the Agreement is executed shall be referred to herein as the "L&I Maximum Annual Maintenance Expense". The L&I Maximum Annual Maintenance Expense shall be prorated on a monthly basis for any year during the term of the Agreement that is less than a full calendar year.
2. **L&I Minimum Annual Maintenance Expense.** The amount equal to sixty-seven percent (67%) of the L&I Maximum Annual Maintenance Expense shall be referred to herein as the "L&I Minimum Annual Maintenance Expense".
3. [Intentionally left blank]
4. **Maintenance Expense Budget.** The Maintenance Expense Budget shall be the sum of the maintenance expenses for track and all fixtures and articles of personal property attached to the Subject Trackage, including without limitation, bridges, signal systems, and up to 47 mainline turnouts, determined in accordance with the procedures set forth in Appendix 1 hereto (the "Approved Maintenance Plan") and the

capital for right of way, determined in accordance with the procedures set forth in Appendix 1 hereto (the "Approved DATS Plan") for the calendar year in question.

5. **Monthly Maintenance Expense Budget.** The Maintenance Expense Budget for each calendar year shall be divided by twelve (12) to obtain a monthly budget amount (the "Monthly Maintenance Expense Budget"). By way of example, the Monthly Maintenance Expense Budget shall be calculated as follows:

$$\begin{array}{rcc} \text{Monthly Maintenance Expense} & = & \frac{\text{Maintenance Expense Budget}}{12} \\ \text{Budget} & & \end{array}$$

In the event a Maintenance Expense Budget is established that applies to less than a full calendar year, the Monthly Maintenance Expense Budget shall be calculated as the Maintenance Expense Budget divided by the number of months covered by the Maintenance Expense Budget. In such an event, all other calculations hereunder shall be derived from this number.

6. **CSXT Projected Annual Car Miles.** The number of projected car miles for CSXT in the Approved Maintenance Plan and the Approved DATS Plan for the calendar year in question.
7. **L&I Projected Annual Car Miles.** The number of projected car miles for L&I (and all third party railroads, including without limitation L&I affiliates and CSXT affiliates, operating on the Subject Trackage) in the Approved Maintenance Plan and Approved DATS Plan for the calendar year in question.
8. **Actual CSXT Annual Car Miles.** The sum of actual car miles for each loaded or empty car, locomotive or caboose unit (calculated in accordance with the mileage Table in Section 2.D) moved by CSXT over the Subject Trackage during the calendar year in question.
9. **Actual L&I Annual Car Miles.** The sum of actual car miles for each loaded or empty car, locomotive or caboose unit moved by L&I (which shall include cars moved by L&I and all third party railroads, including without limitation L&I affiliates and CSXT affiliates, operating on the Subject Trackage) during the calendar year in question shall be calculated by multiplying each locomotive, caboose, and empty or loaded car by (i) for traffic that is physically interchanged by L&I with another railroad, the number of miles between the interchange track and the end of track owned by L&I at the customer's facility as of the date of the Agreement and any track acquired or constructed by L&I thereafter, and (ii) for traffic that is local to the Subject Trackage, the miles between the end of track owned by L&I at the customer facility where the traffic originates and the end of track owned by L&I at the customer facility where the traffic terminates, as of the date of the Agreement and any track acquired or constructed by L&I thereafter.

10. **CSXT Projected Annual Car Mile Percentage.** The "CSXT Projected Annual Car Miles Percentage" shall be calculated for each calendar year by dividing the CSXT Projected Annual Car Miles by the sum of the CSXT Projected Annual Car Miles and the L&I Projected Annual Car Miles. The CSXT Projected Car Mile Percentage shall be rounded to the nearest two decimal places. By way of example, the CSXT Projected Car Mile Percentage shall be calculated as follows:

$$\text{CSXT Projected Annual Car Mile Percentage} = \frac{\text{CSXT Projected Annual Car Miles}}{(\text{CSXT Projected Annual Car Miles} + \text{L\&I Projected Annual Car Miles})}$$

11. **L&I Projected Annual Car Mile Percentage.** The "L&I Projected Annual Car Mile Percentage" shall be calculated by taking one (1) minus the rounded CSXT Projected Car Mile Percentage. The L&I Projected Annual Car Mile Percentage shall be rounded to the nearest two decimal places. By way of example, the L&I Projected Annual Car Mile Percentage shall be calculated as follows:

$$\text{L\&I Projected Annual Car Mile Percentage} = 1 - \text{CSXT Projected Annual Car Mile Percentage}$$

12. **CSXT Monthly Maintenance Expense Share.** CSXT's share of the Monthly Maintenance Expense Budget shall be calculated by subtracting the L&I Adjusted Monthly Maintenance Expense Share (as calculated per Section 3.B.13, below) from the Monthly Maintenance Expense Budget (the "CSXT Monthly Maintenance Expense Share"). For illustrative purposes, the CSXT Monthly Maintenance Expense Share shall be calculated as follows:

$$\text{CSXT Monthly Maintenance Expense Share} = \text{Monthly Maintenance Expense Budget} - \text{L\&I Adjusted Monthly Maintenance Expense Share}$$

13. **L&I Monthly Maintenance Expense Share and L&I Adjusted Monthly Maintenance Expense Share.** L&I's share of the Monthly Maintenance Expense Budget shall be calculated by multiplying the Monthly Maintenance Expense Budget by the L&I Projected Annual Car Mile Percentage (the "L&I Monthly Maintenance Expense Share"); *provided, that* the L&I Monthly Maintenance Share shall not (a) exceed one-twelfth (prorated on a monthly basis for partial years) of the L&I Maximum Annual Maintenance Expense for the year in question, or (b) be less than one-twelfth (prorated on a monthly basis for partial years) of the L&I Minimum Annual Maintenance Expense for the year in question ("**L&I Adjusted Monthly Maintenance Expense Budget**"). For illustrative purposes, the L&I Monthly Maintenance Expense Share shall be calculated as follows:

$$\text{L\&I Monthly Maintenance Expense Share} = \frac{\text{Monthly Maintenance Expense Budget multiplied by L\&I Projected Annual Car Mile Percentage (subject to the L\&I Adjusted Monthly Maintenance Expense Budget minimum/maximum)}}{\text{Monthly Maintenance Expense Budget}}$$

14. In the event the Maintenance Expense Budget is amended during a calendar year, then the CSXT Monthly Maintenance Expense Share and the L&I Monthly Maintenance Expense Share for the rest of such calendar year shall be adjusted accordingly.

15. Notwithstanding any provision in this Exhibit B to the contrary, (a) loaded and empty cars, locomotives and caboose units that are handled on the Subject Trackage under a haulage arrangement shall be treated as the traffic of the Party whose rail cars are being hauled, and (b) cars moving over the Subject Trackage via CSXT trackage rights to and from the Nabb Branch connection at Boyd, IN pursuant to the Nabb Trackage Rights Agreement, shall be excluded from the provision of this Exhibit B.

C. **Annual Maintenance True-Up.** By March 31<sup>st</sup> of each calendar year, the Parties will true-up their respective shares of the Maintenance Expense Budget for the prior calendar year for each Party by comparing the actual Maintenance Expenses (“**Actual Maintenance Expenses**”), as allocated based upon the actual car miles for which each Party is responsible, against the Monthly Maintenance Expense Budget, as allocated based upon the projected car miles for which each Party is responsible, for the period between January 1 and December 31 of the prior calendar year and settling the difference between the Parties. The Annual Maintenance True-Up shall be performed as follows:

Step 1

Identify the total Actual Maintenance Expenses for the period between January 1 and December 31 of each calendar year (the “**Annual Actual Maintenance Expenses**”).

Step 2

Calculate the total actual car miles handled over the Subject Trackage for the period between January 1 and December 31 of each calendar year (the “**Total Actual Annual Car Miles**”) by adding the (i) Actual CSXT Annual Car Miles in that period (as that term is defined in Section 3.B.8 hereof) and the (ii) Actual L&I Annual Car Miles in that period (as that term is defined in Section 3.B.9 hereof). For illustrative purposes, the Total Actual Annual Car Miles shall be calculated as follows:

$$\text{Total Actual Annual Car Miles} = \text{CSXT Actual Annual Car Miles} + \text{L\&I Actual Annual Car Miles}$$

Step 3

Determine the (i) percentage of total actual annual car miles attributable to CSXT (the “**CSXT Actual Annual Car Mile Percentage**”) and the (ii) percentage of total actual

annual car miles attributable to L&I (the “**L&I Actual Annual Car Mile Percentage**”) rounded to two decimal places. For illustrative purposes, the CSXT Actual Annual Car Mile Percentage and the L&I Actual Annual Car Mile Percentage shall be calculated as follows:

$$\text{CSXT Actual Annual Car Mile Percentage} = \frac{\text{CSXT Actual Annual Car Miles}}{\text{Total Actual Annual Car Miles}}$$

$$\text{L\&I Actual Annual Car Mile Percentage} = 1 \text{ minus CSXT Actual Annual Car Mile Percentage}$$

Step 4

Allocate L&I’s share of the Annual Actual Maintenance Expenses (the “**L&I Allocated Annual Actual Maintenance Expenses**”) based on the L&I Actual Annual Car Mile Percentage. For illustrative purposes, the L&I Allocated Annual Actual Maintenance Expenses shall be calculated as follows:

$$\text{L\&I Allocated Annual Actual Maintenance Expenses} = \text{L\&I Actual Annual Car Mile Percentage multiplied by Annual Actual Maintenance Expenses}$$

Step 5

Determine the extent, if any, by which the L&I Allocated Annual Actual Maintenance Expenses exceed the L&I Maximum Annual Maintenance Expense (the “**L&I Maximum Annual Maintenance Expense Difference**”). The L&I Maximum Annual Maintenance Expense Difference cannot be negative. By way of example, the L&I Maximum Annual Maintenance Expense Difference shall be calculated as follows:

$$\text{L\&I Maximum Annual Maintenance Expense Difference} = \text{L\&I Allocated Annual Actual Maintenance Expenses minus L\&I Maximum Annual Maintenance Expense}$$

If the L&I Maximum Annual Maintenance Expense Difference is greater than zero (0), the L&I’s Allocated Actual Maintenance Expenses shall be capped at the L&I Maximum Annual Maintenance Expense and the amount of the L&I Maximum Annual Maintenance Expense Difference shall be added to the CSXT Allocated Annual Actual Maintenance Expense (as set forth in Step 9 of this Section 3.C).

By way of example, the following depicts the treatment of an L&I Maximum Annual Maintenance Expense Difference:

$$\$100,000 = \$1,000,000 \text{ minus } \$900,000$$

In the preceding example, CSXT would be responsible for the L&I Maximum Annual Maintenance Expense Difference of \$100,000, which would be added to the CSXT Allocated Annual Actual Expenses and which would be deducted from the L&I Allocated Annual Maintenance Expenses.

Step 6

Determine the extent, if any, by which the L&I Minimum Annual Maintenance Expense exceeds the L&I Allocated Annual Actual Maintenance Expense (the “**L&I Minimum Annual Maintenance Expense Difference**”). For illustrative purposes, the L&I Minimum Annual Maintenance Expense Difference shall be calculated as follows:

$$\begin{array}{r} \text{L\&I Minimum Annual} \\ \text{Maintenance Expense} \\ \text{Difference} \end{array} = \begin{array}{r} \text{L\&I Minimum Annual} \\ \text{Maintenance Expense } \textit{minus} \\ \text{L\&I Allocated Annual Actual} \\ \text{Maintenance Expenses} \end{array}$$

If the L&I Minimum Annual Maintenance Expense Difference is greater than zero (0), the L&I’s Allocated Annual Actual Maintenance Expenses shall be increased to the L&I Minimum Annual Maintenance Expense. The L&I Minimum Annual Maintenance Expense Difference cannot be negative. The L&I Minimum Annual Maintenance Expense Difference shall be subtracted from the CSXT Allocated Annual Actual Maintenance Expenses (as defined in Step 9 of this Section 3.C).

By way of example, the following depicts the treatment of an L&I Minimum Annual Maintenance Expense Difference:

$$\$100,000 = \$900,000 \textit{ minus} \$800,000$$

In the preceding example, the L&I Minimum Annual Maintenance Expense Difference of \$100,000 would be added to the L&I Allocated Annual Actual Maintenance Expense and \$100,000 would be deducted from the CSXT Allocated Annual Actual Maintenance Expense.

