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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)

WITNESS:

NORFOLK SOUTHERN RAILWAY COMPANY

By: _____
(Title)

WITNESS:

PENNSYLVANIA LINES LLC

By: _____
(Title)

WITNESS:

NEW YORK CENTRAL LLC

By: _____
(Title)

THIS AGREEMENT, entered into this _____ day of _____, 1997, by and between Norfolk Southern Railway Company, including its subsidiaries and affiliates, a Virginia corporation, hereinafter referred to as "NSR", CSX Transportation, Inc., a Virginia corporation, hereinafter referred to as "CSXT", Pennsylvania Lines LLC, a Delaware limited liability company (hereinafter referred to as "PRR") and New York Central LLC, a Delaware limited liability company (hereinafter referred to as "NYC");

WITNESSETH:

WHEREAS, CSX Corporation ("CSX"), parent to CSXT, and Norfolk Southern Corporation ("NSC"), parent to NSR, have entered into a Transaction Agreement (the "Transaction Agreement") between themselves; CSXT, a wholly-owned subsidiary of CSX; NSR; Conrail, Inc. ("CRR"); Consolidated Railroad Corporation ("CRC"), a wholly-owned subsidiary of CRR; and CRR Holdings LLC; and

WHEREAS, CSX and NSC have indirectly acquired all the outstanding capital stock of CRR; and

WHEREAS, pursuant to the Transaction Agreement, certain assets of CRC have been allocated to NYC, which is a wholly-owned

subsidiary of CRC, to be operated by CSXT under the terms of an Allocated Assets Operating Agreement (the "CSXT Operating Agreement") between NYC and CSXT; and

WHEREAS, pursuant to the Transaction Agreement, certain assets of CRC have been allocated to PRR, which is a wholly-owned subsidiary of CRC, to be operated by NSR under the terms of an Allocated Assets Operating Agreement (the "NSR Operating Agreement") between PRR and NSR; and

WHEREAS, under provisions of the Transaction Agreement, CSXT will have rail access to the Ford Motor Company engine plant at Cleveland, Ohio using lines owned by PRR; and

WHEREAS, for operating efficiencies, the parties desire that NSR switch cars to and from the Ford Motor Company engine plant near CP Belt (Cleveland), Ohio for the accounts of CSXT and NSR;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

SECTION 1. INDUSTRY SWITCHING

- (a) NSR, acting as agent for CSXT, will perform switching of cars to and from the Ford Motor Company engine plant

(hereinafter referred to as "Industry"), located on PRR's Chicago line at or near milepost 192.54, at CP Belt (Cleveland), Ohio, for the account of CSXT, and provide services as necessary to handle such traffic between said Industry and mutually agreed upon trackage at Cleveland, Ohio. NSR will use its own crews and locomotives to perform said services.

- (b) For revenue purposes, cars switched under this Agreement shall remain in the account of CSXT, and NSR shall not be entitled to any line haul revenue for the handling of such cars, nor appear in any rates, routes or divisions pertaining to any cars in the account of CSXT, except as specified in Section 5 hereof.
- (c) CSXT shall assume its own car hire expenses, and NSR shall assess and collect all related demurrage charges.

SECTION 2. DELIVERY AND RECEIPT OF CARS

- (a) Cars handled under this Agreement shall be considered as having been delivered by one party to the other when placed on mutually agreed upon trackage designated for such deliveries, accompanied or preceded by the necessary data for forwarding and to insure delivery and acceptance by the designated representative of the receiving road.
- (b) NSR and CSXT shall provide each other with suitable information (which may be transferred by paper

documents, facsimiles, or electronic means, or by other means, as mutually agreed) necessary for the handling of cars switched under this Agreement, which will identify for each car:

- (1) Car initial and number.
 - (2) Loaded or empty.
 - (3) Destination station and consignee on inbound movements.
 - (4) Origin and shipper as supplied by the shipper on outbound movements.
 - (5) All required hazardous materials information.
 - (6) Any other information as agreed between the parties to be necessary or convenient for the safe, efficient movements of cars switched under terms of this Agreement.
- (c) NSR may make repairs to cars switched under terms of this Agreement as may be necessary for safe transit, and NSR may make adjustments to or transfers of lading from crippled, defective or overloaded cars, as in its determination may be necessary to safely move said cars. CSXT shall reimburse NSR its full cost for repairs, adjustments and lading transfers promptly upon receipt of billing therefor.

SECTION 3. INSPECTION

NSR shall not be responsible for making any mechanical inspection of cars in the account of CSXT switched to and from the industry.

SECTION 4. INTERRUPTION, DELAY

In the event the use of trackage in performing the referenced switching services shall be interrupted or traffic delayed at any time from any cause, neither party shall have any claim against the other party for liability of any kind from such interruption or delay.

SECTION 5. COMPENSATION

- (a) CSXT shall pay NSR a mutually agreed upon rate for each loaded car handled by NSR for the account of CSXT to and from the Industry for the first six months from the effective date of this Agreement. After said six months, NSR and CSXT will jointly conduct a study to determine NSR's actual cost of handling cars in the account of CSXT to and from the Industry, and the agreed upon rate, hereinafter referred to as the "Current Charge", will be retroactive to the effective date of this Agreement.
- (b) At the option of either party hereto the Current Charge shall be open to renegotiation every five (5) years

from the effective date of this Agreement. In the event the parties fail to reach agreement upon such renegotiation, such failure shall not constitute a breach of this Agreement and the parties shall continue to be bound by the terms of compensation provided in this Section 5 until the matter is settled or submitted to binding arbitration as provided in Section 8.

- (c) The Current Charge shall be revised upward or downward each year, beginning with the bill rendered during the first month of July following the effective date of this Agreement, to compensate for the increase or decrease in the cost of labor and material, including 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 Railroads, hereinafter called "AAR". In making such determination, the final "Material prices, wage rates and supplements combined (including fuel)" indexes for the East District shall be used.
- (d) The Current Charge shall be revised by calculating the percentage of increase or decrease in the index of the latest calendar year as related to the index for the previous calendar year and applying that percentage to the Current Charge.

- (e) By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figure for 1996; "B" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figures for 1997; "C" to be the Current Charge; and "D" to be the percentage of increase or decrease the revised Current Charge would be determined by the following calculations:

$$(1) \frac{(B-A)}{A} = D$$

$$(2) (C \times D) + C = \text{revised Current Charge rounded to the nearest cent, effective July 1 of the year being revised.}$$

- (f) In the event the base for the "Annual Indexes of Chargeout 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 the "Annual Indexes of Chargeout 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 parties shall submit the matter to arbitration.
- (g) NSR shall keep and maintain an accurate account of all loaded cars handled by it for the account of CSXT, and shall at the end of each month, render an itemized

bill, computed in accordance with the provisions herein, to CSXT for payment.

- (h) CSXT shall pay within thirty (30) days from receipt thereof, and any errors or omissions in such bills shall be adjusted in subsequent billing.
- (i) 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.

6. LIABILITY

Except as provided in Subsection (n) below, the responsibility between the parties hereto for loss of, damage to, and destruction of any property whatsoever and injury to and death of any person or persons whomsoever, resulting from, arising out of, incidental to or occurring in connection with this Agreement, hereinafter referred to as a Loss, shall be apportioned as follows without regard to consideration of fault or negligence:

- (a) Whenever a Loss occurs with only one train operated by NSR being involved and such train is handling cars, empty or loaded, in only CSXT's account or cars in CSXT's account as well as cars in NSR's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account being

handled in such train, and the parties hereto further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including without limitation, the train(s), locomotive(s), equipment or trackage, so occurring shall be either: (i) borne solely by CSXT if the train is handling only CSXT cars, or (ii) borne solely by each party hereto in proportion to the number of cars, both empty and loaded, which each party hereto has in its own account in such train, if the train is handling cars in the accounts of both parties hereto.

