



800 Philadelphia Street  
P.O. Box 190  
Indiana, PA 15701  
800.325.BANK  
stbank.com

December 3, 2012

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

RECORDATION NO. 30553 FILED

DEC 17 '12 -4 30 PM

SURFACE TRANSPORTATION BOARD

Dear Chief:

I have enclosed two (2) original counterparts of the document described below, to be recorded pursuant to Section 11301 of Title 49 of the U.S. Code.

This document is a Chattel Mortgage and Security Agreement ("Mortgage") dated as of November 27, 2012, a primary document, as defined in the Board's Rules for the Recordation of Documents at 49 C.F.R. § 1177.1(a). This Mortgage relates to the locomotive bearing the identification marks and numbers listed in Section 1.2(i) of the Mortgage

The name and addresses of the parties to the Mortgage are as follows:

MORTGAGEE/  
SECURED PARTY:

S&T Bank  
800 Philadelphia Street  
Indiana, PA 15701

MORTGAGOR/  
DEBTOR:

The Everett Railroad Company  
424 2<sup>nd</sup> Avenue  
Duncansville, PA 16635

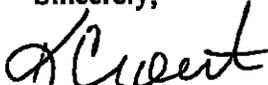
A description of the locomotive covered by the document is as follows **EMD Type GP-16 locomotive, ID: EV 1828, serial number 17370.**

The prescribed recordation fee of \$42.00 is enclosed. Please return any extra copies not needed by the Board for recordation to Commercial Loan Records, S&T Bank, 355 North Fifth Street, Indiana, PA 15701

A short summary of the enclosed document to appear in the index follows:

Chattel Mortgage and Security Agreement dated as of November 27, 2012, between The Everett Railroad Company (the "Mortgagor" or "Debtor"), and S&T Bank (the "Mortgagee" or "Secured Party"), a primary document, relating to that certain locomotive described in Section 1.2(i)

Sincerely,



Kimberly Crout

Commercial Loan Documentation Dept

Ref: 3788309-200/201

DEC 17 '12 4 30 PM

~~SURFACE TRANSPORTATION BOARD~~

**CHattel MORTGAGE AND SECURITY AGREEMENT**

**BETWEEN**

**THE EVERETT RAILROAD COMPANY**

**MORTGAGOR/DEBTOR**

**AND**

**S&T BANK**

**MORTGAGEE/SECURED PARTY**

Dated as of November 27<sup>th</sup>, 2012

## **CHATTEL MORTGAGE AND SECURITY AGREEMENT**

This CHATTEL MORTGAGE AND SECURITY AGREEMENT (this "Security Agreement"), dated as of November 27, 2012, is entered into by THE EVERETT RAILROAD COMPANY, a Pennsylvania corporation, with its principal place of business located at 424 2<sup>nd</sup> Avenue, Duncansville, PA 16635 (the "Debtor"), in favor of S&T BANK, a state bank organized and existing under the laws of the Commonwealth of Pennsylvania, with a place of business located at 800 Philadelphia Street, Indiana, PA 15701 (the "Secured Party").

### **Recitals**

A. Secured Party has extended to Debtor a certain \$75,000.00 loan and a certain \$150,000.00 loan (collectively, the "Loans"), pursuant to the terms of those certain Loan Agreements, each dated of even date hereof, by and between Secured Party and Hollidaysburg and Roaring Spring Railroad, a Pennsylvania corporation ("Co-Borrower" and, collectively with Debtor, the "Borrowers") and Secured Party (as amended, modified, supplemented, substituted and restated from time to time, collectively the "Loan Agreements") and evidenced by those certain Promissory Notes, each dated of even date hereof, executed and delivered by Borrowers in favor of Lender, in the original principal amount of \$75,000.00 and \$150,000.00, respectively (as the same may be amended, modified, supplemented, extended, substituted and restated from time to time, collectively the "Notes").

B. The execution and delivery of this Security Agreement by Debtor in favor of Secured Party is a condition to Secured Party's obligations to make the Loans.