Step 7

If necessary, adjust the L&I Allocated Annual Actual Maintenance Expenses to reflect the L&I Maximum Annual Maintenance Expense or the L&I Minimum Annual Maintenance Expense, as appropriate. If the L&I Allocated Annual Actual Maintenance Expense is less than the L&I Maximum Annual Maintenance Expense and greater than the L&I Minimum Annual Maintenance Expense, then the L&I Allocated Annual Actual Maintenance Expenses will be used. The amount of the L&I Allocated Annual Actual Maintenance Expenses, as adjusted (if applicable) in accordance with this Step 7 shall be the **L&I Final Allocated Annual Actual Maintenance Expense**. By way of example, the L&I Final Allocated Annual Actual Maintenance Expense shall be calculated as follows:

$$\text{L\&I Final Allocated Annual Actual Maintenance Expense} = \text{L\&I Allocated Annual Actual Maintenance Expenses } \textit{minus} \text{ any L\&I Maximum Annual Maintenance Difference } \textit{plus} \text{ any L\&I Minimum Annual Maintenance Difference (as applicable)}$$

Step 8

Allocate CSXT’s share of the Annual Actual Maintenance Expenses (the “**CSXT Allocated Annual Actual Maintenance Expenses**”) based on the CSXT Actual Annual Car Mile Percentage. By way of example, the CSXT Allocated Annual Actual Maintenance Expenses shall be calculated as follows:

$$\text{CSXT Allocated Annual Actual Maintenance Expenses} = \text{CSXT Actual Annual Car Mile Percentage } \textit{multiplied by} \text{ Annual Actual Maintenance Expenses}$$

Step 9

Adjust the CSXT Allocated Annual Actual Maintenance Expenses to reflect the L&I Maximum Annual Maintenance Expense Difference or the L&I Minimum Annual Maintenance Expense Difference, as appropriate. The amount of the CSXT Allocated Annual Actual Maintenance Expense, as adjusted in accordance with this Step 9 shall be the **CSXT Final Allocated Annual Actual Maintenance Expense**. By way of example, the CSXT Final Allocated Annual Actual Maintenance Expense shall be calculated as follows:

$$\text{CSXT Final Allocated Annual Actual Maintenance Expense} = \text{CSXT Allocated Annual Actual Maintenance Expense } \textit{plus} \text{ any L\&I Maximum Annual Maintenance Expense Difference or } \textit{minus} \text{ any L\&I Minimum Annual Maintenance Expense Difference (as applicable)}$$

Step 10

Compare the CSXT Final Allocated Annual Actual Maintenance Expense to the total of CSXT’s Monthly Maintenance Expense Share made between January 1 and December 31 of each calendar year.

If the CSXT Final Allocated Annual Actual Maintenance Expense for a calendar year exceeds the total of CSXT’s Monthly Maintenance Expense Share payments for that same calendar year, then CSXT shall remit to L&I the difference by April 15<sup>th</sup> of the immediately following year.

If the CSXT Final Allocated Annual Actual Maintenance Expense for a calendar year is less than the total of CSXT's Monthly Maintenance Expense Share payments for that same calendar year, then L&I shall remit to CSXT the difference by April 15<sup>th</sup> of the immediately following year.

#### **SECTION 4. OPERATING EXPENSE ALLOCATION**

A. CSXT and L&I shall share in the costs of Operating Expenses and shall allocate those costs in accordance with this Section 4. The term "Operating Expenses" shall include the expense incurred by L&I for operating and dispatching to the extent allocated to the Subject Trackage in Exhibit C of this Agreement.

B. Operating Expense Terms and Definitions.

1. **L&I Maximum Annual Operating Expense.** The average annual Operating Expenses that L&I incurred over the three full calendar years prior to calendar year during which this Agreement is executed shall be referred to herein as the L&I Maximum Annual Operating Expense. The L&I Maximum Annual Operating Expense shall be prorated on a monthly basis for any year during the term of the Agreement that is less than a full calendar year. Notwithstanding the foregoing, for purposes of computing the L&I Maximum Annual Operating Expense, the expenses incurred by L&I in 2013 for the third shift of dispatching personnel and bridge operators shall be excluded.
2. **L&I Minimum Annual Operating Expense.** The amount equal to sixty-seven percent (67%) of the L&I Maximum Annual Operating Expense shall be referred to herein as "L&I Minimum Annual Operating Expense."
3. **Intentionally left blank.**
4. **Operating Expense Budget.** The Operating Expense Budget shall be the sum of the dispatching expenses, determined in accordance with the procedures set forth in Appendix 1 hereto (the, Approved Dispatching Plan) and the other operating expenses to be shared jointly by the Parties, as determined in accordance with the procedures set forth in Appendix 1 hereto (the, Approved Operating Expense Plan) for the Subject Trackage for the calendar year in question.
5. **Monthly Operating Expense Budget.** The Operating Expense Budget for each calendar year shall be divided by twelve (12) to obtain a monthly budget amount (the "Monthly Operating Expense Budget"). By way of example, the Monthly Operating Expense Budget shall be calculated as follows:

$$\frac{\text{Monthly Operating Expense Budget}}{12} = \frac{\text{Operating Expense Budget}}{12}$$

In the event an Operating Expense Budget is established that applies to less than a full calendar year, the Monthly Operating Expense Budget shall be calculated as the Operating Expense Budget divided by the number of months covered by the Operating Expense Budget. In such an event, all other calculations shall be derived from this number.

6. **CSXT Projected Annual Train Miles.** The number of projected train miles for CSXT in the Approved Dispatching Plan and the Approved Operating Expense Plan for the calendar year in question.
7. **L&I Projected Annual Train Miles.** The number of projected train miles for L&I (and all third party railroads, including without limitation L&I affiliates and CSXT affiliates, operating on the Subject Trackage) in the Approved Dispatching Plan and the Approved Operating Expense Plan for the calendar year in question.
8. **Actual CSXT Annual Train Miles.** The Actual CSXT Annual Train Miles shall be calculated by CSXT by (i) multiplying each CSXT train moving over the Subject Trackage by the number of miles the train moved as determined in accordance with the Mileage Table in Section 2.D., and (ii) adding the train-miles for each such CSXT train for the calendar year in question.
9. **Actual L&I Annual Train Miles.** The Actual L&I Annual Train Miles shall be calculated by L&I by (i) multiplying each L&I train moving over the Subject Trackage by the number of miles the train moved, and (ii) adding the train-miles for each such L&I train for the calendar year in question.
10. **CSXT Projected Annual Train Mile Percentage.** The "CSXT Projected Annual Train Mile Percentage" shall be calculated for each calendar year by dividing the CSXT Projected Annual Train Miles by the sum of the CSXT Projected Annual Train Miles and the L&I Projected Annual Train Miles. The CSXT Projected Train Mile Percentage shall be rounded to the nearest two decimal places. By way of example, the CSXT Projected Train Mile Percentage shall be calculated as follows:

$$\text{CSXT Projected Annual Train Mile Percentage} = \frac{\text{CSXT Projected Annual Train Miles}}{(\text{CSXT Projected Annual Train Miles} + \text{L\&I Projected Annual Train Miles})}$$

11. **L&I Projected Annual Train Mile Percentage.** The "L&I Projected Annual Train Mile Percentage" shall be calculated by taking one (1) minus the CSXT Projected Train Mile Percentage. The L&I Projected Annual Train Mile Percentage shall be

rounded to the nearest two decimal places. By way of example, the L&I Projected Annual Train Mile Percentage shall be calculated as follows:

$$\begin{array}{l} \text{L\&I Projected Annual Train} \\ \text{Mile Percentage} \end{array} = \begin{array}{l} 1 \text{ minus CSXT Projected} \\ \text{Annual Train Miles Percentage} \end{array}$$

12. **CSXT Monthly Operating Expense Share.** CSXT’s share of the Monthly Operating Expense Budget shall be calculated by subtracting the L&I Adjusted Monthly Operating Expense Share (as calculated below in this Section 4.C.12) from the Monthly Operating Expense Budget (the “CSXT Monthly Operating Expense Share”). For illustrative purposes, the CSXT Monthly Operating Expense Share shall be calculated as follows:

$$\begin{array}{l} \text{CSXT Monthly Operating} \\ \text{Expense Share} \end{array} = \begin{array}{l} \text{Monthly Operating Expense} \\ \text{Budget minus L\&I Adjusted} \\ \text{Monthly Operating} \\ \text{Expense Share} \end{array}$$

13. **L&I Monthly Operating Expense Share and L&I Adjusted Monthly Operating Expense Share.** L&I’s share of the Monthly Operating Expense Budget shall be calculated by multiplying the Monthly Operating Expense Budget by the L&I Projected Annual Train Mile Percentage (the “L&I Monthly Operating Expense Share”); *provided, that*, the L&I Monthly Operating Share shall not (a) exceed one-twelfth (prorated on a monthly basis for partial years) of the L&I Maximum Annual Operating Expense for the year in question, or (b) be less than one-twelfth (prorated on a monthly basis for partial years) of the L&I Minimum Annual Operating Expense for the year in question (“**L&I Adjusted Monthly Operating Expense Budget**”). For illustrative purposes, the L&I Monthly Operating Expense Share shall be calculated as follows:

$$\begin{array}{l} \text{L\&I Monthly Operating} \\ \text{Expense Share} \end{array} = \begin{array}{l} \text{Monthly Operating Expense} \\ \text{Budget multiplied by L\&I} \\ \text{Projected Annual Train Mile} \\ \text{Percentage (subject to the L\&I} \\ \text{Adjusted Monthly Operating} \\ \text{Expense Budget} \\ \text{minimum/maximum} \end{array}$$

14. In the event the Operating Expense Budget is amended during a calendar year, then the CSXT Monthly Operating Expense Share and the L&I Monthly Operating Expense Share for the rest of such calendar year shall be adjusted accordingly.

15. Notwithstanding any provision in this Exhibit B to the contrary, (a) loaded and empty trains that are handled on the Subject Trackage under a haulage arrangement shall be treated as the trains of the Party whose trains are being hauled, and (b) trains moving

over the Subject Trackage via CSXT trackage rights to and from the Nabb Branch connection at Boyd, IN pursuant to the Nabb Trackage Rights Agreement, shall be excluded from the provision of this Exhibit B.

C. **Annual Operating True-Up.** By March 31<sup>st</sup> of each calendar year, the Parties will true-up their respective shares of the Operating Expense Budget for the prior calendar year for each Party by comparing the actual Operating Expenses (“Actual Operating Expenses”), as allocated based upon the actual train miles for which each Party is responsible, against the Monthly Operating Expense Budget, as allocated based upon the projected train miles for which each Party is responsible, for the period between January 1 and December 31 of the prior calendar year and settling the difference between the Parties. The Annual Operating True-Up shall be performed as follows:

Step 1

Identify the total Actual Operating Expenses for the period between January 1 and December 31 of each calendar year (the “**Annual Actual Operating Expenses**”).

Step 2

Calculate the total actual train miles handled over the Subject Trackage for the period between January 1 and December 31 of each calendar year (the "**Total Actual Annual Train Miles**") by adding the (i) Actual CSXT Annual Train Miles in that period (as that term is defined in Section 4.B.8 hereof) and the (ii) Actual L&I Annual Train Miles in that period (as defined in Section 4.B.9 hereof). For illustrative purposes, the Total Actual Annual Car Miles shall be calculated as follows:

$$\begin{array}{l} \text{Total Actual Annual Train} \\ \text{Miles} \end{array} = \begin{array}{l} \text{Actual CSXT Annual Train Miles} \\ \text{Actual L\&I Annual Train Miles} \end{array} \textit{plus}$$

Step 3

Determine the (i) percentage of total actual annual train miles attributable to CSXT (the “**CSXT Actual Annual Train Mile Percentage**”) and the (ii) percentage of total actual annual train miles attributable to L&I (the “**L&I Actual Annual Train Mile Percentage**”) rounded to two decimal places. For illustrative purposes, the CSXT Actual Annual Train Mile Percentage and the L&I Actual Annual Train Mile Percentage shall be calculated as follows:

$$\begin{array}{l} \text{CSXT Actual Annual} \\ \text{Train Mile Percentage} \end{array} = \frac{\text{CSXT Actual Annual Train Miles}}{\text{Total Actual Annual Train Miles}}$$

$$\begin{array}{l} \text{L\&I Actual Annual Train Mile} \\ \text{Percentage} \end{array} = 1 \textit{ minus CSXT Actual Annual} \\ \text{Train Mile Percentage}$$

Step 4

Allocate L&I's share of the Annual Actual Operating Expenses (the "**L&I Allocated Annual Actual Operating Expenses**") based on the L&I Actual Annual Train Mile Percentage. For illustrative purposes, the L&I Allocated Annual Actual Operating Expenses shall be calculated as follows:

$$\begin{array}{r} \text{L\&I Allocated Annual Actual} \\ \text{Operating Expenses} \end{array} = \begin{array}{r} \text{L\&I Actual Annual Train Mile} \\ \text{Percentage multiplied by} \\ \text{Annual Actual Operating} \\ \text{Expenses} \end{array}$$

Step 5

Determine the extent, if any, by which the L&I Allocated Annual Actual Operating Expenses exceeds the L&I Maximum Annual Operating Expense (the "**L&I Maximum Annual Operating Expense Difference**"). The L&I Maximum Annual Operating Expense Difference cannot be negative. By way of example, the L&I Maximum Annual Operating Expense Difference shall be calculated as follows:

$$\begin{array}{r} \text{L\&I Maximum Annual} \\ \text{Operating Expense Difference} \end{array} = \begin{array}{r} \text{L\&I Allocated Annual Actual} \\ \text{Operating Expenses minus} \\ \text{L\&I Maximum Annual} \\ \text{Operating Expense} \end{array}$$

If the L&I Actual Maximum Annual Operating Expense Difference is greater than zero (0), the L&I Allocated Annual Operating Expenses shall be capped at the L&I Maximum Annual Operating Expense and the amount of the L&I Maximum Annual Operating Expense Difference shall be added to the CSXT Allocated Annual Actual Operating Expenses.