- (b) Whenever a Loss occurs with more than one train operated by NSR being involved and any or all of such trains are handling only CSXT cars or CSXT cars as well as cars in NSR's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, empty and loaded, including lading, in its own account handled in such trains, and the parties further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including, without limitation, trains, locomotives, equipment or trackage, so occurring shall be borne as follows: total liability, cost and expense arising not otherwise borne separately by the parties as provided above shall be first equally divided by the number of trains involved and then (i)

that portion of said liability, cost and expense apportioned to any train(s) which is (are) handling cars, both empty and loaded, only the account of CSXT shall be borne solely by CSXT, (ii) that portion of said liability, cost and expense apportioned to any train(s) which is (are) handling only NSR cars shall be borne solely by NSR, and (iii) that portion of said train(s) handling cars, both empty and loaded, in the accounts of both parties shall be shared and borne by each party hereto in proportion to the number of cars, both empty and loaded, which each party has in its own account in each such train.

- (c) Whenever a Loss occurs with the train(s) of NSR and another railroad or other company that is not a party to this Agreement being involved and any of such NSR train(s) is (are) handling only CSXT cars, and/or CSXT cars as well as cars in NSR's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account handled in the NSR train(s), and the parties hereto further agree as between themselves that all other liability, cost and expense incurred by NSR as a result thereof shall be shared by both parties hereto in proportion to the total number of cars, both empty and loaded, which each party has in its own account in the NSR trains so

involved, excluding any cost and expense paid by said other railroad.

- (d) Notwithstanding any of the foregoing provisions of this Section, when any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife and vegetation, occurs with one or more trains of NSR being involved, and any or all of such trains are handling only CSXT cars or CSXT cars as well as cars in NSR's account, then, as between themselves: (i) CSXT shall be solely responsible for any such damage or destruction to the environment which results solely from a substance which was being transported in the car or cars of, or in the account of CSXT, and from which there was a release; (ii) NSR shall be solely responsible for any such damage or destruction to the environment which results solely from a substance which was being transported in the car or cars of NSR, and from which there was a release; and (iii) responsibility for any such damage or destruction to the environment which results from a substance in the cars of, or in cars in the account of, both CSXT and NSR from which there was a release shall be shared by both parties hereto in proportion to the total number of cars which each party had in its accounts, containing the same substance and from which there was a release.

- (e) In every case of death or injury suffered by an employee of CSXT or NSR, when compensation to such employee or employee's dependents is required to be paid under any present or future state or federal workmen's compensation, occupational disease, employers' liability or other law, and CSXT under provisions of this Agreement, is required to pay same or a portion of same in installments over a period of time, CSXT 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) NSR agrees that it will, upon request from CSXT, institute or defend, in CSXT's name, any action relating to a claim for loss, damage, destruction, injury or death. CSXT agrees to indemnify NSR and save it harmless from any loss, costs, expenses and legal fees incurred by NSR instituting or defending any such action in its name, or on behalf of CSXT.
- (g) Each party hereto agrees to indemnify and save harmless the other party hereto from and against all liabilities, costs and expenses which it has agreed to assume under this Section. Furthermore, each party hereto agrees to indemnify and save harmless the other party for any legal fees, arbitration expenses and

awards or expenses incurred by the indemnifying party in connection with any liability, cost and expense assumed by the other party hereto in this Section.

- (h) NSR shall notify CSXT of any accident, or incident which results in or could result in an action, claim, suit or demand against CSXT by NSR or any third party or which results in or could result in any indemnification or claim for indemnification by NSR against CSXT. Such notice shall include all available details with respect to time, place and circumstances and details of all investigations made.
- (i) Locomotives shall be considered as performing switching service on behalf of CSXT when such locomotives are coupled to a train containing CSXT cars.
- (j) Whenever circumstances require wrecking service or wrecking train service in connection with the switching subject of this Agreement, NSR shall perform such service as promptly as possible, and the cost thereof shall be borne as provided in this Section.
- (k) Each party will investigate, adjust and defend all cargo related claim liability filed with it in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract filed pursuant to 49 U.S.C. Section 10709.

- (l) 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 attorney's and other full-time employees of either party engaged directly or indirectly in such work shall be borne by such party.
- (m) Excluding cargo related claim liability filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, 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 concurrence of such other party in the consideration for such settlement or compromise exceeds Thirty-Five Thousand Dollars (\$35,000).
- (n) Section 6, Subsections (a) through (m) shall apply only to the amount of Loss resulting from a single incident which is \$25 million or less. Responsibility for Losses resulting from a single incident which exceed \$25 million shall be allocated to the extent of such excess to CSXT and NSR in proportion to their respective fault or negligence in causing such Loss, subject to the following rules: (1) the total amount of Loss for which each party would otherwise be

responsible under Section 6, Subsections (a) through (m) shall be determined, on a comparative percentage basis; (2) for each party, multiply \$25 million by the comparative percentage determined for that party in Section 6(n)(1); (3) the Loss for which each party is responsible in excess of the amount determined in Section 6(n)(2), shall be allocated between or among CSXT and NSR in proportion to their respective fault or negligence in causing the Loss. As used in this Section 6(n), the term "Loss" shall exclude consequential, indirect, incidental or other similar damage, injury or loss to either CSXT or NSR and claims for exemplary and punitive damages by any party hereto on its own behalf against another party hereto. By way of example, if a Loss from a single incident were \$100 million, of which CSXT would be responsible for \$80 million under Section 6, Subsections (a) through (m), and NSR would be responsible for \$20 million under Section 6, Subsections (a) through (m), then CSXT would be responsible for \$20 million and NSR would be responsible for \$5 million of such Loss under Section 6(n)(1), and the remaining \$75 million of Loss would be apportioned between or among CSXT and NSR in proportion to their respective fault or negligence in causing the

Loss. Any dispute between or among the parties hereto in computing the comparative percentage, in determining their respective fault or negligence in causing the Loss or otherwise relating to their respective responsibilities for Loss arising out of, incidental to or occurring in connection with any such incident, including any Loss exceeding \$25 million, shall be submitted for resolution by binding arbitration pursuant to Section 8. The \$25 million amount referred to in this Section 6(n) may be adjusted every five years following the date of this Agreement with the prior approval of all parties, which approval may be given or refused in sole discretion of each party.

- (o) Each party shall assume and bear all responsibility for Loss caused by acts or omissions of any of its employees while under the influence of drugs or alcohol or by the intentional and criminal misconduct of any such employee and Section 6, Subsections (a) through (n) shall not apply to any such Loss.

SECTION 7. EMPLOYEE CLAIMS

Each party agrees to indemnify and hold harmless the other party 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, either pursuant to employee protective conditions imposed by a governmental agency as conditions for that agency's approval of this Agreement and operations hereunder, or pursuant to a collective bargaining agreement. It is the intention of the parties that each party shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

SECTION 8. ARBITRATION

Any irreconcilable dispute arising between the parties with respect to this Agreement shall be jointly submitted for binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay the compensations, 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 of the arbitrator.

SECTION 9. TERM AND TERMINATION

- (a) This Agreement shall take effect on the day and year first above written and continue in full force and effect for one twenty-five (25) year period and continue thereafter year to year until terminated by mutual consent of the parties hereto.
- (b) The rights, benefits, duties and obligations running from or to NSR under this Agreement shall in all events expire (except liabilities incurred prior to termination) upon the earlier of (i) termination of this Agreement or (ii) termination of the NSR Operating Agreement (including any renewals thereof) and the rights, benefits, duties and obligations running from or to CSXT under this Agreement shall in all events expire (except liabilities incurred prior to termination) upon the earlier of (i) termination of this Agreement or (ii) termination of the CSXT Operating Agreement (including any renewals thereof); provided, however, that upon termination of the NSR

Operating Agreement, the rights, benefits, duties and obligations running from or to NSR under this Agreement shall run from or to PRR and upon termination of the CSXT Operating Agreement, the rights, benefits, duties and obligations running from or to CSXT under this Agreement shall run from or to NYC.

- (c) Termination of this Agreement shall not relieve or release either party hereto from any obligation assumed or from any liability which may have arisen or been incurred by either party under the terms of this Agreement prior to the termination hereof.

SECTION 10. SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Neither party hereto shall transfer or assign this Agreement, or any of its rights, interests, or obligations hereunder, to any person, firm or corporation without obtaining the prior written consent of the other party.