### **Agreement**

#### **1. DEFINITIONS; GRANT OF MORTGAGE AND SECURITY INTEREST.**

##### **1.1 Definitions.**

a. The foregoing recitals are hereby incorporated by reference as if fully set forth herein.

b. All of the capitalized terms of this Security Agreement shall have the same meaning as given those terms in the Loan Agreements, unless otherwise defined herein or the context otherwise requires; provided, however, that, where a term is defined by reference to a definition in the Loan Agreements, and the terms "Borrower" or "Lender" are contained in such definition, for purposes hereof, the term "Borrower" shall be deemed to include the term "Debtor" as used herein, and the term "Lender" shall be deemed to be the term "Secured Party."

##### **1.2 Grant of Mortgage and Security Interest.**

The Debtor, in consideration of the extension of the Loans received by the Borrowers from the Secured Party and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, and in order to secure the payment of the principal of and

interest on the Loans according to the terms of the Loan Agreements, and to secure the payment and performance of all other Indebtedness, as that term is defined in the Loan Agreements, does hereby transfer, convey, warrant, mortgage, deliver, pledge, assign and grant to the Secured party, its successors and assigns a continuing security interest in and "Lien" (as hereinafter defined) on all and singular of the Debtor's right, title and interest in and to the following collateral (collectively the "Collateral") all of the Debtor's properties, rights, title, interests and privileges whether now owned or hereafter acquired.

(i) in that certain EMD Type GP-16 locomotive, ID: EV 1828, serial number 17370 (the "Equipment"), together with all accessories, equipment, parts and appurtenances appertaining or attached to the Equipment, and all substitutions, renewals or replacements of and additions, improvements, accessions and accumulations to any and all of the Equipment, together with all the leases, rents, issues, income, profits and avails there from and the proceeds thereof.

(ii) all documents evidencing and all books and records relating to the Collateral (including but not limited to all computer programs, data, disks, tapes, media and printouts where the foregoing is stored or embodied wherever located), and

(iii) all cash and non-cash proceeds of the foregoing, all proceeds from insurance on any of the foregoing, all additions and accessions to and replacements and substitutions for any of the foregoing, everything that becomes (or is held for the purpose of being) affixed to or installed in any of the foregoing, and all products, income and profits of or from the foregoing

1.2 This Security Agreement shall be in full force and effect until all the Indebtedness has been fully and irrevocably paid, discharged and performed

## **2. COVENANTS AND WARRANTIES OF THE DEBTOR**

The Debtor covenants, warrants and agrees as follows:

### **2.1 Debtor's Duties.**

The Debtor covenants and agrees well and truly to perform, abide by and to be governed and restricted by, each and all of the terms, provisions, restrictions, covenants and agreements set forth in this Security Agreement and the Loan Agreements and in each and every supplement thereto or amendment thereof which may at any time or from time to time be executed and delivered by the parties thereto or their successors and assigns, to the same extent as though each and all of said terms, provisions, restrictions, covenants, amendments or supplements to the Loan Agreements were fully set out in an amendment or supplement to this Security agreement

### **2.2 Maintenance; Insurance; Use.**

(a) The Debtor at its own expense shall maintain and service the Equipment and comply with a preventative maintenance schedule which shall include testing, repair and overhaul of the Equipment so that the Equipment shall remain (i) in compliance with any and all applicable laws and regulations and eligible for railroad interchange in accordance with the rules

of the Association of American Railroads ("AAR") and (ii) suitable for immediate purchase or lease and use by a Class I line haul railroad (not then or prospectively a debtor in any insolvency or reorganization proceedings) in the event of sale upon an Event of Default. In no event shall the Equipment be maintained or scheduled for maintenance on a basis less frequent than the maintenance scheduling employed as of the date hereof by the Debtor for similar equipment.

(b) The Debtor shall maintain with responsible insurance companies, such insurance on such of its assets and properties (including by not limited to the Collateral) in such amounts and against such risks as is customarily maintained by similar businesses, and in any event, in an amount not less than the full fair insurable value of all such assets and properties where insurance is customarily maintained or otherwise required by the Loan Agreements.

(c) The Debtor agrees that the Equipment will be used and operated only for purposes or operations in the ordinary course of its business and within the United States of America.