By way of example, the following depicts the treatment of an L&I Maximum Annual Operating Expense Difference:

$$\$100,000 = \$1,000,000 \text{ minus } \$900,000$$

In the preceding example, CSXT would be responsible for the L&I Maximum Annual Operating Expense Difference of \$100,000, which would be added to the CSXT Allocated Annual Actual Operating Expenses and which would be deducted from the L&I Allocated Annual Actual Operating Expenses.

Step 6

Determine the extent, if any, by which the L&I Minimum Annual Operating Expense exceeds the L&I Allocated Annual Actual Operating Expenses (the "**L&I Minimum Annual Operating Expense Difference**"). For illustrative purposes, L&I Minimum Annual Operating Expense Difference shall be calculated as follows:

$$\text{L\&I Minimum Annual Operating Expense Difference} = \text{L\&I Minimum Annual Operating Expense } \textit{minus} \text{ L\&I Allocated Annual Actual Operating Expenses}$$

If the L&I Minimum Annual Operating Expense Difference is greater than zero (0), the L&I Allocated Annual Actual Operating Expenses shall be increased to the L&I Minimum Annual Operating Expense. The L&I Minimum Annual Operating Expense Difference cannot be negative. The L&I Minimum Annual Operating Expense Difference shall be subtracted from the CSXT Allocated Annual Actual Operating Expenses (as defined in Step 9 of this Section 4.C).

By way of example, the following depicts the treatment of an L&I Minimum Annual Operating Expense Difference:

$$\$100,000 = \$900,000 \textit{ minus} \$800,000$$

In the preceding example, the L&I Minimum Annual Operating Expense Difference of \$100,000 would be added to the L&I Allocated Annual Actual Operating Expenses and \$100,000 would be deducted from the CSXT Allocated Annual Actual Maintenance Expenses.

Step 7

If necessary, adjust the L&I Allocated Annual Actual Operating Expenses to reflect the L&I Maximum Annual Operating Expense or the L&I Minimum Annual Operating Expense, as appropriate (If the L&I Allocated Annual Actual Operating Expenses are less than the L&I Maximum Annual Operating Expense and greater than the L&I Minimum Annual Operating Expense, then the L&I Allocated Annual Actual Operating Expenses, as adjusted (if applicable) in accordance with this Step 7 shall be the “**L&I Final Allocated Annual Actual Operating Expenses**”). By way of example, the L&I Final Allocated Annual Actual Operating Expenses shall be calculated as follows:

$$\text{L\&I Final Allocated Annual Actual Operating Expenses} = \text{L\&I Allocated Annual Actual Operating Expenses } \textit{minus} \text{ any L\&I Maximum Annual Operating Difference } \textit{plus} \text{ any L\&I Minimum Annual Operating Difference (as applicable)}$$

Step 8

Allocate CSXT’s share of the Annual Actual Operating Expenses (the “**CSXT Allocated Annual Actual Operating Expenses**”) based on the CSXT Actual Annual Train Mile Percentage. By way of example, the CSXT Allocated Annual Actual Operating Expenses shall be calculated as follows:

$$\text{CSXT Allocated Annual Actual Operating Expenses} = \text{CSXT Actual Annual Train Mile Percentage multiplied by Annual Actual Operating Expenses}$$

Step 9

Adjust the CSXT Allocated Annual Actual Operating Expenses to reflect the L&I Maximum Annual Operating Expense Difference or the L&I Minimum Annual Operating Expense Difference, as appropriate. (The amount of the CSXT Allocated Annual Actual Operating Expense, as adjusted in accordance with this Step 9, shall be “**CSXT Final Allocated Annual Actual Operating Expenses**”). By way of example, the CSXT Final Allocated Annual Actual Operating Expenses shall be calculated as follows:

$$\text{CSXT Final Allocated Annual Actual Operating Expenses} = \text{CSXT Allocated Annual Actual Operating Expenses plus any L\&I Maximum Annual Operating Expense Difference minus any L\&I Minimum Annual Operating Expense Difference (as applicable)}$$

Step 10

Compare the CSXT Final Allocated Annual Actual Operating Expense to the total of CSXT’s Monthly Operating Expense Share made between January 1 and December 31 of each calendar year.

If the CSXT Final Allocated Annual Actual Operating Expense for a calendar year exceeds the total of CSXT’s Monthly Operating Expense Share payments for that same calendar year, then CSXT shall remit to L&I the difference by April 15<sup>th</sup> of the immediately following year.

If the CSXT Final Allocated Annual Actual Operating Expense for a calendar year is less than the total of CSXT’s Monthly Operating Expense Share payments for that same calendar year, then L&I shall remit to CSXT the difference by April 15<sup>th</sup> of the immediately following year.

**SECTION 5. BILLINGS AND PAYMENTS**

A. All statements, invoices, and payments provided for under this Section 5 shall be distributed as follows:

If to CSXT:                 Director, Joint Facility Services  
                                  CSX Transportation, Inc.  
                                  500 Water Street, J180  
                                  Jacksonville, FL 32202

If to L&I:                    President  
                                  Louisville & Indiana Railroad Company  
                                  500 Willinger Lane  
                                  Jefferson, IN 47130

- B. CSXT shall remit or send to L&I, as applicable, the following on a monthly basis:
1. CSXT Monthly Maintenance Expense Share payment for that month as described in Section 3.B.12 hereof by the fifteenth (15<sup>th</sup>) of each month..
  2. CSXT Monthly Operating Expense Share payment for that month as described in Section 4.B.13 hereof by the fifteenth (15<sup>th</sup>) of each month.
  3. Monthly Corridor Value Fee payment for the preceding month as described in Section 2 of this Exhibit B within 30 days after receipt of statement of CSXT cars over the Subject Trackage and corresponding invoice from L&I (as described in Section 5.C.1 hereof).
- C. L&I shall remit or send to CSXT, as applicable, the following on a monthly basis:
1. Monthly Corridor Value Fee invoice with corresponding statement of CSXT cars and car miles, computed in accordance with Section 2.B for the immediately preceding month by the fifteenth (15<sup>th</sup>) of each month.
  2. Monthly statement of CSXT trains and resulting train miles, as computed in accordance with Section 4.B.8 (but on a monthly basis) over the Subject Trackage for the immediately preceding month by the fifteenth (15<sup>th</sup>) of each month.
  3. Monthly statement of L&I cars and car miles for the immediately preceding month, computed in accordance with the Mileage Table in Section 2.D hereof, by the fifteenth (15<sup>th</sup>) of each month.
  4. Monthly statement of L&I trains and resulting train miles over the Subject Trackage for the immediately preceding month, as computed in accordance with Section 4.B.9 (but on a monthly basis), by the fifteenth (15<sup>th</sup>) of each month.
  5. Monthly statement of actual operating and maintenance charges, as outlined in Exhibit C that were allocable to the Subject Trackage for the immediately preceding month.

## SECTION 6. ESCALATION

A. **Corridor Fee.** Commencing on July 1, 2014, the Corridor Value Fee shall be revised upward or downward annually on July 1, by 50% of a three-year rolling average of the percentage changes in the Rail Cost Recovery Index ("RCR"), exclusive of fuel, published by the Association of American Railroads ("AAR"), or if the RCR cease to be published by the AAR, the Parties shall comply with the provisions set forth in Section 7.B.3 below.

1. The Corridor Value Fee shall be adjusted as of each July 1 by calculating 50% of the average percentage increase or decrease in the cost of labor and material, excluding fuel, as reflected in Table A, Annual Indices of Charge-Out Prices and Wage Rates (1977=100), Series RCR, included in "AAR Railroad Cost Indexes" and supplements thereto, issued by the Association of American Railroads in the three prior first quarters of the mostly recently completed calendar years." In making such determination, the "Material prices, wage rates and supplements combined (excluding fuel)" index for the East District shall be used.

For example, for the adjustment made as of July 2014, the average of the three (3) Annual RCR percentage changes published in the first quarters for the years 2013 vs. 2012, 2012 vs. 2011, and 2011 vs. 2010 shall be used) and applying it to the then-prevailing Corridor Value Fee. If:

A = the final RCR for 2010 issued in the first quarter of 2011  
B = the final RCR for 2011 issued in the first quarter of 2012  
C = the final RCR for 2012 issued in the first quarter of 2013  
D = the final RCR for 2013 issued in the first quarter of 2014  
V = the Corridor Value Fee in 2014  
Z = the percentage increase or decrease

then, the adjusted Corridor Value Fee, effective as of July 1, 2014, would be computed as follows:

1.  $Z = (B/A + C/B + D/C)$  divided by 3.
2. Subtract 1 from the average above and multiply by 0.5.
3.  $(Z \text{ plus } 1) \text{ multiplied by } V = \text{Adjusted Fee}$

B. **Other Than Corridor Value Fee Escalation.** The L&I Maximum Annual Maintenance Expense, the L&I Minimum Annual Maintenance Expense, the L&I Maximum Annual Operating Expense, and the L&I Minimum Annual Operating Expense (collectively referred to as the "Financial-Related Charges") shall be subject to change to reflect any increases or decreases in labor, material and other costs subsequent to the base year, as hereinafter provided. 1. The Financial-Related Charges shall be revised effective July 1st of each year, beginning July 1st 2014 to compensate for the prior year increase or

decrease in the cost of labor and material, excluding fuel, as reflected in Table A, Annual Indices of Charge-Out Prices and Wage Rates (1977=100), Series RCR, included in "AAR Railroad Cost Indexes" and supplements thereto, issued by the Association of American Railroads (hereinafter referred to as "AAR"). In making such determination, the final "Material prices, wage rates and supplements combined (excluding fuel)" index for the East District shall be used.

1. The Financial-Related Charges shall be revised by calculating the percentage of increase or decrease for the year to be revised based on the estimated final index issued in the first quarter of the current calendar year as related to the estimated final index issued in the first quarter of the most recently completed calendar year; and applying this percentage of increase or decrease to the current Base Charge to be escalated.
2. By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final index figure issued in the first quarter of current year 2013 for calendar year 2012; "B" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final index figure issued in the first quarter of 2014 for calendar year 2013, which is the most recently completed calendar year; and "C" to be the current Base Charge to be escalated; the revised Base Charge would be determined by the following formula:

$B / A \text{ multiplied by } C = \text{Revised Base Charge, Rounded to Nearest Whole Cent (5 Mills or More Rounds to Next Cent)}$

3. In the event the base for the Annual Indexes of Charge-Out Prices and Wage Rates issued by the AAR shall be changed from the year 1977, appropriate revision shall be made. If the AAR or any successor organization discontinues publication of the Annual Indices of Charge-Out Prices and Wage Rates, an appropriate substitute for determining the percentage of increase or decrease shall be negotiated by the parties hereto. In the absence of agreement, the matter will be referred to the Surface Transportation Board for determination. In the event said Board is without jurisdiction to make such a determination, the parties shall submit the matter to arbitration, using the procedures set forth in Article 17 of the Agreement.

**SECTION 7: USE OF TERMS.** Unless otherwise expressly stated herein, the use of capitalized terms that have not been defined in this Exhibit B (including Appendix 1 hereto) shall have the meanings set forth in the Amended and Restated Trackage Rights Agreement between L&I and CSXT, dated as of January 1, 2014. The definition assigned to a capitalized term in one section of this Exhibit B shall equally apply when such term is used in another section of this Exhibit B. Reference to a section shall mean a section of this Exhibit B, unless another document is referenced.