SECTION 11. 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 mutually agree, and shall be addressed as follows:

- (a) If to NSR:
Vice President Transportation & Mechanical
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, Virginia 23510-2191
- (b) If to CSXT:

Assistant Vice President - Joint Facilities
CSX Transportation, Inc. J200
500 Water Street
Jacksonville, Florida 32202

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

SECTION 12. GENERAL PROVISIONS

- (a) This Agreement and each and every provision hereof are 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 in any third party to recover by way of damages or otherwise against either of the parties hereto.
- (b) All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- (c) This Agreement and the attachments annexed hereto and integrated herewith contains the entire agreement of the parties hereto and supersedes any and all oral understandings between the parties with respect to the subject matter hereof.

- (d) No term or provisions of this Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to this Agreement.
- (e) 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.

SECTION 13. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement or as may be necessary or appropriate for a party hereto to enforce its rights under this Agreement, during the term of this Agreement and during three (3) years after termination of this Agreement, the terms and provisions of this Agreement and all information to which access is provided or obtained hereunder will be kept confidential and will not be disclosed by either CSXT or NSR to any party other than each party's respective parent corporation, subsidiaries and affiliates, and their respective directors, officers, agents, employees and attorneys, without the prior written approval of the other party.

SECTION 14. INDEMNITY COVERAGE

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

SECTION 15. FORCE MAJEURE

NSR shall not be responsible to CSXT for delays or failure to perform under this Agreement if such delays or failure to perform are covered by circumstances beyond its control, including, but not limited to, Acts of God, floods, storms, earthquakes, hurricanes, tornadoes, or other severe weather or climatic conditions, acts of public enemy, war, blockade, insurrection, vandalism or sabotage, fire, accident, wreck, derailment, washout or explosion, strike, lockout or labor disputes experienced by the parties hereto, embargoes or AAR service orders; Federal Railroad Administration (FRA) orders, or governmental laws, orders or regulations.

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

WITNESS

CSX TRANSPORTATION, INC.

AVP - Joint Facilities

WITNESS

NORFOLK SOUTHERN RAILWAY COMPANY

Title

WITNESS

PENNSYLVANIA LINES LLC

Title

WITNESS

NEW YORK CENTRAL LLC

Title

I:\CORP\HOUGHINS\SWTFORDR.
June 17, 1997 (10:33pm)

THIS AGREEMENT, entered into this _____ day of _____, 1997, by and among CSX Transportation, Inc. a Virginia corporation, hereinafter referred to as "CSXT", Norfolk Southern Railway Company, including its subsidiaries and affiliates, a Virginia corporation, hereinafter referred to as "NSR", Pennsylvania Lines LLC, a Delaware limited liability company (hereinafter referred to as "PRR") and New York Central LLC, a Delaware limited liability company (hereinafter referred to as "NYC");

WITNESSETH:

WHEREAS, CSX Corporation ("CSX"), parent to CSXT, and Norfolk Southern Corporation ("NSC"), parent to NSR, have entered into a Transaction Agreement (the "Transaction Agreement") between themselves; CSXT, a wholly-owned subsidiary of CSX; NSR; Conrail, Inc. ("CRR"); Consolidated Railroad Corporation ("CRC"), a wholly-owned subsidiary of CRR; and CRR Holdings LLC; and

WHEREAS, CSX and NSC have indirectly acquired all the outstanding capital stock of CRR; and

WHEREAS, pursuant to the Transaction Agreement, certain assets of CRC have been allocated to NYC, which is a wholly-owned subsidiary of CRC, to be operated by CSXT under the terms of an Allocated Assets Operating Agreement (the "CSXT Operating Agreement") between NYC and CSXT; and

WHEREAS, pursuant to the Transaction Agreement, certain assets of CRC have been allocated to PRR, which is a wholly-owned subsidiary of CRC, to be operated by NSR under the terms of an Allocated Assets Operating Agreement (the "NSR Operating Agreement") between PRR and NSR;

WHEREAS, under provisions of the Transaction Agreement, NSR will have rail access to the General Motors Corporation plant at Parma, Ohio using lines owned by NYC and operated by CSXT under the CSXT Operating Agreement; and

WHEREAS, for operating efficiencies, the parties desire that CSXT switch cars to and from the General Motors Corporation plant at Parma, Ohio for the accounts of NSR and CSXT;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

SECTION 1. INDUSTRY SWITCHING

- (a) CSXT, acting as agent for NSR, will perform switching of cars to and from the General Motors Corporation plant (hereinafter referred to as "Industry"), located at or near CSXT milepost BJA155, in Parma, Ohio, for the account of NSR, and provide services as necessary

to handle such traffic between said Industry and mutually agreed upon trackage at Cleveland, Ohio. CSXT will use its own crews and locomotives to perform said services.

- (b) For revenue purposes, cars switched under this Agreement shall remain in the account of NSR, and CSXT shall not be entitled to any line haul revenue for the handling of such cars, nor appear in any rates, routes or divisions pertaining to any cars in the account of NSR, except as specified in Section 5 hereof.
- (c) NSR shall assume its own car hire expenses, and CSXT shall assess and collect all related demurrage charges.

SECTION 2. DELIVERY AND RECEIPT OF CARS

- (a) Cars handled under this Agreement shall be considered as having been delivered by one party to the other when placed on mutually agreed upon trackage designated for such deliveries, accompanied or preceded by the necessary data for forwarding and to insure delivery and acceptance by the designated representative of the receiving road.

- (b) CSXT and NSR shall provide each other with suitable information (which may be transferred by paper documents, facsimiles, or electronic means, or by other means, as mutually agreed) necessary for the handling of cars switched under this Agreement, which will identify for each car:
- (1) Car initial and number.
 - (2) Loaded or empty.
 - (3) Destination station and consignee on inbound movements.
 - (4) Origin and shipper as supplied by the shipper on outbound movements.
 - (5) All required hazardous materials information.
 - (6) Any other information as agreed between the parties to be necessary or convenient for the safe, efficient movements of cars switched under terms of this Agreement.
- (c) CSXT may make repairs to cars switched under terms of this Agreement as may be necessary for safe transit, and CSXT may make adjustments to or transfers of lading from crippled, defective or overloaded cars, as in its determination may be necessary to safely move said cars. NSR shall reimburse CSXT its full cost for repairs, adjustments and lading transfers promptly upon receipt of billing therefor.

SECTION 3. INSPECTION

CSXT shall not be responsible for making any mechanical inspection of cars in the account of NSR switched to and from the industry.

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In the event the use of trackage in performing the referenced switching services shall be interrupted or traffic delayed at any time from any cause, neither party shall have any claim against the other party for liability of any kind from such interruption or delay.

SECTION 5. COMPENSATION

- (a) NSR shall pay CSXT a mutually agreed upon rate for each loaded car handled by CSXT for the account of NSR to and from the Industry for the first six months from the effective date of this Agreement. After said six months, CSXT and NSR will jointly conduct a study to determine CSXT's actual cost of handling cars in the account of NSR to and from the Industry, and the agreed upon rate, hereinafter referred to as the "Current Charge", will be retroactive to the effective date of this Agreement.

- (b) At the option of either party hereto the Current Charge shall be open to renegotiation every five (5) years from the effective date of this Agreement. In the event the parties fail to reach agreement upon such renegotiation, such failure shall not constitute a breach of this Agreement and the parties shall continue to be bound by the terms of compensation provided in this Section 5 until the matter is settled or submitted to binding arbitration as provided in Section 8.
- (c) The Current Charge shall be revised upward or downward each year, beginning with the bill rendered during the first month of July following the effective date of this Agreement, to compensate for the increase or decrease in the cost of labor and material, including 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 Railroads, hereinafter called "AAR". In making such determination, the final "Material prices, wage rates and supplements combined (including fuel)" indexes for the East District shall be used.
- (d) The Current Charge shall be revised by calculating the percentage of increase or decrease in the index of the

latest calendar year as related to the index for the previous calendar year and applying that percentage to the Current Charge.