### **2.3 Warranty of Title.**

The Debtor has the right, power and authority to grant a valid, first priority Lien (as hereinafter defined) on, and security interest in and to the Collateral to the Secured Party for the uses and purposes herein set forth; no Lien (other than the Permitted Liens (as hereinafter defined) shall be attached to the Collateral and the Debtor shall warrant and defend the title to the Collateral against all claims and demands of all third Persons or Persons (as hereinafter defined) claiming by, through or under the Debtor. The Debtor shall not create, assume or allow to exist any Lien on the collateral other than Permitted Liens. As used herein, "Lien" shall mean any mortgage, pledge, security interest, encumbrance lease, lien or charge of any kind (including any agreement to give any of the foregoing), any conditional sale or other title retention agreement and the filing of or agreement to give any financing statement under 49 U.S.C. Section 11301, or the UCC of any jurisdiction. As used herein "Permitted Liens" shall mean (a) the Lien and security interest created by this Security Agreement, (b) the Lien of taxes, assessments or governmental charges or levies which are not at the time delinquent, (c) the Lien of taxes, assessments or governmental charges or levies which are delinquent but the validity of which is being contested in good faith by appropriate action diligently pursued, if the Debtor shall have set aside on its books adequate reserves in accordance with generally accepted accounting principles, provided that such proceeding shall suspend the collection of such taxes, assessments or governmental charges and the Lien on and security interest in Collateral, or any part thereof would not in the opinion of the Secured Party be adversely affected or forfeited during the period of such contests; (d) Liens to secure obligations under worker's compensation laws or similar legislations to security public or statutory obligations of the Debtor or any of its subsidiaries and (e) Liens imposed by law such as mechanics' workmen's, material men's, carriers' or other like Liens arising in the ordinary course of business which secure payment of obligations which are not past due or the validity of which are being contested in good faith by action diligently pursued, if the Debtor shall have set aside on its books adequate reserves in accordance with generally accepted accounting principles, provided that the Lien on and security interest in the collateral, or any part thereof, would not in the opinion of the Secured Party in its sole discretion be adversely affected or forfeited during the period of such contest. As used herein, "Person" shall mean any natural person, corporation, partnership, joint venture, firm,

association, trust, unincorporated organization, government or governmental agency or political subdivision or any other entity, acting in an individual, fiduciary or other capacity

#### **2.4 Further Assurances.**

The Debtor shall at its expense duly execute, acknowledge and deliver all and every further acts, deeds, conveyances, transfers and assurances necessary or property for the perfection of the Lien on, and security interest in the Collateral being created by this Security Agreement, whether such Collateral is now owned or hereafter acquired.

#### **2.5 Recordation and Filing.**

The Debtor shall cause this Security Agreement and any supplements hereto, all financing and continuation statements and similar notices required by applicable law, at all times to be kept recorded and filed at no expense to the Secured Party in such manner and in such places as may be required by law in order fully to preserve and protect the rights of the Secured Party hereunder.

#### **2.6 Power of Attorney.**

The Debtor does hereby irrevocably constitute and appoint the Secured Party, upon the occurrence of an Event of Default, its true and lawful attorney with full power of substitution for it and in its name, place and stead, to ask demand, collect, receive, receipt, sue for, compound and give acquittance for any and all rents, income and other sums which are assigned under this Security Agreement with full power to settle, adjust or compromise any claim thereunder as fully as the Debtor could itself do, and to endorse the name of the Debtor on all commercial paper given in payment or in part payment thereof, and in its discretion to file any claim or take any other action or proceedings, either in its own name or in the name of the Debtor or otherwise, which the Security Party may deem necessary or appropriate to protect and preserve the right, title and interest of the Security Party in and to such rents and other sums and the security interested to be afforded hereby.

### **3. POSSESSION OF COLLATERAL AND USE OF EQUIPMENT; INSURANCE PROCEEDS; REPLACEMENT.**

#### **3.1 Possession of Collateral.**

So long as there is no Event of Default, the Debtor may remain in full possession, enjoyment and control of the Collateral, and may manage, operate and use the Equipment and each part thereof with all of the rights and franchises appertaining thereto.