## APPENDIX 1

### Section 1

- A. Effective January 1, 2014, CSXT and L&I formed a joint budget committee (the "Committee"), consisting of two representatives from each Party, in order to establish the annual Maintenance Plan, DATS Plan, Dispatching Plan and Operating Expense Plan (as those terms are defined in Exhibit B to the Amended and Restated Trackage Rights Agreement between CSXT Transportation, Inc. and Louisville & Indiana Railroad Company, Inc., dated \_\_\_\_\_ (the "Agreement").
- B. The representatives for CSXT are \_\_\_\_\_ (Facsimile \_\_\_\_\_ and email \_\_\_\_\_), and the representatives for L&I are \_\_\_\_\_ (Facsimile \_\_\_\_\_ and email \_\_\_\_\_). Each Party may replace one or both of its representatives, at any time, with prior written notice to the other Party of the name and email address of the new representative.
- C. Pursuant to the procedures set forth below in Section 2, the Committee shall establish a Maintenance Plan, a DATS Plan, a Dispatching Plan and a Operating Expense Plan (as those terms are defined in Exhibit B to the Agreement) (a "Plan" and together, the "Plans"), each of which shall include the annual projected car-miles and train-miles that CSXT, on the one hand, and L&I and third parties, including without limitation CSXT and L&I affiliates, on the other hand, will operate over the Subject Trackage for each calendar year.
- D. The Committee established the Plans for calendar year 2014 on January 22, 2014.

**Section 2** Procedure to Establish Annual Budget. For Plans covering calendar years subsequent to 2014, the Committee shall use the following procedures to establish the Plans.

- A. During June of each year, the Parties shall conduct a joint inspection of the Subject Trackage to
- (1) Asses the condition of the Subject Trackage, and
  - (2) Assist in developing the plans and budgets for the Maintenance Plan and DATS Plan for the subject calendar year.
- B. By September 1<sup>st</sup> of each year, each Party shall submit to the other Party the following information:
- (1) A projection of its traffic over the Subject Trackage (as that term is defined in the Agreement) for the subject calendar year, broken down monthly by train frequency, on/off junction, and type (intermodal, unit or manifest), and a monthly estimate of car-miles and train-miles ("Traffic Projection"). The L&I Traffic Projection shall include the projections of all other users of the Subject Trackage, except CSXT.

(2) A description, in reasonable detail, of the proposed scope of work and costs to be included in the Maintenance Plan and DATS Plan for the subject calendar year.

C. By October 1<sup>st</sup> of each year, L&I shall submit to CSXT Proposed Plans for the Subject Trackage for the subject calendar year (the "Proposed Plans"). The Proposed Plans for the Subject Trackage shall be developed on the following principles:

(1) The Proposed Plans shall be direct budgets based on specified levels of labor costs and fringe benefits, material costs, purchased services, other out-of-pocket costs, and reasonable administrative cost additives to be incurred by L&I.

(2) The Proposed Plans shall include all items necessary for L&I to comply with the maintenance and dispatching requirements and standards (if any) established for the Subject Trackage under the Agreement or applicable law.

(3) The Parties agree that the Proposed Plans shall be established based on maintaining the condition of the Subject Trackage to at least FRA Class II standards (subject to slow orders and superintendent bulletins in the ordinary course), taking into account the projected level of traffic over the Subject Trackage.

D. Prior to October 25<sup>th</sup> of each year, the Committee shall meet (whether in person or by telephone or video conference) to approve or disapprove each of the Proposed Plans (the "Budget Approval Meeting"). Approval of the Plans by the Committee shall require approval by a majority of its members. A Proposed Plan approved by the Committee, whether or not modified by the Committee, shall become an "Approved Plan" for the following calendar year. Any Proposed Plan not approved by the Committee shall be subject to the following process:

(1) Within seven (7) days after the Budget Approval Meeting, CSXT will deliver to L&I a detailed written explanation of its reasons for disapproval, accompanied by proposed changes to each Proposed Plan ("CSXT Proposed Revisions"). If CSXT does not provide L&I with the CSXT Proposed Revisions for the Proposed Plan within such seven- (7-) day period, or if CSXT does not attend a Budget Approval Meeting prior to the October 25<sup>th</sup> deadline, then L&I will notify, by facsimile, each CSXT member of the Committee, as well as the CSXT Director of Joint Facilities. If CSXT does not provide L&I with CSXT Proposed Revisions within seven (7) days following such notice, the Proposed Plan, unmodified, will be deemed an Approved Plan.

(2) Within seven (7) days after its receipt of the CSXT Proposed Revisions (if applicable), L&I shall notify CSXT of whether it approves or rejects the CSXT Proposed Revisions. If L&I accepts the CSXT Proposed Revisions for the Proposed Plan, then the Proposed Plan, as modified by the CSXT Proposed Revisions, will become an Approved Plan. If L&I rejects the CSXT Proposed Revisions, the Committee will meet (whether in person or by telephone or video conference) prior to December 5<sup>th</sup> in an effort to revise the Proposed Plan in a manner that is acceptable to the Committee. If the meeting does

not occur or does not result in the Committee approving a version of the Proposed Plan, then (1) to reduce disruption to railroad expenditures and operations on the Subject Trackage, the Approved Plan for the then-current calendar year will remain in effect, to the extent practicable, until a new Plan is approved, and (2) each Party shall have the right to commence fast-track arbitration, pursuant to Section 4, hereof, to address the Proposed Plan.

(3) If L&I does not notify CSXT that it is rejecting the CSXT Proposed Revisions within seven (7) days after its receipt thereof, then CSXT shall notify, by facsimile, the two L&I members of the Committee, as well as the Controller for Anacostia Rail Holdings Company. If L&I does not notify CSXT that it is rejecting the CSXT Proposed Revisions within seven (7) days following such notice, the CSXT Proposed Revisions shall be deemed approved by the Committee, and the Proposed Plan, as modified by the CSXT Proposed Revisions, will become an Approved Plan.

### **Section 3**     Amendment of Plans

A. (1) In the event traffic levels on the Subject Trackage differ from the traffic projections (either on a number of trains basis or on a car-mile basis) used to generate the Approved Plans, by more than twenty (20) percent in each of three (3) consecutive months during a calendar year, either Party may propose to amend one or more of the Approved Plans to accommodate the change in traffic volume. The Party proposing to amend an Approved Plan may call a meeting of the Committee within thirty (30) days to discuss and vote on such proposed amendment to one or more of the Approved Plans.

(2) If the Committee does not timely convene or does not approve the proposed amendment to one or more of the Approved Plans, then (a) to reduce disruption to maintenance and dispatching on the Subject Trackage, the Approved Plan(s) corresponding to the Approved Plan or Plans proposed for amendment for the then-current traffic year will remain in effect without amendment, to the extent practicable until amendment(s) are approved, and (b) each Party shall have the right to commence fast-track arbitration, pursuant to Section 4 hereof, to address the proposed amendment.

B. In the event that, at any time after March 31st of each year, the actual expenses for right of way maintenance or capital for right of way for the Subject Line, calculated on a year-to-date basis for the completed months in the subject year are more than ten (10) percent higher or lower than the amount equal to the monthly amount under the Approved Maintenance Plan or DATS Plan (as applicable), multiplied by the number of completed months in the subject year, then, upon the request of either Party, the Committee shall promptly meet and make an equitable increase or decrease to the monthly amount of the applicable Plan for the remaining full months in the subject year, which amount shall be intended to cover any past or projected shortfall or overage during the subject calendar year. If the Committee is unable either to promptly meet or to agree on the amount of such equitable increase or decrease, then either Party may initiate fast-track arbitration to determine such amount pursuant to the procedures set forth in Section

4, below. The increase or decrease to the monthly amount of the Approved Maintenance Plan or DATS Plan (as applicable) shall become effective (and the paying Party shall commence paying the billing Party the adjusted monthly amount of such Plan(s) as of the first month immediately following the month in which either the (1) Committee agrees to the amount of the equitable increase or decrease, or (2) the arbitrator determines the amount of the equitable increase or decrease pursuant to Section 4 hereof.

#### **Section 4     Arbitration**

A.     In the event of a dispute regarding the approval or amendment of one or more Plans, either Party may initiate arbitration pursuant to this Section 6 by providing written notice to the other Party (the "Notice Recipient"). The date on which the Notice Recipient receives the written notice shall be the "Notice Date". The arbitrator shall be a national engineering firm if the dispute relates to an engineering matter, or a national accounting firm if the dispute relates to an accounting matter. If the Parties are able to agree on an arbitrator to resolve the dispute within five (5) days after the Notice Date, then such firm shall act as the arbitrator.

B.     If the Parties are unable to agree upon an arbitrator within five (5) days after the Notice Date, then, within ten (10) days after the Notice Date, each Party shall provide to the other a list of up to three (3) national engineering firms with experience in railroad engineering or national accounting firms with experience in railroad accounting (as applicable) that have not been engaged by such Party in the past five (5) years. After the exchange of the lists, each Party shall notify promptly the other Party of any firm on the other Party's list that has been engaged by it in the past five (5) years, and such firm(s) shall be removed from consideration. Within fifteen (15) days after the Notice Date, the Parties shall agree on one of the remaining firms on the lists to act as the arbitrator, or the arbitrator will be chosen by lot by a representative of the Party that initiated the arbitration in the presence of a representative of the Notice Recipient.

C.     Within thirty (30) days after the Notice Date, each Party shall submit to the arbitrator and to the other Party its position regarding the disputed item(s) (including, if applicable, the scope of work and budget for each disputed item). Within thirty-five (35) days after the Notice Date, each Party shall submit to the arbitrator and the other Party a reply to the other Party's position.

D.     The arbitration shall be conducted "baseball style." Within sixty (60) days after the Notice Date, the arbitrator shall select the position of one of the Parties, without modification. In making its decision regarding a dispute over maintenance items, the arbitrator shall determine, to the extent applicable, the appropriate level of normalized maintenance and capital projects and the related budget for the disputed items, taking into consideration the current conditions, FRA track class, projected train frequency and tonnage in the applicable calendar year and applicable AREMA standards, and shall select the Party's position that most closely reflects these determinations. In making its decision regarding a dispute over dispatching items, the arbitrator shall resolve the dispute consistent with industry standards.

## EXHIBIT C ALLOCABLE JOINT FACILITY COSTS

For purposes of this Exhibit C, the Joint Facility shall mean the Subject Trackage as defined in Article 2 of the Agreement.

Pursuant to this Exhibit C, costs incurred by L&I for maintenance, capital and dispatching, and certain operating expenses incurred by L&I, shall be allocated (i) to the Joint Facility (the "Covered Costs"), or (ii) to the remainder of the L&I railroad (the "L&I Sole Property"). The Covered Costs shall be borne by CSXT and L&I in accordance with the allocation methodology set forth in Exhibit B to the Agreement.

The Committee, as that term is defined in Appendix 1 to Exhibit B of the Agreement, can, upon mutual written consent of the Parties, add, delete, and modify the Covered Costs identified in this Exhibit C, as well as modify the allocation methodology associated with any Covered Costs set forth in Exhibits B or C. Any disagreement between the Parties (i) as to Covered Costs or the allocation methodology, to the extent such disagreement involves the interpretation of provisions of Exhibits B or C, or (ii) that involves the approval and/or amendment of the Maintenance Plan, DATS Plan, Dispatching Plan or Operating Expense Plan (as those terms are defined in Exhibit B to the Agreement), shall be subject to arbitration in accordance with the procedures set forth in Appendix 1 to Exhibit B to the Agreement; *provided, that*, any disagreement regarding the allocation methodology set forth in this Exhibit C (e.g., whether a particular Covered Cost should be subject to the "Method of Allocation" shown on the charts below or to some different method of allocation) shall not be subject to arbitration.

The methods of allocating Covered Costs between the Joint Facility and the L&I Sole Property are as follows:

- **Signal Ratio:** Costs incurred in connection with road crossings, traffic control signals, wayside detectors, power switches and the like shall be allocated based on the ratio of the number of AAR signal units used on the Joint Facility to the number of AAR signal units used on the L&I Sole Property. The initial Signal Ratio shall be 89.7%. If the Parties are unable to agree on the Signal Ratio, either Party may submit the matter to arbitration as provided in Article 17 of the Agreement.
- **Track Mile Ratio:** Costs shall be allocated to the Joint Facility by Subject Trackage track miles as a percentage of total L&I track miles (the total of track miles on the Subject Trackage and the L&I Sole Property). The initial Track Mile Ratio shall be 81.6%. If the Parties are unable to agree on the ratio, either Party may submit the matter to arbitration as provided in Article 17 of the Agreement; and
- **Actual Bill/Cost:** Costs allocated to the Joint Facility shall be based on direct billings associated with services provided by contractors or other third parties and costs incurred on the Joint Facility (including, without limitation, costs incurred in connection with purchases of materials to be installed or otherwise used on the Subject Trackage), which costs shall be increased by an administrative charge of three percent (3%).