- (e) By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figure for 1996; "B" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figures for 1997; "C" to be the Current Charge; and "D" to be the percentage of increase or decrease the revised Current Charge would be determined by the following calculations:

$$(1) \quad \frac{(B-A)}{A} = D$$

$$(2) \quad (C \times D) + C = \text{revised Current Charge rounded to the nearest cent, effective July 1 of the year being revised.}$$

- (f) In the event the base for the "Annual Indexes of Chargeout 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 the "Annual Indexes of Chargeout 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 parties shall submit the matter to arbitration.

- (g) CSXT shall keep and maintain an accurate account of all loaded cars handled by it for the account of NSR, and shall at the end of each month, render an itemized bill, computed in accordance with the provisions herein, to NSR for payment.
- (h) NSR shall pay within thirty (30) days from receipt thereof, and any errors or omissions in such bills shall be adjusted in subsequent billing.
- (i) 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.

SECTION 6. LIABILITY

The responsibility between the parties hereto for loss of, damage to, and destruction of any property whatsoever and injury to and death of any person or persons whomsoever, resulting from, arising out of, incidental to or occurring in connection with this Agreement, hereinafter referred to as a Loss, shall be apportioned as follows without regard to consideration of fault or negligence:

- (a) Whenever a Loss occurs with only one train operated by CSXT being involved and such train is hauling cars, empty or loaded, in only NSR's account or cars in NSR's account as well as cars in CSXT's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account being handled in such train, and the parties hereto further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including without limitation, the train(s), locomotive(s), equipment or trackage, so occurring shall be either: (i) borne solely by NSR if the train is handling only NSR cars, or (ii) borne solely by each party hereto in proportion to the number of cars, both empty and loaded, which each party hereto has in its own account in such train, if the train is handling cars in the accounts of both parties hereto.
- (b) Whenever a Loss occurs with more than one train operated by CSXT being involved and any or all of such trains are handling only NSR cars or NSR cars as well as cars in CSXT's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, empty and loaded, including lading, in its own account handled in such trains, and

the parties further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including, without limitation, trains, locomotives, equipment or trackage, so occurring shall be borne as follows: total liability, cost and expense arising not otherwise borne separately by the parties as provided above shall be first equally divided by the number of trains involved and then (I) that portion of said liability, cost and expense apportioned to any train(s) which is (are) handling cars, both empty and loaded, only the account of CSXT shall be borne solely by CSXT, (ii) that portion of said liability, cost and expense apportioned to any train(s) which is (are) handling only NSR cars shall be borne solely by NSR, and (iii) that portion of said train(s) handling cars, both empty and loaded, in the accounts of both parties shall be shared and borne by each party hereto in proportion to the number of cars, both empty and loaded, which each party has in its own account in each such train.

- (c) Whenever a Loss occurs with the train(s) of CSXT and another railroad or other company that is not a party to this Agreement being involved and any of such CSXT train(s) is (are) handling only NSR cars, and/or NSR cars as well as cars in CSXT's account; then each party

hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account handled in the CSXT train(s), and the parties hereto further agree as between themselves that all other liability, cost and expense incurred by CSXT as a result thereof shall be shared by both parties hereto in proportion to the total number of cars, both empty and loaded, which each party has in its own account in the CSXT trains so involved, excluding any cost and expense paid by said other railroad.

- (d) Notwithstanding any of the foregoing provisions of this Section, when any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife and vegetation, occurs with one or more trains of CSXT being involved, and any or all of such trains are handling only NSR cars or NSR cars as well as cars in CSXT's account, then, as between themselves: (i) CSXT shall be solely responsible for any such damage or destruction to the environment which results solely from a substance which was being transported in the car or cars of, or in the account of CSXT, and from which there was a release; (ii) NSR shall be solely responsible for any such damage or destruction to the environment which results

solely from a substance which was being transported in NSR cars and from which there was a release; and (iii) responsibility for any such damage or destruction to the environment which results from a substance in the cars of, or in cars in the account of, both CSXT and NSR from which there was a release shall be shared by both parties hereto in proportion to the total number of cars which each party had in its accounts, containing the same substance and from which there was a release.

- (e) In every case of death or injury suffered by an employee of CSXT or NSR, when compensation to such employee or employee's dependents is required to be paid under any present or future state or federal workmen's compensation, occupational disease, employers' liability or other law, and NSR under provisions of this Agreement, is required to pay same or a portion of same in installments over a period of time, NSR 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) CSXT agrees that it will, upon request from NSR, institute or defend, in NSR's name, any action relating to a claim for loss, damage, destruction, injury or death. NSR agrees to indemnify CSXT and save it harmless from any loss, costs, expenses and legal fees incurred by CSXT instituting or defending any such action in its name, or on behalf of NSR.
- (g) Each party hereto agrees to indemnify and save harmless the other party hereto from and against all liabilities, costs and expenses which it has agreed to assume under this Section. Furthermore, each party hereto agrees to indemnify and save harmless the other party for any legal fees, arbitration expenses and awards or expenses incurred by the indemnifying party in connection with any liability, cost and expense assumed by the other party hereto in this Section.
- (h) CSXT shall notify NSR of any accident, or incident which results in or could result in an action, claim, suit or demand against NSR by CSXT or any third party or which results in or could result in any indemnification or claim for indemnification by CSXT against NSR. Such notice shall include all available details with respect to time, place and circumstances and details of all investigations made.

- (i) Locomotives shall be considered as performing switching service on behalf of NSR when such locomotives are coupled to a train containing NSR cars.
- (j) Whenever circumstances require wrecking service or wrecking train service in connection with the switching subject of this Agreement, CSXT shall perform such service as promptly as possible, and the cost thereof shall be borne as provided in this Section.
- (k) Each party will investigate, adjust and defend all cargo related claim liability filed with it in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract filed pursuant to 49 U.S.C. Section 10709.
- (l) 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 attorney's and other full-time employees of either party engaged directly or indirectly in such work shall be borne by such party.

- (m) Excluding cargo related claim liability filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, 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 concurrence of such other party in the consideration for such settlement or compromise exceeds Thirty-Five Thousand Dollars (\$35,000).
- (n) Section 6, Subsections a through m shall apply only to the amount of Loss resulting from a single incident which is \$25 million or less. Responsibility for Losses resulting from a single incident which exceed \$25 million shall be allocated to the extent of such excess to CSXT and NSR in proportion to their respective fault or negligence in causing such Loss subject to the following rules: (1) the total amount of Loss for which each party would otherwise be responsible under Section 6, Subsections a through m shall be determined, on a comparative percentage basis; (2) for each party, multiply \$25 million by the comparative percentage determined for the party in Section 6(n)(1); (3) the Loss for which each party is responsible in excess of the amount determined in Section 6(n)(2) shall be allocated between or among CSXT and NSR in proportion to their respective fault or

negligence in causing the Loss. As used in this Section 6(n) the term "Loss" shall exclude consequential, indirect, incidental or other similar damage, injury or loss to either CSXT or NSR and claims for exemplary and punitive damages by any party hereto on its own behalf against another party hereto. By way of example, if a Loss from a single incident were \$100 million, of which CSXT would be responsible for \$80 million under Section 6, Subsections a through m and NSR would be responsible for \$20 million under Section 6, Subsections a through m, they CSXT would be responsible for \$20 million and NSR would be responsible for \$5 million of such Loss under Section 6(n)(1), and the remaining \$75 million of Loss would be apportioned between or among CSXT and NSR in proportion to their respective fault or negligence in causing the Loss. Any dispute between or among the parties hereto in computing the comparative percentage, in determining their respective fault or negligence in causing the Loss or otherwise relating to their respective responsibilities for Loss arising out of, incidental to or occurring in connection with any such incident, including any Loss exceeding \$25 million, shall be submitted for resolution by binding arbitration pursuant to Section 9. The \$25 million amount referred to in this Section 6(n) may be adjusted every five

years following the date of this Agreement with the prior approval of all parties, which approval may be given or refused in sole discretion of each party.

- (o) Each party shall assume and bear all responsibility for Loss caused by acts or omissions of any its employees while under the influence of drugs or alcohol or by the intentional and criminal misconduct of any such employee and Section 6, Subsections a through n shall not apply to any such Loss.