#### **3.2 Insurance Proceeds.**

If prior to the occurrence of an Event of Default, the Equipment is destroyed, lost, stolen, irreparably damaged, taken by any governmental entity or otherwise becomes unusable in the business of the Debtor (a "Casualty Loss), in that even, any proceeds payable to the Debtor or to the Secured Party as a result of such Casualty Loss whether in respect of insurance proceeds, condemnation awards, payments from railroads or lessees or otherwise (collectively, "Casualty

Loss Proceeds") shall be paid to the Security Party and applied by the Secured Party in the same manner as provided for sale proceeds in Section 6 of this Security Agreement

### **3.3 Replacement.**

In the event of the substitution of any equipment for the Equipment in accordance with and if permitted by the Loan Agreements, Debtor agrees that it will, at Debtor's expense, execute such other or further documents and instruments as the Secured Party may request or require to (i) ensure Debtor's title to and interest in and to the replacements or substitute equipment becomes part of the Collateral; and (ii) release the Equipment which has been replaced by or substituted for the replacement or substitute equipment from the lien created by this Security Agreement.

## **4. SECURED PARTY'S RIGHTS AND REMEDIES.**

The Debtor agrees that when any Event of Default has occurred, the Secured Party shall have the rights, options, duties and remedies of a secured party, and the Debtor shall have the rights and duties of a debtor, under 49 U.S.C. Section 11301, and under the UCC of the Commonwealth of Pennsylvania (regardless of whether such UCC or a law similar thereto has been enacted in a jurisdiction wherein the rights or remedies are asserted) as applicable. Without limiting the foregoing in any manner whatsoever, Debtor agrees that the Secured Party's rights and remedies shall include without limitation the following: (i) the Secured Party shall have the right and power to obtain and maintain possession of all or any part of the Collateral, and to exclude Debtor and all Persons claiming under or through it wholly or partly therefrom, (ii) at the request of the Secured Party, Debtor shall promptly deliver to the Secured Party or to an agent or representative designated by the Secured Party all of the Collateral the possession of which the Secured Party shall at the time be entitled to hereunder; and the Secured Party, its agents and representatives, shall have the right to enter upon any or all of Debtor's real property to exercise the Secured Party's rights hereunder; and (iii) the Secured Party, personally or by or through its agents or representatives, with or without possession of the Collateral.

(a) may, to the fullest extent permitted by law, sell at one or more sales, as an entirety or in pieces or parcels, all or any part of the Collateral, such sale or sales to be made to the highest bidder at public or, if permitted by the applicable laws, private auction at such place or places, and at such time or times and upon such terms as the Secured Party may fix and specify in the notice of sale to be given as provided herein or as may be required by applicable law, or

(b) may proceed to protect and enforce the rights of the Secured Party under this Security Agreement by lawsuit or other judicial proceeding, whether for specific performance of any covenant contained in this Security Agreement, the Loan Agreements or the other Related Documents, or in aid of the execution of any power herein granted, or the foreclosure of this Security Agreement and the sale of the Collateral under a judgment or court decree, or for the enforcement of any other right, as the Secured Party shall determine in its sole discretion, and the Secured Party shall be entitled, as a matter of right, to the appointment of a receiver, without posting a bond or other security, for all or any part of the Collateral.

Upon such taking of possession, the Secured Party shall have the sole right to manage and control the Collateral and to exercise all the rights and powers of the Secured Party with respect thereto as the Secured Party shall determine in its sole discretion, including without limitation the right to enter into any and all agreements with the respect to the sale, leasing and/or operation of all or any part of the Collateral as the Secured Party may see fit.

## **5. NOTICE OF SALE; EFFECT OF SALE; RIGHTS OF PURCHASERS.**

### **5.1. Effect of Sale.**

Any sale, whether under any power of sale hereby given or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Debtor in and to the property sold and shall be a perpetual bar, both at law and in equity, against the Debtor, its successors and assigns, and against any and all Persons claiming the property sold or any part thereof under, by or through the Debtor, its successors or assigns.