For purposes of this Exhibit C, all allocable costs shall be grouped into the expense classes contained in Exhibit B - Cost Sharing. While this Exhibit C provides for the method of allocation of expenses incurred by L&I between the Joint Facility and the L&I Sole Property, the Parties shall bear the Covered Costs in accordance with Exhibit B (on a car-mile or train-mile basis, as provided therein).

References to the "Railroad" below shall mean both the Joint Facility and the L&I Sole Property.

Nothing in this Exhibit C (including without limitation the following charts) shall be construed as limiting L&I's right to use contractors who have been approved by the Committee (which approval shall not be unreasonably withheld) to perform any or all functions that generate Covered Costs for Maintenance Expenses.

**Expense Class: Maintenance Expense**

<b><u>Covered Cost</u></b>	<b><u>Cost Definition</u></b>	<b><u>Method of Allocation</u></b>
Signals Supervision (L&I Employees)	Compensation for signal supervision on the Railroad	Signal Ratio
Track Supervision (L&I Employees)	Compensation for track supervision on the Railroad	Track Mile Ratio
Track Inspectors (L&I Employees)	Compensation for track inspectors on the Railroad	Track Mile Ratio
Maintenance Crews (L&I Employees)	Compensation for maintenance of way work on the Railroad	Track Mile Ratio
Maintenance Crews (Contractors)	Direct costs associated with for track work on the Subject Trackage	Actual Bill/Cost
Maintenance Vehicles (L&I Employees)	Actual costs of vehicles assigned to maintenance of way employees	Track Mile Ratio
Signal (Contractors)	Direct costs for the work on signals on the Subject Trackage	Actual Bill/Cost
Signal Vehicles (L&I Employees)	Actual costs of vehicles assigned to signal employees	Signal Ratio
Signal Material & Tools (Contractors)	Direct costs for materials used on signals on the Subject Trackage	Actual Bill/Cost
Track Material, Surfacing, and Rail & Tools (Contractors)	Direct costs for materials, by location (by milepost) on the Subject Trackage	Actual Bill/Cost
Ballast, Ties, and Tie Disposal (Contractors)	Direct costs for materials by location (by milepost) on the Subject Trackage	Actual Bill/Cost

Vegetation Control (Contractors)	Direct costs for spraying services on the Subject Trackage	Track Mile Ratio
Equipment Rental and Repair	Direct costs for equipment used on the Subject Trackage	Actual Bill/Cost
Bridge Repairs (Contractor)	Director costs associated with bridge repairs and maintenance	Actual Bill/Cost
Seymour Crossing Agreement	100% of costs provided for under CSXT/L&I joint facility agreement covering diamond at Seymour, IN	Actual Bill/Cost
Signal Electricity	Actual utility costs for protected road crossings attached to the Railroad	Signal Ratio
Joint Facility Billing Staff	100% of compensation allocated to the Joint Facility	Actual Bill/Cost
Professional Fees	Only those costs incurred in defending the Joint Use Operating Agreement and supporting agreements against challenges external to CSXT and L&I. No professional fees associated with resolving matters between CSXT and L&I are allocable to the Joint Facility.	Actual Bill/Cost

**Expense Class: Operating Expense**

<b><u>Covered Cost</u></b>	<b><u>Cost Definition</u></b>	<b><u>Method of Allocation</u></b>
Dispatchers (L&I Employees)	Compensation for dispatcher positions needed to dispatch the Railroad	Actual Bill/Cost
Bridge Operators (L&I Employees)	Compensation for bridge operator positions needed to raise and lower the Clagg Bridge	Actual Bill/Cost
Timetable Expense	Actual costs to produce and distribute the L&I timetable	Actual Bill/Cost
Transportation Supervision (L&I Employees) (Needs to be negotiated)	Compensation for one trainmaster allocated to Joint Facility	Actual Bill/Cost

Transportation Supervision Vehicles (L&I Employees) (Needs to be negotiated)	Actual costs for vehicles used by trainmaster allocated to Joint Facility	Actual Bill/Cost
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With respect to any Covered Cost that includes compensation, such compensation shall include base salary, payroll taxes, and health benefits. Bonuses and contribution to employee retirement plans are not allocable costs under this Exhibit C.

The Parties agree that L&I shall include a general and administrative charge of . . . on those costs that are not a direct bill or invoice from a contractor, vendor, taxing authority, or other entity that renders direct bills, and that costs based on direct billing shall have a general and administrative charge of .

**EXHIBIT A-2-NOVEMBER 13, 2000  
AMENDED AND RESTATED TRACKAGE  
RIGHTS AGREEMENT**

**THIS AMENDED AND RESTATED TRackage RIGHTS AGREEMENT** (the "Agreement"), dated as of 13<sup>th</sup> day of November 2000, is made and entered into by and between LOUISVILLE & INDIANA RAILROAD COMPANY, an Indiana corporation, (hereinafter referred to as "Owner" or "L&I") and CSX TRANSPORTATION, INC., a Virginia corporation, (hereinafter referred to as "User" or "CSXT", in connection with the letter agreement between L&I and CSXT dated June 14, 2000 (the "Settlement Agreement"). L&I and CSXT are sometimes referred to herein individually as a "party" and together as the "parties."

**W I T N E S S E T H:**

WHEREAS, Owner operates a line of railroad between Louisville, KY and the vicinity of Indianapolis, IN; and

WHEREAS, Owner and User are parties to a Trackage Rights Agreement, dated October 21, 1997 (the "Original Agreement"), whereby Owner granted to User overhead trackage rights over Owner's line from Louisville, KY to Indianapolis, IN; and

WHEREAS, in connection with the Settlement Agreement, the parties desire to amend and restate the Original Agreement as set forth herein.

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

**ARTICLE 1. AMENDMENT**

Effective as of September 1, 2000 (the "Effective Date"), the Original Agreement is amended and restated as set forth herein, and all of the rights and obligations of the parties with respect to the Trackage Rights (as defined in Article 2 hereof) shall be as set forth herein.

## **ARTICLE 2. GRANT OF TRACKAGE RIGHTS**

Subject to the terms and conditions herein provided, Owner hereby grants to User the right to operate its trains, locomotives, cars and equipment with its own crews (hereinafter referred to as the "Trackage Rights") over the following segment of railroad operated by Owner: L&I's main line between the connection of the parties at L&I Milepost ("MP") 110.56± at Eleventh Street, Louisville, KY and connection of the parties at L&I MP 4.0± at Indianapolis, IN, a distance of approximately 106.5 miles, (the "Main Line"), and the designated sidings adjacent to and accessed from the Main Line (the "Sidings") all as shown on the map appended hereto as Exhibit A. The Main Line and Sidings are referred to together herein as the "Subject Trackage." User shall have a right of entry and exit at the aforementioned endpoints and at the connection of the parties at L&I MP 59.15± at Seymour, IN. All operations by CSXT will be overhead moves. CSXT will not have the right to serve customers on the Subject Trackage or to interchange with other rail carriers from Subject Trackage.

## **ARTICLE 3. TERM AND REGULATORY APPROVAL**

(a) This Agreement shall become effective on the Effective Date and shall remain in effect for an initial term of fifteen (15) years ("Initial Term"). Following the Initial Term, this Agreement shall remain in effect, except to the extent provided otherwise in Article 20(g) hereof, until terminated by User on six (6) months' prior written notice to Owner. The period from the end of the Initial Term through the termination of this Agreement shall be referred to herein as the "Extended Term." Following written notice of termination, User shall promptly and in good faith make any necessary regulatory filings in connection with the termination of this Agreement and the rights granted hereunder. If User fails to make a necessary regulatory

filing within thirty (30) days after termination of this Agreement. Owner shall be deemed to have power of attorney to make such filing in the name of the User, at User's expense.

(b) Within thirty (30) days following the date of this Agreement, CSXT, at its sole expense, shall submit to the Surface Transportation Board (or successor agency) (the "Board") such regulatory filing(s), if any, as CSXT deems appropriate to obtain authority or exemption to exercise the Trackage Rights. L&I will join in any such application or pleading to the Board, upon the request of CSXT. CSXT shall provide Owner with an opportunity to review and comment on CSXT's regulatory filings prior to their submission to the Board. In the event that one or more parties oppose the granting of the regulatory authority or exemption sought by CSXT, or appeal a determination to grant such authority or exemption, CSXT shall promptly respond to such opponents and shall pursue in good faith appeals of any adverse decision by the Board.

#### **ARTICLE 4. USE OF SUBJECT TRACKAGE**

(a) There is no limitation on the number of trains that CSXT may operate over the Subject Trackage. CSXT may use the Subject Trackage to operate through trains in both directions in overhead service only. Such trains may contain loaded and empty cars and combinations thereof. Prior to each January 1 during the term of this Agreement, User shall provide to Owner a good faith estimated range of the total number of cars (loads and empties) that User expects to handle over the Subject Trackage during the upcoming calendar year. The difference between the high point and the low point of the estimated range shall not be greater than ten thousand (10,000) cars.

(b) The efficient daily operation of the Subject Trackage as herein contemplated will

require close coordination and cooperation between the respective operating officers of both parties. Should that not occur or should any dispute not be resolved to the mutual satisfaction of the operating officers of both parties, the dispute shall be brought to the attention of the senior management of both parties. In the event that they are unable effectively to resolve the conflict within thirty (30) days, then either party may invoke arbitration procedures specified in Article 17 of this Agreement.

(c) Except as provided in Article 16 of this Agreement, Owner shall not grant trackage rights or other rights to operate trains or locomotives over all or any portion of the Subject Trackage, excluding emergency detours, to any other party without the prior written consent of User; provided, that Owner shall have the right to permit third parties to utilize portions of the Subject Trackage for purposes of interchange with Owner so long as such usage does not materially interfere with User's rights hereunder; provided, further, that this Article 4(c) shall not apply to any arrangements between Owner and third parties that are in place as of the date of this Agreement.

(d) Except as may otherwise be provided by this Agreement, User may use the Subject Trackage for overhead traffic purposes only. User shall not use any part of the Subject Trackage for the purpose of switching, storage or servicing of cars or equipment, or the making or breaking up of trains, or local freight service to an industry, except that nothing contained herein shall, upon prior approval of Owner, preclude the emergency use by User of such auxiliary tracks and sidings as may be designated by Owner for such purposes. As of the Effective Date, User does not reach and cannot serve any shipper on the Subject Trackage. In the event User in the future extends its tracks or otherwise becomes able to serve any shipper(s) served from the Subject Trackage, User shall not use any part of the Subject Trackage to handle

traffic for, or for the account of such shipper(s).

(e) Except as provided herein, Owner shall have exclusive control of the management and operation of the Subject Trackage. User shall not have any claim against Owner for liability on account of loss or damage of any kind in the event the use of the Subject Trackage by User is interrupted or delayed at any time from any cause, except as otherwise provided in Articles 6 and 13(i) hereof.

(f) When operating over the Subject Trackage, User's locomotives and crews will be equipped to communicate with Owner on radio frequencies normally used by Owner in directing train movements on the Subject Trackage.

(g) Procedures for qualification and occupancy of the Subject Trackage will be arranged by the local supervision of each party. L&I will provide pilots at CSXT's expense until CSXT's crews are qualified on L&I's rules. All control and usage will be subject to the approval of Owner's representative or his designee.

(h) Before User's locomotives enter into the Subject Trackage, User shall request permission from Owner's dispatcher or other designated representative. Further, User shall ascertain that the Subject Trackage is clear and shall await confirmation from Owner's representative that such permission has been issued to allow User's movements on the Subject Trackage. Upon completing its operations and clearing the Subject Trackage, User will notify Owner's designated representative that User has completed its operations and that its equipment has cleared the Subject Trackage. User shall not reenter the Subject Trackage without again obtaining permission from Owner's representative. User shall provide and maintain at its

expense all communication facilities needed and as may be reasonably required by Owner to permit User to use the Subject Trackage.