SECTION 7. EMPLOYEE CLAIMS

Each party agrees to indemnify and hold harmless the other party 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, either pursuant to employee protective conditions imposed by a governmental agency as conditions for that agency's approval of this Agreement and operations hereunder, or pursuant to a collective bargaining agreement. It is the intention of the parties that each party shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

SECTION 8. ARBITRATION

Any irreconcilable dispute arising between the parties with respect to this Agreement shall be jointly submitted for binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay the compensations, 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 of the arbitrator.

SECTION 9. TERM AND TERMINATION

- (a) This Agreement shall take effect on the day and year first above written and continue in full force and effect for one thirty (30) year period and continue

thereafter year to year until terminated by mutual consent of the parties hereto.

- (b) The rights, benefits, duties and obligations running from or to NSR under this Agreement shall in all events expire (except liabilities incurred prior to termination) upon the earlier of (i) termination of this Agreement or (ii) terminations of the NSR Operating Agreement (including any renewals thereof) and the rights, benefits, duties and obligations running from or to CSXT under this Agreement shall in all events expire (except liabilities incurred prior to termination) upon the earlier of (i) termination of this Agreement or (ii) termination of the CSXT Operating Agreement (including any renewals thereof); provided, however, that upon termination of the NSR Operating Agreement, the rights, benefits, duties and obligations running from or to NSR under this Agreement shall run from or to PRR and upon termination of the CSXT Operating Agreement, the rights, benefits, duties and obligations running from or to CSXT under this Agreement shall run from or to NYC.
- (c) Termination of this Agreement shall not relieve or release either party hereto from any obligation assumed or from any liability which may have arisen or been

incurred by either party under the terms of this Agreement prior to the termination hereof.

SECTION 10. SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Neither party hereto shall transfer or assign this Agreement, or any of its rights, interests, or obligations hereunder, to any person, firm or corporation without obtaining the prior written consent of the other party.

SECTION 11. 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 mutually agree, and shall be addressed as follows:

(a) If to CSXT:

Assistant Vice President - Joint Facilities
CSX Transportation, Inc. J200
500 Water Street
Jacksonville, Florida 32202

(b) If to NSR:

Vice President Transportation & Mechanical
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, Virginia 23510-2191

(c) If to PRR: (To Be Furnished)

(d) If to NYC: (To Be Furnished)

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

SECTION 12. GENERAL PROVISIONS

- (a) This Agreement and each and every provision hereof are 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 in any third party to recover by way of damages or otherwise against either of the parties hereto.
- (b) All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- (c) This Agreement and the attachments annexed hereto and integrated herewith contains the entire agreement of the parties hereto and supersedes any and all oral understandings between the parties with respect to the subject matter hereof.

(d) No term or provisions of this Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to this Agreement.

(e) 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.

SECTION 13. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement or as may be necessary or appropriate for a party hereto to enforce its rights under this Agreement, during the term of this Agreement and during three (3) years after termination of this Agreement, the terms and provisions of this Agreement and all information to which access is provided or obtained hereunder will be kept confidential and will not be disclosed by either NSR or CSXT to any party other than each party's respective parent corporation, subsidiaries and affiliates, and their respective directors, officers, agents, employees and attorneys, without the prior written approval of the other party.

SECTION 14. INDEMNITY COVERAGE

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

SECTION 15. FORCE MAJEURE

CSXT shall not be responsible to NSR for delays or failure to perform under this Agreement if such delays or failure to perform are covered by circumstances beyond its control, including, but not limited to, Acts of God, floods, storms, earthquakes, hurricanes, tornadoes, or other severe weather or climatic conditions, acts of public enemy, war, blockade, insurrection, vandalism or sabotage, fire, accident, wreck, derailment, washout or explosion, strike, lockout or labor disputes experienced by the parties hereto, embargoes or AAR service orders; Federal Railroad Administration (FRA) orders, or governmental laws, orders or regulations.

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

WITNESS

CSX TRANSPORTATION, INC.

AVP - Joint Facilities

WITNESS

NORFOLK SOUTHERN RAILWAY COMPANY

Title

WITNESS

PENNSYLVANIA LINES LLC

Title

WITNESS

NEW YORK CENTRAL LLC

Title

THIS AGREEMENT, entered into this _____ day of _____, 1997, by and among CSX Transportation, Inc. a Virginia corporation, hereinafter referred to as "CSXT", Norfolk Southern Railway Company, including its subsidiaries and affiliates, a Virginia corporation, hereinafter referred to as "NSR", Pennsylvania Lines LLC, a Delaware limited liability company (hereinafter referred to as "PRR") and New York Central LLC, a Delaware limited liability company (hereinafter referred to as "NYC");

WITNESSETH:

WHEREAS, CSX Corporation ("CSX"), parent to CSXT, and Norfolk Southern Corporation ("NSC"), parent to NSR, entered into a Transaction Agreement (the "Transaction Agreement") between themselves; CSXT, a wholly-owned subsidiary of CSX; NSR; Conrail, Inc. ("CRR"); Consolidated Railroad Corporation ("CRC"), a wholly-owned subsidiary of CRR; and CRR Holdings LLC; and

WHEREAS, CSX and NSC have indirectly acquired all the outstanding capital stock of CRR; and

WHEREAS, pursuant to the Transaction Agreement, certain assets of CRC have been allocated to NYC, which is a wholly-owned subsidiary of CRC, to be operated by CSXT under the terms of an Allocated Assets Operating Agreement (the "CSXT Operating Agreement") between NYC and CSXT; and

WHEREAS, pursuant to the Transaction Agreement, certain assets of CRC have been allocated to PRR, which is a wholly-owned subsidiary of CRC, to be operated by NSR under the terms of an Allocated Assets Operating Agreement (the "NSR Operating Agreement") between PRR and NSR;

WHEREAS, under provisions of the Transaction Agreement, NSR will have rail access to Hawthorne Yard operated by CSXT at Indianapolis, Indiana using lines owned by NYC and operated by CSXT under the CSXT Operating Agreement; and

WHEREAS, for operating efficiencies, the parties desire that CSXT switch cars to and from industries at Indianapolis, Indiana for the accounts of NSR and CSXT;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

SECTION 1. INDUSTRY SWITCHING

- (a) CSXT, acting as agent for NSR, will perform switching of cars to and from industries (hereinafter referred to as "Industry"), as specified in Exhibit "I", attached hereto and made a part hereof, located in and around Indianapolis, Indiana, for the account of NSR, and

provide services as necessary to handle such traffic between said Industry and NSR. CSXT will use its own crews and locomotives to perform said services.

- (b) NSR will have sufficient trackage within Hawthorne Yard for the arrival, departure and make up of trains and will have reasonable access to and from tracks designated by CSXT's representative at the time of movement. NSR's use of Hawthorne Yard shall at all times be governed by the instructions of the designated CSXT officer in charge.
- (c) For revenue purposes, cars switched under this Agreement shall remain in the account of NSR, and CSXT shall not be entitled to any line haul revenue for the handling of such cars, nor appear in any rates, routes or divisions pertaining to any cars in the account of NSR, except as specified in Section 5 hereof.
- (d) NSR shall assume its own car hire expenses, and CSXT shall assess and collect all related demurrage charges.

SECTION 2. DELIVERY AND RECEIPT OF CARS

- (a) Cars handled under this Agreement shall be considered as having been delivered by one party to the other when

placed on mutually agreed upon trackage designated for such deliveries, accompanied or preceded by the necessary data for forwarding and to insure delivery and acceptance by the designated representative of the receiving road.

- (b) CSXT and NSR shall provide each other with suitable information (which may be transferred by paper documents, facsimiles, or electronic means, or by other means, as mutually agreed) necessary for the handling of cars switched under this Agreement, which will identify for each car:

- (1) Car initial and number.
- (2) Loaded or empty.
- (3) Destination station and consignee on inbound movements.
- (4) Origin and shipper as supplied by the shipper on outbound movements.
- (5) All required hazardous materials information.
- (6) Any other information as agreed between the parties to be necessary or convenient for the safe, efficient movements of cars switched under terms of this Agreement.