### **5.2. Rights of Purchasers.**

No Person dealing with the Secured Party shall be obligated to inquire whether the power that the Secured Party is purporting to exercise has become exercisable or otherwise as to the Collateral or the regularity of any sale or other dealing with the Secured Party with the Equipment or the Collateral and all the protections to purchasers conferred by law or in equity shall apply to such Persons dealing with the Secured Party. The receipt by the Secured Party of the purchase moneys shall effectively discharge the purchaser who shall not be concerned with the manner of application thereof.

## **6. APPLICATION OF SALE PROCEEDS; WAIVER OF APPRAISAL.**

### **6.1 Application of Sale Proceeds.**

The proceeds and/or avails of any sale of the Collateral, or any part thereof and the proceeds and/or avails of any remedy hereunder shall be paid to and applied as follows

(a) First to the payment of costs and expenses of foreclosure or suit, if any and of such sale and of all property expenses, liability and advances, including legal expenses and reasonable attorneys' fees, incurred or made hereunder by the Secured party and of all taxes, assessments or Liens superior to the Lien of these presents, except any superior Lien subject to which said sale may have been made.

(b) Second to the payment of principal, interest and other amounts in respect of the Indebtedness; and in case such proceeds shall be insufficient to pay in full the whole amount so due, owing or unpaid, then first to such other amounts, second, to such unpaid interest and third to such unpaid principal, and

(c) Third to the payment of the surplus if any to the Debtor, its successors and assigns or to whosoever may be lawfully entitled to receive the same, it being understood that the Debtor shall remain liable to the Secured Party to the extent of any deficiency between the

amount of the proceeds of such disposition and the aggregate amount of the sums referred to in Sections 6.1.a and 6.1.b.

## **6.2 Waiver of Appraisal**

The Debtor agrees, to the full extent that it may lawfully agree, that neither it nor any Person claiming through or under it will set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or redemption law now or hereafter in force in any locality where the Collateral subject to the lien hereof may be situated, in order to prevent, hinder, or delay the enforcement or foreclosure of this Security Agreement, or the absolute sale of the Collateral or any part thereof, or the final and absolute putting into possession thereof, immediately after the sale, of the purchaser thereof, and the Debtor, for itself and any and all who may claim through or under it, hereby waives, to the fullest extent that it may be lawful to do so, the benefit of all such laws, and any and all right to have any of the properties or assets comprising the Collateral marshaled upon any such sale, and agrees that Secured Party or any court having jurisdiction to foreclose the lien hereof may sell the Collateral as an entirety or in such parcels as Secured Party may determine in its sole discretion.

## **7. DISCONTINUANCE OF REMEDIES.**

In case the Secured Party shall have proceeded to enforce any right under this Security Agreement by foreclosure sale entry or otherwise and such proceedings shall have been discontinued or abandoned for any reasons or shall have been determined adversely then and in every such case the Debtor and the Secured Party shall be restored to their former positions and rights hereunder with respect to the Collateral

## **8. REMEDIES CUMULATIVE; CONTINUING SECURITY.**

### **8.1 Remedies Cumulative.**

No delay or omission of the Secured Party to exercise any right or power arising from any Event of Default, shall exhaust or impair any such right or power or prevent its exercise during the continuance of such Event of Default. No waiver by the Secured Party of any such Event of Default whether such waiver be full or partial, shall extend to or be taken to affect any subsequent Event of Default, or to impair the rights resulting therefrom except as may be otherwise provided herein. The Secured Party may exercise any one or more of all of the remedies hereunder and no remedy is intended to be exclusive of any other remedy but each and every remedy shall be cumulative and in addition to any and every other remedy given hereunder or otherwise existing now or hereafter at law or in equity; nor shall the giving taking or enforcement of any other or additional security, collateral or guaranty for the payment of the Indebtedness, operate to prejudice, waive or affect the Lien or security of this Security Agreement or any rights, powers, or remedies hereunder, nor shall the Secured Party be required to first look to enforce or exhaust such other or additional security, collateral or guaranties.