**ARTICLE 5. PAYMENT OF BILLS**

(a) All payments called for under this Agreement shall be made by User within thirty (30) days after the date of the bills therefor from the Owner. No payments shall be withheld because of any dispute as to the correctness of items in the bills rendered, and any discrepancies reconciled between the parties hereto shall be adjusted in the accounts of a subsequent month. The records of each party hereto, insofar as they pertain to matters covered by this Agreement, shall be open at all reasonable times to inspection by the other party for a period of three (3) years from the date of billing.

(b) Bills rendered pursuant to the provisions of this Agreement, except bills prepared pursuant to Article 20, shall include direct labor and material costs, together with the surcharges, overhead percentages and equipment rentals as specified by Owner at the time any work is performed by Owner for User or shall include actual costs and expense, upon mutual agreement of the parties.

**ARTICLE 6. MAINTENANCE OF SUBJECT TRACKAGE**

(a) Owner shall maintain, repair and renew the Subject Trackage at its own expense. Owner shall keep and maintain the Subject Trackage in reasonably good condition for the use herein contemplated, but Owner does not guarantee the condition of the Subject Trackage or that operations thereover will not be interrupted. User shall take all reasonable steps to ensure that any interruptions will be kept to a minimum. Furthermore, except to the extent otherwise

provided in this Article 6 and Article 13 hereof. User shall not by reason of failure or neglect on the part of Owner to maintain, repair or renew the Subject Trackage, have or make any claim or demand against Owner or its parent corporation, subsidiaries or affiliates, or their respective directors, officers, agents or employees for any injury to or death of any person or persons whomsoever, or for any damage to or loss or destruction of any property whatsoever, or for any damages of any nature suffered by User resulting from any such failure or neglect. User shall have the right to inspect, but shall have no obligation to inspect the Subject Trackage at regular and reasonable intervals, and to request that Owner promptly correct any track defects detected by User and determined by User to be out of compliance with the standards set forth in Article 6(c) below. Owner shall indemnify and hold User harmless from any claims or actions brought against User relating to User's inspection of the Subject Trackage or User's election not to inspect the Subject Trackage.

(b) Owner shall also perform, at the expense of User, such additional maintenance as User may request.

(c) Notwithstanding anything in this Article 6, for the Initial Term of this Agreement Owner shall:

- (i) keep and maintain the Main Line to a minimum of FRA Class 2 condition, and a minimum speed of twenty-five (25) miles per hour, subject to force majeure events and temporary slow orders related to track maintenance.
- (ii) keep and maintain the Sidings to the condition specified in Owner's timetable from time to time; provided, however, that Owner shall maintain the Sidings to a minimum FRA Class 1 condition.

## **ARTICLE 7. EXTRAORDINARY REPAIRS**

The payment by User of the fees described in Article 20 to Owner is intended to fully compensate Owner for the use of the Subject Trackage by User and to allow Owner to provide normal maintenance of the Subject Trackage, including but not limited to trackage, signals, bridges, cuts, fills and other features of the right of way, as provided herein.

Due to the long-term nature of this Agreement, it is possible that a large-scale track replacement or extraordinary repairs, such as, by way of example and not limitation, repairs to Owner's Ohio River Bridge, (hereinafter, jointly "Extraordinary Repairs") may be required. In that event, Owner shall prepare an estimate of such Extraordinary Repairs and provide the estimate to User. User, upon request, shall also have the right to inspect the areas of the Subject Trackage where the Extraordinary Repairs would be made.

Owner and User shall negotiate in good faith for a period not to exceed ninety (90) days, computed from the date of receipt of the estimate by User, regarding the scope and necessity of such Extraordinary Repairs and an initial sharing of the cost of the Extraordinary Repairs. Both parties agree now, however, that any and all amounts paid by User on account of Extraordinary Repairs will be offset against future Fixed Annual Fees. The maximum offset against the Fixed Annual Fee in any year, however, is \_\_\_\_\_ User shall be obligated to pay for Extraordinary Repairs only to the extent that it agrees to do so in writing. If, following discussions between the parties, Owner notifies User in writing that a dispute exists as to the need for or funding of Extraordinary Repairs, then Owner or User, within ninety (90) days after Owner's notice, may cancel this Agreement upon ninety (90) days' notice to the

other party. User, at its sole expense, will file and pursue any necessary regulatory approval of the Board or its successor regarding any such termination under this Article 7.

**ARTICLE 8. CONSTRUCTION AND MAINTENANCE OF CONNECTIONS**

(a) Existing connections or facilities that are jointly used by the parties hereto under any existing agreements shall continue to be maintained, repaired and renewed by and at the expense of the party or parties responsible for such maintenance, repair and renewal under such agreements. Notwithstanding the foregoing, the joint facility agreement between CSXT and L&I, dated May 27, 1854, concerning maintenance of the diamond at Seymour, IN shall be amended, effective no later than the Effective Date to provide for the cost of maintenance of that diamond to be shared by CSXT and L&I on a prorata basis based upon the number of trains operated by each party over the diamond.

(b) If, in the opinion of User, a new or upgraded connection(s) to the Subject Trackage is required, such connection(s) shall be constructed, maintained, repaired and renewed as follows:

(i) User or others shall furnish all labor and material and shall upgrade, construct, maintain, repair, and renew at its sole cost, liability and expense such portions of the tracks located on the right-of-way of User or others which connect the respective lines of the parties hereto.

(ii) Owner shall furnish all labor and material and shall upgrade, construct, maintain, repair and renew at the sole cost, liability and expense of User such portions of the tracks located on the right-of-way owned or operated by Owner which connect the respective lines of the parties hereto. Upon termination of this Agreement, Owner may at its option

remove any portion of trackage and appurtenances located on right-of-way operated by Owner, constructed as a result of this Article, at the sole cost and expense of User. The salvage material removed shall be released to User unless the parties agree otherwise. If the parties agree that trackage and appurtenances located on the right-of-way operated by Owner, constructed as a result of this Article, remain on Owner's right-of-way following termination of this Agreement, Owner will credit User the current fair market value for said salvage.

#### **ARTICLE 9. ADDITIONS, RETIREMENTS AND ALTERATIONS**

(a) Owner, from time to time and at its sole cost and expense, may make changes in, additions and betterments to or retirements from the Subject Trackage as shall, in Owner's judgment, be necessary or desirable for the economical or safe operation thereof or as shall be required by any law, rule, regulation, or ordinance promulgated by any governmental body having jurisdiction. Such additions and betterments shall become a part of the Subject Trackage and such retirements shall be excluded from the Subject Trackage.

(b) If the parties agree that changes in or additions and betterments to the Subject Trackage, including but not limited to switches, power switches, sidings, signals, communications, etc. are required to accommodate User's operations beyond that required by Owner to accommodate its operations, Owner shall construct the additional or altered facilities and User will be responsible for funding that construction/upgrading at actual cost or at a cost mutually agreed to by Owner and User. In addition, during the term of this Agreement, User shall pay to Owner the annual expense of maintaining, repairing, and renewing such additional or altered facilities.

(c) If User requests Owner to make changes in or additions, betterments, improvements, or upgrades to the Subject Trackage, including without limitation changes in communications or signal facilities for purposes beyond that required for Owner's operation, Owner shall make such changes in or additions, betterments, improvements or upgrades to the Subject Trackage and User shall pay to Owner the actual cost thereof. In addition, during the term of this Agreement User shall pay to Owner the annual expense of maintaining, repairing, and renewing such upgraded, additional or altered facilities.

**ARTICLE 10.            MANAGEMENT AND OPERATIONS**

(a) User shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and any other 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. All necessary inspections shall be conducted by CSXT, at its sole expense, prior to CSXT trains, locomotives, cars or equipment entering the Subject Track.

User shall indemnify, protect, defend, and save harmless Owner and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents and employees from and against all fines, penalties and liabilities imposed upon Owner or its parent corporation, subsidiaries or affiliates, or its respective directors, officers, agents and employees under such laws, rules, and regulations by any public authority or court having jurisdiction in the premises, when attributable solely to the failure of User to comply with its obligations in this regard.

(b) User in its use of the Subject Trackage shall comply in all respects with the safety rules, operating rules and other regulations of Owner, and the movement of User's trains, locomotives, cars, and equipment over the Subject Trackage shall at all times be subject to the orders of the transportation officers of Owner. User's trains shall not include locomotives, cars or equipment which exceed the width, height, weight or other restrictions or capacities of the Subject Trackage as published in *Railway Line Clearances*, 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 Owner's operating rules and regulations without the prior consent of Owner.

(c) User shall make such arrangements with Owner as may be required to have all of its employees who shall operate its trains, locomotives, cars and equipment over the Subject Trackage qualified for operation thereover, and User shall pay to Owner, upon receipt of bills therefor, any cost incurred by Owner in connection with the qualification of such employees of User, as well as the cost of pilots furnished by Owner, until such time as such employees are deemed by the appropriate examining officer of Owner to be properly qualified for operation as herein contemplated.

(d) In the event of any investigation or hearing concerning the violation of any operating rule or practice by User's employees while on the Subject Trackage, User shall be notified in advance of any such investigation or hearing, and such investigation or hearing may be attended by any official designated by User, and any such investigation or hearing shall be conducted in accordance with the collective bargaining agreements, if any, that pertain to User's employee or employees required to attend such hearings.

(e) Owner shall have the right to exclude from the Subject Trackage any employee of User determined by the above, to be in violation of Owner's rules, regulations, orders, practices, or instructions issued by Owner's Timetable or otherwise. User shall release, indemnify, defend, and save harmless Owner and its parent corporation, subsidiaries and affiliates, and all of its respective directors, officers, agents and employees from and against any and all claims and expenses resulting from such exclusion.

(f) Except as provided in this subparagraph, the trains, locomotives, cars and equipment of Owner and User shall be operated without prejudice or partiality to either party and in such manner as will afford the most economical and efficient movement of all traffic. The foregoing notwithstanding, all of User's trains are construed to be through trains and shall have priority over Owner's local trains. Through trains of both parties shall at all times be given priority of movement over local trains. Owner's through trains, including trains containing auto parts, perishables or other traffic of a time sensitive nature, shall have equal priority with User's trains.

(g) In the event that a train of either party shall be forced to stop on the Subject Trackage, due to mechanical failure of equipment, or any other cause not resulting from an accident or derailment, and such train is unable to proceed, or if a train of either party fails to maintain the speed required by Owner on the Subject Trackage, or if in emergencies, crippled or otherwise defective cars are set out of either party's trains on the Subject Trackage, the other party hereto shall have the option to furnish motive power or such other assistance as may be necessary to haul, help or push such trains, locomotives or cars, or to properly move the disabled equipment off the Subject Trackage, and the party providing such assistance shall be reimbursed for the cost of same by the disabled party.

(h) If it becomes necessary to make repairs to or adjust or transfer the lading of such crippled or defective cars of User in order to move them off the Subject Trackage, User may request that Owner perform such work, and if Owner agrees to do so, User shall reimburse Owner for the cost thereof. User may also elect to perform such work for itself.

(i) In the event Owner and User agree that Owner should retain employees or provide additional employees for the sole benefit of User, the parties hereto shall enter into a separate agreement under which User shall bear all cost and expense for any such retained or additional employees provided, including without limitation all cost and expense associated with labor protective payments which are made by Owner and which would not have been incurred had the retained or additional employees not been provided.

#### **ARTICLE 11. MILEAGE AND CAR HIRE**

All mileage and car hire charges accruing on cars in User's trains on the Subject Trackage shall be assumed by User and reported and paid by User.

#### **ARTICLE 12. CLEARING OF WRECKS**

Whenever User's use of the Subject Trackage requires rerailling, wrecking service or wrecking train service, Owner or its agent shall perform or provide such service, including the repair and restoration of roadbed, track and structures. 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 Article 13 hereof. All locomotives, cars, and 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 User at the time of such wreck, shall be promptly delivered to User.

### **ARTICLE 13. LIABILITY**

Except as provided in Article 13(j) below, the responsibility and liability between the parties for: (i) any personal injury or death of any person (including employees of the parties and third persons), (ii) any real or personal property damage of any person (including the Subject Trackage and other property of the parties and third persons), (iii) any damage or destruction to the environment (including land, air, water, wildlife and vegetation), (iv) any claims of third parties for damages, and (v) all cleanup and remediation expenses, court costs, litigation expenses and attorney's fees resulting from the use of the Subject Trackage by either party as described herein, all of which (and all costs, judgments and expenses incurred in connection therewith) are collectively referred to as a "Loss", shall be divided as follows:

(a) If a Loss arises in connection with an incident involving the train(s) and/or locomotive(s) of Owner or User (the "Involved Party") without the involvement of a train and/or locomotive of the other party, then the Involved Party shall be solely responsible for all Loss in connection therewith, even if caused partially or completely by the other party.