- (c) CSXT may make repairs to cars switched under terms of this Agreement as may be necessary for safe transit, and CSXT may make adjustments to or transfers of lading from crippled, defective or overloaded cars, as in its determination may be necessary to safely move said

cars. NSR shall reimburse CSXT its full cost for repairs, adjustments and lading transfers promptly upon receipt of billing therefor.

SECTION 3. INSPECTION

CSXT shall not be responsible for making any mechanical inspection of cars in the account of NSR switched to and from the industry.

SECTION 4. INTERRUPTION, DELAY

In the event the use of trackage in performing the referenced switching services shall be interrupted or traffic delayed at any time from any cause, neither party shall have any claim against the other party for liability of any kind from such interruption or delay.

SECTION 5. COMPENSATION

- (a) NSR shall pay CSXT a mutually agreed upon rate for each loaded car handled by CSXT for the account of NSR to and from the Industry for the first six months from the effective date of this Agreement. After said six months, CSXT and NSR will jointly conduct a study to

determine CSXT's actual cost of handling cars in the account of NSR to and from the Industry; and maintenance costs for use of certain tracks within Hawthorne Yard, and the agreed upon rate, hereinafter referred to as the "Current Charge", will be retroactive to the effective date of this Agreement.

- (b) At the option of either party hereto the Current Charge shall be open to renegotiation every five (5) years from the effective date of this Agreement. In the event the parties fail to reach agreement upon such renegotiation, such failure shall not constitute a breach of this Agreement and the parties shall continue to be bound by the terms of compensation provided in this Section 5 until the matter is settled or submitted to binding arbitration as provided in Section 8.
- (c) The Current Charge shall be revised upward or downward each year, beginning with the bill rendered during the first month of July following the effective date of this Agreement, to compensate for the increase or decrease in the cost of labor and material, including 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 Railroads, hereinafter

called "AAR". In making such determination, the final "Material prices, wage rates and supplements combined (including fuel)" indexes for the East District shall be used.

- (d) The Current Charge shall be revised by calculating the percentage of increase or decrease in the index of the latest calendar year as related to the index for the previous calendar year and applying that percentage to the Current Charge.

- (e) By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figure for 1996; "B" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figures for 1997; "C" to be the Current Charge; and "D" to be the percentage of increase or decrease the revised Current Charge would be determined by the following calculations:

$$(1) \frac{(B-A)}{A} = D$$

$$(2) (C \times D) + C = \text{revised Current Charge rounded to the nearest cent, effective July 1 of the year being revised.}$$

- (f) In the event the base for the "Annual Indexes of Chargeout 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 the "Annual Indexes of Chargeout 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 parties shall submit the matter to arbitration.
- (g) CSXT shall keep and maintain an accurate account of all loaded cars handled by it for the account of NSR, and shall at the end of each month, render an itemized bill, computed in accordance with the provisions herein, to NSR for payment.
- (h) NSR shall pay within thirty (30) days from receipt thereof, and any errors or omissions in such bills shall be adjusted in subsequent billing.
- (i) 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.

SECTION 6. LIABILITY

The responsibility between the parties hereto for loss of, damage to, and destruction of any property whatsoever and injury to and death of any person or persons whomsoever, resulting from, arising out of, incidental to or occurring in connection with this Agreement, hereinafter referred to as a Loss, shall be apportioned as follows without regard to consideration of fault or negligence:

- (a) Whenever a Loss occurs with only one train operated by CSXT being involved and such train is hauling cars, empty or loaded, in only NSR's account or cars in NSR's account as well as cars in CSXT's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account being handled in such train, and the parties hereto further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including without limitation, the train(s), locomotive(s), equipment or trackage, so occurring shall be either: (i) borne solely by NSR if the train is handling only NSR cars, or (ii) borne solely by each party hereto in proportion to the number of cars, both empty and loaded, which each party hereto has in its

own account in such train, if the train is handling cars in the accounts of both parties hereto.

- (b) Whenever a Loss occurs with more than one train operated by CSXT being involved and any or all of such trains are handling only NSR cars or NSR cars as well as cars in CSXT's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, empty and loaded, including lading, in its own account handled in such trains, and the parties further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including, without limitation, trains, locomotives, equipment or track, so occurring shall be borne as follows: total liability, cost and expense arising not otherwise borne separately by the parties as provided above shall be first equally divided by the number of trains involved and then (i) that portion of said liability, cost and expense apportioned to any train(s) which is (are) handling cars, both empty and loaded, only the account of CSXT shall be borne solely by CSXT, (ii) that portion of said liability, cost and expense apportioned to any train(s) which is (are) handling only NSR cars shall be borne solely by NSR, and (iii) that portion of said train(s) handling cars, both empty and loaded, in

the accounts of both parties shall be shared and borne by each party hereto in proportion to the number of cars, both empty and loaded, which each party has in its own account in each such train.

- (c) Whenever a Loss occurs with the train(s) of CSXT and another railroad or other company that is not a party to this Agreement being involved and any of such CSXT train(s) is (are) handling only NSR cars, and/or NSR cars as well as cars in CSXT's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account handled in the CSXT train(s), and the parties hereto further agree as between themselves that all other liability, cost and expense incurred by CSXT as a result thereof shall be shared by both parties hereto in proportion to the total number of cars, both empty and loaded, which each party has in its own account in the CSXT trains so involved, excluding any cost and expense paid by said other railroad.
- (d) Notwithstanding any of the foregoing provisions of this Section, when any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife and vegetation, occurs with

one or more trains of CSXT being involved, and any or all of such trains are handling only NSR cars or NSR cars as well as cars in CSXT's account, then, as between themselves: (i) CSXT shall be solely responsible for any such damage or destruction to the environment which results solely from a substance which was being transported in the car or cars of, or in the account of CSXT, and from which there was a release; (ii) NSR shall be solely responsible for any such damage or destruction to the environment which results solely from a substance which was being transported in NSR cars and from which there was a release; and (iii) responsibility for any such damage or destruction to the environment which results from a substance in the cars of, or in cars in the account of, both CSXT and NSR from which there was a release shall be shared by both parties hereto in proportion to the total number of cars which each party had in its accounts, containing the same substance and from which there was a release.

- (e) In every case of death or injury suffered by an employee of CSXT or NSR, when compensation to such employee or employee's dependents is required to be paid under any present or future state or federal workmen's compensation, occupational disease,

employers' liability or other law, and NSR under provisions of this Agreement, is required to pay same or a portion of same in installments over a period of time, NSR 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) CSXT agrees that it will, upon request from NSR, institute or defend, in NSR's name, any action relating to a claim for loss, damage, destruction, injury or death. NSR agrees to indemnify CSXT and save it harmless from any loss, costs, expenses and legal fees incurred by CSXT instituting or defending any such action in its name, or on behalf of NSR.

- (g) Each party hereto agrees to indemnify and save harmless the other party hereto from and against all liabilities, costs and expenses which it has agreed to assume under this Section. Furthermore, each party hereto agrees to indemnify and save harmless the other party for any legal fees, arbitration expenses and awards or expenses incurred by the indemnifying party in connection with any liability, cost and expense assumed by the other party hereto in this Section.

- (h) CSXT shall notify NSR of any accident, or incident which results in or could result in an action, claim, suit or demand against NSR by CSXT or any third party or which results in or could result in any indemnification or claim for indemnification by CSXT against NSR. Such notice shall include all available details with respect to time, place and circumstances and details of all investigations made.
- (i) Locomotives shall be considered as performing switching service on behalf of NSR when such locomotives are coupled to a train containing NSR cars.
- (j) Whenever circumstances require wrecking service or wrecking train service in connection with the switching subject of this Agreement, CSXT shall perform such service as promptly as possible, and the cost thereof shall be borne as provided in this Section.
- (k) Each party will investigate, adjust and defend all cargo related claim liability filed with it in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract filed pursuant to 49 U.S.C. Section 10709.