### **8.2 Continuing Security.**

The security interest created by this Security Agreement shall not be considered as satisfied by payment or satisfaction of any part of the Indebtedness secured hereby, but shall be a continuing security interest and extend to cover any and all sums of money or other obligations which shall from time to time constitute the Indebtedness and shall not be discharged or prejudiced or affected in any way by time being given to Debtor or Co-Borrower or by any other indulgence or concession to Debtor or Co-Borrower by the Secured Party, by the taking, holding, varying, non-enforcement, waiver, discharge or release by the Secured Party of any other security for all or any of the Indebtedness, by any other thing done or omitted or neglected to be done by the Secured Party; or by any other dealing or thing including without limitation any amendment to the Notes, the Loan Agreements or the Related Documents, and any circumstances whatsoever that but for this provision might operate to waive, release, exonerate or discharge Debtor from its obligations hereunder or otherwise affect the security interest hereby created.

## **9. INDEMNITY.**

The Debtor agrees to indemnify, protect and hold harmless the Secured Party from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof (except arising from the willful misconduct or gross negligence of the Secured Party), and expenses in connection therewith, including, but not limited to reasonable counsel fees and expenses, penalties and interest, arising out of or as the result of the entering into or the performance of this Security Agreement, the retention by the Secured Party of a lien on or security interest in the Collateral the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or repossession of any of the Equipment, any accident in connection with the operation, use, condition, possession, storage or repossession of any of the Collateral resulting in damage to property or injury or death to any Person during the period while a Lien on or security interest therein remains in the Secured Party or during the period of the transfer of such Lien on Security interest in the Collateral by the Secured Party pursuant to any of the provisions of this Security Agreement. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the Indebtedness, the release of the Lien on and security interest in the Collateral as provided in Section 11.4 hereof or the termination of this Security Agreement in any manner whatsoever.

## **10. GENERAL PROVISIONS.**

### **11.2 Partial Invalidity.**

The unenforceability or invalidity of any provision or provisions of this Security Agreement shall not render any other provision or provisions herein contained unenforceable or invalid.

### **11.3 Notices.**

All notices and other communications provided herein shall be in writing and shall be deemed to have been given as required by the Loan Agreements

### **11.4 Releases.**

At the expense of the Debtor, the Secured Party shall release this Security Agreement, and the Lien and security interest granted hereby, by proper instrument or instruments when the Indebtedness and all indebtedness and obligations of the Debtor under this Security Agreement and the Borrowers under the Loan Agreements and the other Related Loan Documents have been fully and irrevocably paid, discharged and/or performed.

#### **11.5 Governing Law; Jurisdiction and Venue.**

This Security Agreement shall be construed in accordance with and governed by the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. Section 11301 and such additional rights, arising out of the filing, recording or deposit hereof, if any and of any assignment hereof, as shall be conferred by the laws of the several jurisdictions in which this Security Agreement or any assignment hereof shall be filed, recorded or deposited. **DEBTOR HEREBY IRREVOCABLY CONSENTS TO THE NONEXCLUSIVE JURISDICTION OF THE COURT OF COMMON PLEAS OF INDIANA COUNTY AND THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA AND WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND AGREES THAT ALL SUCH SERVICE OF PROCESS MADE BY CERTIFIED OR REGISTERED MAIL DIRECTED TO DEBTOR AT THE ADDRESS PROVIDED FOR IN THIS SECURITY AGREEMENT OR THE LOAN AGREEMENTS AND SERVICE SO MADE SHALL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT THEREOF. DEBTOR WAIVES ANY OBJECTION TO JURISDICTION AND VENUE OF ANY ACTION INSTITUTED AGAINST IT AS PROVIDED HEREIN AND AGREES NOT TO ASSERT ANY DEFENSE BASED ON JURISDICTION OR VENUE OR SEEK ANY TRANSFERS TO ANY OTHER JURISDICTION OR VENUE.**

#### **11.6. Binding Effect.**

This Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns; provided that, Debtor shall have no right to assign or delegate any of its rights or obligations thereunder without the prior written consent of Lender

#### **11.7. Integration.**

The parties hereby acknowledge that the terms and conditions of this Security Agreement were negotiated in full by both parties in good faith and with the benefit of counsel and supersedes any commitment for the Loan and constitutes the entire contract between the parties hereto and there are no other understandings, oral or written, relating to the transactions provided for herein other than those specifically incorporated herein by reference.