(b) If a Loss arises in connection with an incident involving the trains and/or locomotives of both Owner and User (when no trains or locomotives of third parties are involved), then: (i) each is solely responsible for any Loss to its own employees, locomotives and equipment in its own account including lading and (ii) the parties are equally responsible

for any Loss to the Subject Trackage and Loss sustained by third parties, regardless of the proportionate responsibility between them as to the cause of the Loss.

(c) For purposes of assigning responsibility of a Loss under this Article as between the parties hereto, a Loss involving one, but not both of the parties to this Agreement and a third party or parties, shall be construed as being the sole responsibility of that one party to this Agreement.

(d) Whenever any Loss is assumed by or apportioned to a party hereto under the foregoing provisions, that party shall forever protect, defend, indemnify, and save harmless the other party to this Agreement and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents, and employees from and against that liability, cost and expense assumed by that party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance, or misfeasance of the indemnitee or its directors, officers agents, or employees.

(e) In every case of death or injury suffered by an employee of either User or Owner, when compensation to such employee or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employers' liability or other law, and either of said parties, under the provisions of this Agreement, is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such party shall not be released from paying any such future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.

(f) For purposes of determining liability, pilots furnished by Owner to User pursuant to this Agreement shall be considered as the employees of User while such pilots are on board or getting on or off trains of User.

(g) For the purpose of determining liability associated with construction, maintenance, repair and renewal of connections as provided in Article 8(b) (ii), all work performed by Owner shall be deemed performed for the sole benefit of User and, User shall be fully liable for all cost and expense of any and all loss, damage, destruction, injury and death resulting from, arising out of, incidental to or occurring in connection with said construction, maintenance repair and renewal except when such cost and expense of loss, damage, destruction, injury or death is caused by the sole negligence of Owner. User shall protect, indemnify, and save harmless Owner and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents and employees from and against any and all expense and liability for which User is responsible.

(h) If any suit or action shall be brought against either party for damages which under the provisions of this Agreement are in whole or in part the responsibility of the other party, said other 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 a proportionate part of the judgment and costs, expense and attorneys' fees incurred in such suit according to its liability assumed hereunder.

(i) In the event of a Loss as set out herein, the parties to this Agreement shall be bound by the Freight Claim Rules, Principles, and Practices of the Association of American Railroads (AAR) as to the handling of any claims for the loss or damage to lading.

(j) The provisions set forth in this Article 13 (subarticles a through i) above allocating liability between the parties or providing for indemnity shall not apply to any incident in which the total liability for damage to property and equipment of the parties, for damage to property of others, for death or personal injury to employees of the parties or other persons, for clean up or remediation of environmental damage, and for other damage to the environment including damage to natural resources, and all legal fees and expenses associated with such liability ("Total Costs") exceed

(k) In the event an incident occurs in which one or both of the parties assert that the Total Costs will exceed , such party or parties shall promptly notify the other party.

(i) The first : of liability in connection with an incident involving Total Costs in excess of shall be allocated as set forth in subarticles (a) through (i) above, and the liability in excess of shall be allocated under principles of comparative fault pursuant to binding arbitration as set forth in Article 17.

(l) Notwithstanding any provision to the contrary herein, neither party shall be obligated to indemnify the other party (the "Indemnitee") for punitive damages to the extent such damages are awarded based upon the act or omission of one or more of the officers, directors, employees or agents of the Indemnitee.

#### **ARTICLE 14. CLAIMS**

(a) Except as provided in Subarticle (b) below, all claims, injuries, death, property damages and losses arising out of or connected with this Agreement shall be investigated, adjusted and defended by the party bearing the liability, cost, and expense therefor under the

provisions of this Agreement.

(b) Each party will investigate, adjust and defend all freight loss and damage claims filed with it in accordance with 49 U.S.C. Section 11706.

(c) In the event a claim or suit is asserted against Owner or User which is the other's duty hereunder to investigate, adjust or defend, then, unless otherwise agreed, such other party shall, upon request, take over the investigation, adjustment and defense of such claim or suit.

(d) All costs and expenses in connection with the investigation, adjustment and defense of any claim or suit under this Agreement shall be included as costs and expenses in applying the liability provisions set forth in this Agreement, except that salaries or wages of full-time agents, full-time attorneys and other full-time employees of either party engaged directly or indirectly in such work shall be borne by such party.

(e) Excluding freight loss and damage claims filed in accordance with 49 U.S.C. Section 11706, neither party shall settle or compromise any claim, demand, suit or cause of action for which the other party has any liability under this Agreement without the prior written concurrence of such other party if the consideration for such settlement or compromise exceeds THIRTY-FIVE THOUSAND DOLLARS (\$35,000).

(f) Each party agrees to indemnify and hold harmless the other party and its parent corporation, subsidiaries and affiliates, and all their respective directors, officers, agents and employees from and 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 its own employees, pursuant to a collective bargaining agreement. Each party shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed by the Board in connection with this Agreement, and of grievances filed

by its own employees arising under its collective bargaining agreements with its employees and each party will indemnify the other from any such claims and grievances.

(g) It is understood that nothing in this Article 14 shall modify or waive the conditions, obligations, assumptions or apportionments provided in Article 13.

#### **ARTICLE 15. DEFAULT AND TERMINATION**

In the event of any substantial failure on the part of User to perform a substantial obligation provided under the terms of this Agreement and its continuance in such default (absent a continuing, good faith effort to correct such default) for a period of sixty (60) days after written notice thereof by certified mail from Owner, Owner shall have the right at its option, after first giving thirty (30) days' written notice thereof by certified mail, and notwithstanding any waiver by User of any prior breach thereof, to terminate this Agreement, subject to the approval of such termination by the Board. The exercise of such right by Owner shall not impair its rights under this Agreement or any cause or causes of action it may have against User for the recovery of damages.

#### **ARTICLE 16. ABANDONMENT, SALE OR LEASE OF SUBJECT TRACKAGE**

(a) Owner shall have the right, subject to securing any necessary regulatory approval, to abandon, sell or lease the Subject Trackage or any portion thereof. Before filing an application for regulatory approval of such abandonment, or of a sale or lease of all or a portion of the Subject Trackage to a Class I carrier or to a Class II or Class III railroad that is controlled by or under common control with a Class I carrier (a "Covered Sale/Lease"), Owner must give User ninety (90) days' advance notice in writing of its intention to do so in order that User may

determine whether it desires to acquire or lease (in the case of a proposed lease) the Subject Trackage (or portion thereof if Owner intends to abandon, sell or lease only a portion of the Subject Trackage) or to discontinue its use thereof.

(b) If Owner notifies User of its intention to abandon all or a portion of the Subject Trackage and if User desires to acquire the Subject Trackage to be abandoned, it shall submit an offer of financial assistance under 49 U.S.C. Section 10904. In the event Owner receives more than one such offer, Owner will exercise its statutory right to negotiate with User rather than with the other offeror(s).

(c) In any one of the circumstances listed below User shall be deemed to have determined that it does not desire to acquire or lease the Subject Trackage that is the subject of a notice of intent to abandon, and that it desires to discontinue its use thereof:

(i) User fails to submit an offer to purchase or lease the Subject Trackage within the ninety (90) days after receipt of Owner's abandonment notice, or

(ii) User fails within the statutory period, to request authority from the Board or its successor agency for permission to acquire or lease the Subject Trackage, or

(iii) User, having requested the proper authority from the Board, either withdraws its offer to purchase, or rejects the Board's order to acquire the Subject Trackage. In such event, User shall promptly file an application with the Board seeking approval of the discontinuance of its operations over the Subject Trackage. If User does not file an application seeking approval of the discontinuance of its operations over the Subject Trackage within sixty (60) days, Owner shall be deemed to have been given User's power of attorney to take such action on User's behalf.

(d) In the event any application filed by Owner is granted but an application filed by User under Subarticle (c) above is denied by the proper regulatory authority, the parties shall cooperate in taking such action as is reasonably necessary to effect a sale of the Subject Trackage to User at net liquidation value (including securing any necessary regulatory authority) consistent with the principles of 49 U.S.C. Section 10904. User shall use good faith efforts to obtain regulatory authority to discontinue operations over the Subject Trackage if Owner seeks to abandon such line.

(e) In the event Owner abandons the Subject Trackage (or portion thereof) under circumstances which (because of changes in the law or otherwise) are not susceptible of handling under the procedures outlined above, the parties shall cooperate and take such action as is necessary to assure that User either promptly terminates its operations over the segment to be abandoned or purchases said segment at net liquidation value consistent with the principles of 49 U.S.C. Section 10904 as interpreted on the date of this Agreement.

(f) In the event Owner's application for authority to abandon is denied, User will withdraw any application it has filed under Subarticle (c) above.

(g) Except as otherwise expressly agreed in writing, in the event any actions taken by the parties under this Article 16 result in an obligation imposed by any competent authority on either or both parties hereto to protect the interests of affected employees, the responsibility for bearing the cost thereof shall be borne by the party which is the employer of the affected employee or employees, notwithstanding the manner in which said cost may be apportioned in any order or decision imposing the protection.

(h) If Owner notifies User of its intention to enter into a Covered Sale/Lease, such notice shall include the terms and conditions that the putative purchaser/lessee has offered. If

User fails to notify Owner in writing of its intent to accept the terms of the proposed Covered Sale/Lease, within forty-five (45) days of receipt of written notice thereof, User's right of first refusal shall terminate and Owner may proceed with the proposed transaction. If User gives written notice of its intent to accept the terms of the proposed covered Sale/Lease, then the parties shall enter into documentation of the transaction, within thirty (30) days after User's notice.

(i) If Owner abandons, sells or leases the Subject Trackage or any portion thereof and User discontinues its use thereof, User's obligations to pay any and all future Fixed Annual Fees shall terminate.

#### **ARTICLE 17. ARBITRATION**

Except as otherwise provided herein, any irreconcilable dispute arising between the parties with respect to this Agreement shall be submitted for binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association (the "AAA"). The parties shall attempt to agree upon an arbitrator knowledgeable of railroad trackage rights agreements. If the parties are unable to agree on an arbitrator within thirty (30) days of submission of the dispute to the AAA, either may ask AAA to proceed with the arbitrator selection process. The arbitrator shall be experienced in the railroad industry. The decision of the arbitrator shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator, if any, shall be borne equally by the parties hereto. The arbitrator shall not have the power to award consequential or punitive damages or to determine violations of criminal or antitrust laws. Pending the award 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 decision or award of the arbitrator.

**ARTICLE 18. SUCCESSORS AND ASSIGNS**

This Agreement is for the sole benefit of the parties hereto. This Agreement shall not be transferred or assigned in whole or part to any person, firm or corporation without prior mutual consent in writing of the parties hereto; provided, that (i) if User elects not to exercise its right of first refusal with respect to a Covered Sale/Lease pursuant to Article 16(h) hereof, then this Agreement shall be assignable to the purchaser/lessee of the Subject Trackage without consent of User, and (ii) upon a sale or lease of all or a portion of the Subject Trackage other than in a Covered Sale/Lease, User shall not reasonably withhold its consent to assignment or partial assignment.

**ARTICLE 19. NOTICE**

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

If to USER:	General Manager-Intercarrier Agreements CSX Transportation, Inc. J801 500 Water Street Jacksonville, FL 32202
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If to OWNER: Chairman  
Louisville & Indiana Railroad Company  
53 West Jackson Blvd., Suite 335  
Chicago, IL 60604

and

President  
Louisville & Indiana Railroad Company  
500 Willinger Lane  
Jeffersonville, IN 47130

Either party may provide changes in the above addresses to the other party by personal service or U.S. mail.

**ARTICLE 20. COMPENSATION AND ADJUSTMENT**

(a) During the Initial Term of this Agreement, User shall pay to Owner for each year running from September 1 to August 31 ("Traffic Year") a fee of \_\_\_\_\_ ("Fixed Annual Fee") for the use of the Subject Trackage. On or before August 1 of each year Owner shall render a bill to User dated August 1 and due September 1, for the Fixed Annual Fee. Failure by Owner to render a timely bill for the Fixed Annual Fee shall not excuse User from paying the amount due.

(b) In addition to the Fixed Annual Fee, during the Initial Term User shall pay to Owner, a fee for each car (loaded or empty) transported by User over all or any portion of the Subject Trackage in a Traffic Year pursuant to this Agreement ("Per Car Fee") set forth, as follows:

For each of the first \_\_\_\_\_ cars moving over the Subject Trackage  
the Per Car Fee shall be \_\_\_\_\_ per car.