- (l) 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 attorney's and other full-time employees of either party engaged directly or indirectly in such work shall be borne by such party.
- (m) Excluding cargo related claim liability filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, 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 concurrence of such other party in the consideration for such settlement or compromise exceeds Thirty-Five Thousand Dollars (\$35,000).
- (n) Section 6, Subsections a through m shall apply only to the amount of Loss resulting from a single incident which is \$25 million or less. Responsibility for Losses resulting from a single incident which exceed \$25 million shall be allocated to the extent of such excess to CSXT and NSR in proportion to their respective fault or negligence in causing such Loss subject to the following rules: (1) the total amount of

Loss for which each party would otherwise be responsible under Section 6, Subsections a through m shall be determined, on a comparative percentage basis; (2) for each party, multiply \$25 million by the comparative percentage determined for the party in Section 6(n)(1); (3) the Loss for which each party is responsible in excess of the amount determined in Section 6(n)(2) shall be allocated between or among CSXT and NSR in proportion to their respective fault or negligence in causing the Loss. As used in this Section 6(n) the term "Loss" shall exclude consequential, indirect, incidental or other similar damage, injury or loss to either CSXT or NSR and claims for exemplary and punitive damages by any party hereto on its own behalf against another party hereto. By way of example, if a Loss from a single incident were \$100 million, of which CSXT would be responsible for \$80 million under Section 6, Subsections a through m and NSR would be responsible for \$20 million under Section 6, Subsections a through m, then CSXT would be responsible for \$20 million and NSR would be responsible for \$5 million of such Loss under Section 6(n)(1), and the remaining \$75 million of Loss would be apportioned between or among CSXT and NSR in proportion to their respective fault or negligence in causing the Loss. Any dispute between or among the parties hereto

in computing the comparative percentage, in determining their respective fault or negligence in causing the Loss or otherwise relating to their respective responsibilities for Loss arising out of, incidental to or occurring in connection with any such incident, including any Loss exceeding \$25 million, shall be submitted for resolution by binding arbitration pursuant to Section 9. The \$25 million amount referred to in this Section 6(n) may be adjusted every five years following the date of this Agreement with the prior approval of all parties, which approval may be given or refused in sole discretion of each party.

- (c) Each party shall assume and bear all responsibility for Loss caused by acts or omissions of any its employees while under the influence of drugs or alcohol or by the intentional and criminal misconduct of any such employee and Section 6, Subsections a through n shall not apply to any such Loss.

SECTION 7. EMPLOYEE CLAIMS

Each party agrees to indemnify and hold harmless the other party 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

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behalf of its own employees, either pursuant to employee protective conditions imposed by a governmental agency as conditions for that agency's approval of this Agreement and operations hereunder, or pursuant to a collective bargaining agreement. It is the intention of the parties that each party shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

SECTION 8. ARBITRATION

Any irreconcilable dispute arising between the parties with respect to this Agreement shall be jointly submitted for binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay the compensations, 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 of the arbitrator.

SECTION 9. TERM AND TERMINATION

- (a) This Agreement shall take effect on the day and year first above written and continue in full force and effect for one thirty (30) year period and continue thereafter year to year until terminated by mutual consent of the parties hereto.

- (b) The rights, benefits, duties and obligations running from or to NSR under this Agreement shall in all events expire (except liabilities incurred prior to termination) upon the earlier of (i) termination of this Agreement or (ii) terminations of the NSR Operating Agreement (including any renewals thereof) and the rights, benefits, duties and obligations running from or to CSXT under this Agreement shall in all events expire (except liabilities incurred prior to termination) upon the earlier of (i) termination of this Agreement or (ii) termination of the CSXT Operating Agreement (including any renewals thereof); provided, however, that upon termination of the NSR

Operating Agreement, the rights, benefits, duties and obligations running from or to NSR under this Agreement shall run from or to PRR and upon termination of the CSXT Operating Agreement, the rights, benefits, duties and obligations running from or to CSXT under this Agreement shall run from or to NYC.

- (c) Termination of this Agreement shall not relieve or release either party hereto from any obligation assumed or from any liability which may have arisen or been incurred by either party under the terms of this Agreement prior to the termination hereof.

SECTION 10. SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Neither party hereto shall transfer or assign this Agreement, or any of its rights, interests, or obligations hereunder, to any person, firm or corporation without obtaining the prior written consent of the other party.

SECTION 11. 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 mutually agree, and shall be addressed as follows:

(a) If to CSXT:

Assistant Vice President - Joint Facilities
CSX Transportation, Inc. J200
500 Water Street
Jacksonville, Florida 32202

(b) If to NSR:

Vice President Transportation & Mechanical
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, Virginia 23510-2191

(c) If to PRR: (To be Furnished)

(d) If to NYC: (To be Furnished)

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

SECTION 12. GENERAL PROVISIONS

(a) This Agreement and each and every provision hereof are 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 in any third party to recover by way of damages or otherwise against either of the parties hereto.

- (b) All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- (c) This Agreement and the attachments annexed hereto and integrated herewith contains the entire agreement of the parties hereto and supersedes any and all oral understandings between the parties with respect to the subject matter hereof.
- (d) No term or provisions of this Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to this Agreement.
- (e) 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.

SECTION 13. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement or as may be necessary or appropriate for a party hereto to enforce its rights under this Agreement, during the term of this Agreement and during three (3)

years after termination of this Agreement, the terms and provisions of this Agreement and all information to which access is provided or obtained hereunder will be kept confidential and will not be disclosed by either NSR or CSXT to any party other than each party's respective parent corporation, subsidiaries and affiliates, and their respective directors, officers, agents, employees and attorneys, without the prior written approval of the other party.

SECTION 14. INDEMNITY COVERAGE

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

SECTION 15. FORCE MAJEURE

CSXT shall not be responsible to NSR for delays or failure to perform under this Agreement if such delays or failure to perform are covered by circumstances beyond its control, including, but not limited to, Acts of God, floods, storms, earthquakes, hurricanes, tornadoes, or other severe weather or

climatic conditions, acts of public enemy, war, blockade, insurrection, vandalism or sabotage, fire, accident, wreck, derailment, washout or explosion, strike, lockout or labor disputes experienced by the parties hereto, embargoes or AAR service orders; Federal Railroad Administration (FRA) orders, or governmental laws, orders or regulations.

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

WITNESS

CSX TRANSPORTATION, INC.

AVP - Joint Facilities

WITNESS

NORFOLK SOUTHERN RAILWAY COMPANY

Title

WITNESS

PENNSYLVANIA LINES LLC

Title

WITNESS

NEW YORK CENTRAL LLC

Title

EXHIBIT "I"

INDIANAPOLIS, INDIANA - SWITCH LIST

Citizens Gas Coke Utility
Countrymark Cooperative
Chrysler Indianapolis Foundry
Illinois Cereal Mills
National Starch Chemical
ADM Milling
Ford Indianapolis
General Motors Corp., Allison Div.
AAA Warehouse
Capitol City Metals
Carter Lee Lumber
Central Soya
Central States Warehouse
D A Lubricants
Eli Lilly
Grocers Supply
Hausman Steel Corporation
Heritage Env. Service Morris St.
Indianapolis Auto Shredding
Indianapolis Power & Light
Interstate Warehousing, Inc.
Merchandise Warehouse
Monarch Beverage
Navistar International
Pakway Container Corp.
Schuchman Metals
INRD Lumber Reload Center
Hall & House Lumber
Eagle Building Products
General Motors Metal Fabrication Plant

THIS AGREEMENT, entered into this _____ day of _____, 1997, by and between CSX Transportation, Inc. a Virginia corporation, hereinafter referred to as "CSXT", Norfolk Southern Railway Company, including its subsidiaries and affiliates, a Virginia corporation, hereinafter referred to as "NSR", Pennsylvania Lines LLC, a Delaware limited liability company (hereinafter referred to as "PRR") and New York Central LLC, a Delaware limited liability company (hereinafter referred to as "NYC");

WITNESSETH:

WHEREAS, CSX Corporation ("CSX"), parent to CSXT, and Norfolk Southern Corporation ("NSC"), parent to NSR, entered into a Transaction Agreement (the "Transaction Agreement") between themselves; CSXT, a wholly-owned subsidiary of CSX; NSR; Conrail, Inc. ("CRR"); Consolidated Railroad Corporation ("CRC"), a wholly-owned subsidiary of CRR; and CRR Holdings LLC; and