#### **11.8. Severability.**

Any provision of this Security Agreement which is held to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction

#### **11.9. Amendments**

This Security Agreement may not be changed, modified or amended, in whole or in part, except in writing and signed by all parties.

#### **11.10. Headings.**

The section and subsection headings contained in this Security Agreement are for reference purposes only and shall not control or affect its construction or interpretation in any respect.

#### **11.11. Interpretation.**

The words "Mortgagor," "Debtor" or "Borrower" and "Mortgagee," "Secured Party" and "Lender" include singular and plural, and corporate, partnership, membership and individuals, and the respective heirs, executors, administrators, successors and assigns of Debtor and Secured Party, as the case may be. If one or more party is named as Debtor, the obligations hereunder of each such party is joint and several.

#### **11.12. Cumulative Rights and Remedies; Waiver.**

Any rights or remedies under this Security Agreement may be asserted concurrently, cumulatively or successively from time to time at the sole discretion of Secured Party, and no delay or failure of Secured Party in the exercise of any right or remedy hereunder or under this Security Agreement shall affect any such right or remedy, nor shall a single or partial exercise thereof preclude any further exercise thereof, and no action taken or omitted by Secured Party shall be deemed to be a waiver of any of the rights or remedies of Secured Party.

#### **11.13 Counterparts.**

This Security Agreement may be executed, acknowledged and delivered in any number of counterparts, each of such counterparts constituting an original but all together constituting only one Security Agreement

#### **11.14 Headings.**

Any headings or captions proceeding the text of the several sections hereof are intended solely for convenience of reference and shall not constitute a part of this Security Agreement nor shall they affect its meaning, construction or effort

#### **11.15 WAIVER OF JURY TRIAL.**

THE PARTIES HEREBY WAIVE ANY AND ALL RIGHTS TO A JURY TRIAL FOR ANY DAMAGES, LOSSES, CLAIMS, OR CAUSES OF ACTION OF WHATSOEVER NATURE OR KIND ARISING OUT OF OR RELATED TO, DIRECTLY OR INDIRECTLY, THIS SECURITY AGREEMENT OR ANY TRANSACTIONS CONTEMPLATED IN CONNECTION THEREWITH THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE READ THIS PROVISION AND HAVE HAD THIS PROVISION EXPLAINED TO

THEM BY THEIR COUNSEL AND SUCH WAIVER IS GIVEN VOLUNTARILY AND WITH FULL KNOWLEDGE AND APPRECIATION FOR THE CONSEQUENCES AND EFFECT THEREOF.

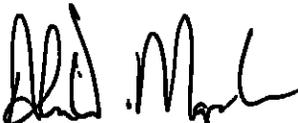
**[SIGNATURES APPEAR ON FOLLOWING PAGES.]**

[SIGNATURE PAGE 1 OF 2 TO CHATTEL MORTGAGE  
AND SECURITY AGREEMENT]

IN WITNESS WHEREOF, the Debtor and the Secured Party have executed this Chattel Mortgage and Security Agreement as of the day and year first above written.

ATTEST/WITNESS:

THE EVERETT RAILROAD  
COMPANY, a Pennsylvania corporation

By:  (SEAL)  
Name: ALAN W. MAPLES  
Title: PRESIDENT

ACKNOWLEDGMENT

STATE OF ALABAMA )  
COUNTY OF Jackson ) ss:  
 )

Alan W. Maples a notary public in and for said County and said State, hereby certify that Alan W. Maples whose name as President of THE EVERETT RAILROAD COMPANY, a Pennsylvania corporation, is signed to the foregoing Chattel Mortgage and Security Agreement, and who is known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument, acknowledged before me on this day that, being informed of the contents of such instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 27th day of November, 2012

My Commission Expires 2/6/2013

  
Notary Public  
(Seal)