For each car in excess of \_\_\_\_\_ cars moving over the Subject  
Trackage the Per Car Fee shall be \_\_\_\_\_ per car.

In the event of an abandonment of a portion of the Subject  
Trackage under Article 16, the Per Car Fee paid to Owner shall be  
prorated on a mileage basis to reflect the portion of the Subject  
Trackage kept in service by Owner.

In the event of a sale or lease of a portion of the Subject Trackage,  
and a partial assignment of this Agreement pursuant to Article 18  
hereof, the Per Car Fee shall be prorated and paid by User to  
Owner and the assignee or lessee, as applicable, based upon the  
relative number of miles of the Subject Trackage owned (or leased)  
by each (or on such other basis as agreed in writing by Owner and  
the assignee or lessee).

(c) During the Initial Term the Fixed Annual Fee and the Per Car Fee shall be  
subject to change to reflect any increases or decreases in labor, material and other costs as  
hereinafter provided during the time each is in effect. During the Extended Term the Market-  
based Rate (as defined in Article 20(f) below) shall be subject to change to reflect any increases  
or decreases in labor, material and other costs as hereinafter provided during the time each is in  
effect. Hereafter the Fixed Annual Fee, the Per Car Fee and the Market-based Rate shall be  
referred to collectively as the "Charges".

(d) The Charges shall be revised upward or downward each year, beginning with the bill rendered for the month of July first following the Effective Date of this Agreement, to compensate for the increase or decrease in the cost of labor and material, excluding fuel, as reflected in the annual Indexes of Charge-Out Prices and Wage Rates (1977=100), included in "AAR Railroad Cost Indexes" and supplements thereto, issued by the Association of American Railroad ("AAR"). In making such determination, the Final "Material prices, wage rates and supplements combined (excluding fuel)" indexes for the East District shall be used. The Charges shall be revised by calculating the percent of increase or decrease in the index for the latest calendar year as related to the index for the previous calendar year and applying that percentage to the Charges.

(e) In the event the base for the Annual Indexes of Charge-Out Prices and Wage Rates issued by the AAR shall be changed from the year 1977 appropriate revision shall be made. If the AAR or any successor organization discontinues publication of the Annual Indexes of Charge-Out Prices and Wage Rates, an appropriate substitute for determining the percentage of increase or decrease shall be negotiated by the parties hereto. In the absence of an agreement, the parties shall submit the matter to binding arbitration under terms of Article 17 of this Agreement.

(f) During the Extended Term, the Fixed Annual Charge and the Per Car Fee shall no longer apply and the compensation payable by CSXT for the Trackage Rights will be established at a fair and equitable car-mile rate within the range of most commonly prevailing voluntary rates in the railroad industry for overhead trackage rights (the "Market-based Rate"); provided, that during the Extended Term User shall pay a minimum \$100,000 per Traffic Year (or portion thereof if this Agreement is terminated by User pursuant to this Article 20(f)) in

Market-based Rate payments to Owner. The Market-based Rate shall be open for renegotiation every five (5) years during the Extended Term. One (1) year prior to the end of the Initial Term, and one (1) year prior to the end of each five-year period during the Extended Term, the parties shall, at the request of either party, meet to negotiate the Market-based Rate for the ensuing five-year period. If the parties are unable to negotiate the Market-based Rate by the date that is six months prior to end of the Initial Term, or by the date that is six months prior to the end of the then current five-year period during the Extended Term, as applicable, either party may commence a proceeding at the Board, asking the Board to establish a Market-based Rate under the terms of this Agreement. The other party shall consent to the Board's jurisdiction and authority to establish the Market-based Rate if, but only if, the Board rules that it will apply the following standards and procedures:

Prior to the submission of evidence, the parties shall simultaneously deliver to each other their respective best and final offers for a car-mile rate. Following disclosure by the parties of their best and final offers, and failure to reach agreement, the parties shall submit evidence and argument to the Board in accordance with its procedures. In rendering its decision, the Board shall select and adopt as its order the best and final offer which it finds to be the more fair and equitable per car-mile rate within the range of most commonly prevailing voluntary rates in the railroad industry for overhead trackage rights. The rate selected and ordered by the Board shall become the Market-based Rate. The Market-based Rate shall replace the Per Car Fee and the Market-based Rate shall be adjusted annually pursuant to Article 20(d) and (e), above.

If the Board no longer exists, refuses to follow the procedure set out above, or if the Board refuses for any other reason to establish the Market-based Rate, then either party may commence

an arbitration proceeding for such purpose in accordance with Article 17 hereof. The arbitration in such a proceeding shall follow the same best and final offer procedure and shall apply the same standard as required above. Pending establishment of the Market-based Rate by the Board or an arbitrator, as applicable, CSXT will pay for the Trackage Rights at the then-current level (with appropriate reconciliation following the establishment of the Market-based Rate). A Market-based Rate established by the Board or an arbitrator shall be effective as of the first day of the five-year period in question. The commencement of a proceeding at the Board, or of an arbitration pursuant to Article 17 hereof if the Board no longer exists or will not establish the Market-based Rate, shall be the exclusive remedies available to the parties if they are unable to negotiate a Market-based Rate. In any Board proceeding or arbitration to establish the Market-based Rate, (i) neither party shall assert that the compensation terms set forth in Article 20(a)-(e) are or were indicative of the commonly prevailing voluntary trackage rights rates in the industry at any time, (ii) the arbitrator shall take into account relative traffic volumes, the capital requirements of the Subject Trackage, the condition of the Subject Trackage, and the then most commonly prevailing trackage rights compensation terms voluntarily negotiated by unaffiliated railroads in arms' length negotiations, and (iii) to the extent that it is determined that non-compensation provisions of this Agreement do not then reflect market conditions, the arbitrator shall take that determination into account in selecting the best and final offer to be awarded.

(g) During the Extended Term, (i) Article 4(c), Article 6(c) and Article 7 shall be deleted in their entirety, (ii) Article 6(a) shall be amended by amending the fifth sentence thereof by deleting the words, "and determined by User to be out of compliance with the

standards set forth in Article 6(b) below”, and (iii) Article 16 hereof shall be amended as provided in Schedule 20(g) hereto.

**ARTICLE 21.        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 party shall also extend to and indemnify the parent corporation, its subsidiaries and affiliates of such other party, and all of their respective directors, officers, agents and employees.

**ARTICLE 22.        GENERAL PROVISIONS**

(a) This Agreement and each and every provision hereof is for the exclusive benefit of the parties hereto and not for the benefit of any third party. 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 either of the parties hereto.

(b) This Agreement contains the entire understanding of the parties hereto 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 both parties to this Agreement.

(d) 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.

(e) All Article headings are inserted for convenience only and shall not affect any interpretation of this Agreement.

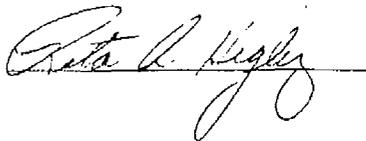
(f) As used in this Agreement, whenever reference is made to the trains, locomotives, cars or equipment of, or in the account of, one of the parties hereto, such expression means the trains, locomotives, cars and equipment in the possession of or operated by one of the parties and includes such trains, locomotives, cars and equipment which are owned by, leased to, or in the account of such party. Whenever such locomotives, cars or equipment are owned or leased by one party to this Agreement and are in the possession or account of the other party to this Agreement, such locomotives, cars and equipment shall be considered those of the other party under this Agreement.

(g) This Agreement is the result of mutual negotiations of the parties hereto, neither of whom shall be considered the drafter for purposes of contract construction.

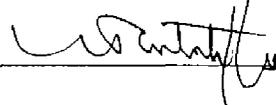
(h) Neither party hereto may disclose the provisions of this Agreement to a third party, excluding a parent, subsidiary or affiliate company, without the written consent of the other party, except as otherwise required by law, regulation or ruling.

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

WITNESS

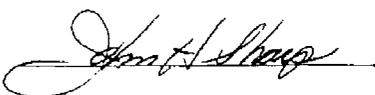


CSX TRANSPORTATION, INC.

By: 

Title: GEN MGR - INTERLUMINE AGREEMENTS

WITNESS



LOUISVILLE & INDIANA RAILROAD COMPANY

By: 

Title: President

Schedule 20(g)

**ARTICLE 16. ABANDONMENT, SALE OR LEASE OF SUBJECT TRACKAGE**

(a) Owner shall have the right, subject to securing any necessary regulatory approval, to abandon, sell or lease the Subject Trackage or any portion thereof. Before filing an application for regulatory approval of abandonment of all or a portion of the Subject Trackage, Owner must give User ninety (90) days' advance notice in writing of its intention to do so in order that User may determine whether it desires to acquire the Subject Trackage (or portion thereof if Owner intends to abandon only a portion of the Subject Trackage).

(b) If Owner notifies User of its intention to abandon all or a portion of the Subject Trackage and if User desires to acquire the Subject Trackage to be abandoned, it shall submit an offer of financial assistance under 49 U.S.C. Section 10904. In the event Owner receives more than one such offer, Owner will exercise its statutory right to negotiate with User rather than with the other offeror(s).

(c) In any one of the circumstances listed below User shall be deemed to have determined that it does not desire to acquire the Subject Trackage that is the subject of a notice of intent to abandon, and that it desires to discontinue its use thereof:

(i) User fails to submit an offer to purchase the Subject Trackage within the ninety (90) days after receipt of Owner's abandonment notice, or

(ii) User fails within the statutory period, to request authority from the Board or its successor agency for permission to acquire the Subject Trackage, or

(iii) User, having requested the proper authority from the Board, either withdraws its offer to purchase, or rejects the Board's order to acquire the Subject Trackage.

In such event, User shall promptly file an application or petition with the Board seeking approval of the discontinuance of its operations over the Subject Trackage. If User does not file an application or petition seeking approval of the discontinuance of Owner's operations over the Subject Trackage within sixty (60) days, Owner shall be deemed to have been given User's power of attorney to take such action on User's behalf.

(d) In the event any application filed by Owner is granted but an application filed by User under Subarticle (c) above is denied by the proper regulatory authority, the parties shall cooperate in taking such action as is reasonably necessary to effect a sale of the Subject Trackage to User at net liquidation value (including securing any necessary regulatory authority) consistent with the principles of 49 U.S.C. Section 10904. User shall use good faith efforts to obtain regulatory authority to discontinue operations over the Subject Trackage if Owner seeks to abandon such line.

(e) In the event Owner abandons the Subject Trackage (or portion thereof) under circumstances which (because of changes in the law or otherwise) are not susceptible of handling under the procedures outlined above, the parties shall cooperate and take such action as is necessary to assure that User either promptly terminates its operations over the segment to be abandoned or purchases said segment at net liquidation value consistent with the principles of 49 U.S.C. Section 10904 as interpreted on the date of this Agreement.

(f) In the event Owner's application for authority to abandon is denied, User will withdraw any application it has filed under Subarticle (c) above.

(g) Except as otherwise expressly agreed in writing, in the event any actions taken by the parties under this Article 15 result in an obligation imposed by any competent authority on either or both parties hereto to protect the interests of affected employees, the responsibility for

bearing the cost thereof shall be borne by the party which is the employer of the affected employee or employees, notwithstanding the manner in which said cost may be apportioned in any order or decision imposing the protection.

(h) If Owner abandons the Subject Trackage or any portion thereof and User discontinues its use thereof, User's obligations to pay any and all future Fixed Annual Fees shall terminate.

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**EXHIBIT B-FEDERAL REGISTER  
NOTICE**

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FINANCE DOCKET NO. 33744 (Sub-No. 1)

CSX TRANSPORTATION, INC.—TRACKAGE RIGHTS EXEMPTION—  
LOUISVILLE & INDIANA RAILROAD COMPANY

The Louisville & Indiana Railroad Company has agreed to modify the compensation paid by CSX Transportation, Inc. (“CSXT”) for overhead trackage rights used by CSXT. The overhead trackage rights are between CSXT’s connection with LIRC in Indianapolis, IN, milepost 4.0, and CSXT’s connection with LIRC in Louisville, KY, milepost 110.56, a 106.5-mile railroad line, including the ability to enter and exit the Line at Seymour, IN. The trackage rights will be effective on or after May 21, 2014.

As a condition to this exemption, any employee affected by the modification of the compensation paid by CSXT to LIRC for using the trackage rights will be protected by the conditions imposed in *Norfolk and Western Railway Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc. —Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33744 (Sub-No. 1), must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD

21204, Lou@lgraillaw.com.

Board decisions and notices are available on our website at “[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided:

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

# EXHIBIT C-MAP

# LOUISVILLE & INDIANA RAILROAD