WHEREAS, CSX and NSC have indirectly acquired all the outstanding capital stock of CRR; and

WHEREAS, pursuant to the Transaction Agreement, certain assets of CRC have been allocated to NYC, which is a wholly-owned subsidiary of CRC, to be operated by CSXT under the terms of an Allocated Assets Operating Agreement (the "CSXT Operating Agreement") between NYC and CSXT; and

WHEREAS, pursuant to the Transaction Agreement, certain assets of CRC have been allocated to PRR, which is a wholly-owned subsidiary of CRC, to be operated by NSR under the terms of an Allocated Assets Operating Agreement (the "NSR Operating Agreement") between PRR and NSR;

WHEREAS, under provisions of the Transaction Agreement, NSR will have rail access to the General Motors Corporation (Goodman Yard) facility at Lordstown, Ohio using lines owned by NYC and operated by CSXT under the CSXT Operating Agreement; and

WHEREAS, for operating efficiencies, the parties desire that CSXT switch cars to and from the General Motors Corporation (Goodman Yard) facility at Lordstown, Ohio for the accounts of NSR and CSXT;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

SECTION 1. INDUSTRY SWITCHING

- (a) CSXT, acting as agent for NSR, will perform switching of cars to and from the General Motors Corporation (Goodman Yard) facility (hereinafter referred to as "Industry"), located in Lordstown, Ohio, for the

account of NSR, and provide services as necessary to handle such traffic between said Industry and mutually agreed upon trackage at Cleveland, Ohio. CSXT will use its own crews and locomotives to perform said services.

- (b) For revenue purposes, cars switched under this Agreement shall remain in the account of NSR, and CSXT shall not be entitled to any line haul revenue for the handling of such cars, nor appear in any rates, routes or divisions pertaining to any cars in the account of NSR, except as specified in Section 5 hereof.
- (c) NSR shall assume its own car hire expenses, and CSXT shall assess and collect all related demurrage charges.

SECTION 2. DELIVERY AND RECEIPT OF CARS

- (a) Cars handled under this Agreement shall be considered as having been delivered by one party to the other when placed on mutually agreed upon trackage designated for such deliveries, accompanied or preceded by the necessary data for forwarding and to insure delivery and acceptance by the designated representative of the receiving road.

(b) CSXT and NSR shall provide each other with suitable information (which may be transferred by paper documents, facsimiles, or electronic means, or by other means, as mutually agreed) necessary for the handling of cars switched under this Agreement, which will identify for each car:

- (1) Car initial and number.
- (2) Loaded or empty.
- (3) Destination station and consignee on inbound movements.
- (4) Origin and shipper as supplied by the shipper on outbound movements.
- (5) All required hazardous materials information.
- (6) Any other information as agreed between the parties to be necessary or convenient for the safe, efficient movements of cars switched under terms of this Agreement.

(c) CSXT may make repairs to cars switched under terms of this Agreement as may be necessary for safe transit, and CSXT may make adjustments to or transfers of lading from crippled, defective or overloaded cars, as in its determination may be necessary to safely move said cars. NSR shall reimburse CSXT its full cost for repairs, adjustments and lading transfers promptly upon receipt of billing therefor.

SECTION 3. INSPECTION

CSXT shall not be responsible for making any mechanical inspection of cars in the account of NSR switched to and from the industry.

SECTION 4. INTERRUPTION, DELAY

In the event the use of trackage in performing the referenced switching services shall be interrupted or traffic delayed at any time from any cause, neither party shall have any claim against the other party for liability of any kind from such interruption or delay.

SECTION 5. COMPENSATION

- (a) NSR shall pay CSXT a mutually agreed upon rate for each loaded car handled by CSXT for the account of NSR to and from the Industry for the first six months from the effective date of this Agreement. After said six months, CSXT and NSR will jointly conduct a study to determine CSXT's actual cost of handling cars in the account of NSR to and from the Industry, and the agreed upon rate, hereinafter referred to as the "Current Charge", will be retroactive to the effective date of this Agreement.

- (b) At the option of either party hereto the Current Charge shall be open to renegotiation every five (5) years from the effective date of this Agreement. In the event the parties fail to reach agreement upon such renegotiation, such failure shall not constitute a breach of this Agreement and the parties shall continue to be bound by the terms of compensation provided in this Section 5 until the matter is settled or submitted to binding arbitration as provided in Section 8.
- (c) The Current Charge shall be revised upward or downward each year, beginning with the bill rendered during the first month of July following the effective date of this Agreement, to compensate for the increase or decrease in the cost of labor and material, including 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 Railroads, hereinafter called "AAR". In making such determination, the final "Material prices, wage rates and supplements combined (including fuel)" indexes for the East District shall be used.
- (d) The Current Charge shall be revised by calculating the percentage of increase or decrease in the index of the

latest calendar year as related to the index for the previous calendar year and applying that percentage to the Current Charge.

- (e) By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figure for 1996; "B" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figures for 1997; "C" to be the Current Charge; and "D" to be the percentage of increase or decrease the revised Current Charge would be determined by the following calculations:

$$(1) \frac{(B-A)}{A} = D$$

$$2) (C \times D) + C = \text{revised Current Charge rounded to the nearest cent, effective July 1 of the year being revised.}$$

- (f) In the event the base for the "Annual Indexes of Chargeout 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 the "Annual Indexes of Chargeout 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 parties shall submit the matter to arbitration.

- (g) CSXT shall keep and maintain an accurate account of all loaded cars handled by it for the account of NSR, and shall at the end of each month, render an itemized bill, computed in accordance with the provisions herein, to NSR for payment.
- (h) NSR shall pay within thirty (30) days from receipt thereof, and any errors or omissions in such bills shall be adjusted in subsequent billing.
- (i) 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.

SECTION 6. LIABILITY

The responsibility between the parties hereto for loss of, damage to, and destruction of any property whatsoever and injury to and death of any person or persons whomsoever, resulting from, arising out of, incidental to or occurring in connection with this Agreement, hereinafter referred to as a Loss, shall be apportioned as follows without regard to consideration of fault or negligence:

- (a) Whenever a Loss occurs with only one train operated by CSXT being involved and such train is handling cars, empty or loaded, in only NSR's account or cars in NSR's account as well as cars in CSXT's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account being handled in such train, and the parties hereto further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including without limitation, the train(s), locomotive(s), equipment or trackage, so occurring shall be either: (i) borne solely by NSR if the train is handling only NSR cars, or (ii) borne solely by each party hereto in proportion to the number of cars, both empty and loaded, which each party hereto has in its own account in such train, if the train is handling cars in the accounts of both parties hereto.
- (b) Whenever a Loss occurs with more than one train operated by CSXT being involved and any or all of such trains are handling only NSR cars or NSR cars as well as cars in CSXT's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, empty and loaded, including lading, in its own account handled in such trains, and

the parties further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including, without limitation, trains, locomotives, equipment or trackage, so occurring shall be borne as follows: total liability, cost and expense arising not otherwise borne separately by the parties as provided above shall be first equally divided by the number of trains involved and then (i) that portion of said liability, cost and expense apportioned to any train(s) which is (are) handling cars, both empty and loaded, only the account of CSXT shall be borne solely by CSXT, (ii) that portion of said liability, cost and expense apportioned to any train(s) which is (are) handling only NSR cars shall be borne solely by NSR, and (iii) that portion of said train(s) handling cars, both empty and loaded, in the accounts of both parties shall be shared and borne by each party hereto in proportion to the number of cars, both empty and loaded, which each party has in its own account in each such train.

- (c) Whenever a Loss occurs with the train(s) of CSXT and another railroad or other company that is not a party to this Agreement being involved and any of such CSXT train(s) is (are) handling only NSR cars, and/or NSR cars as well as cars in CSXT's account; then each party

hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account handled in the CSXT train(s), and the parties hereto further agree as between themselves that all other liability, cost and expense incurred by CSXT as a result thereof shall be shared by both parties hereto in proportion to the total number of cars, both empty and loaded, which each party has in its own account in the CSXT trains so involved, excluding any cost and expense paid by said other railroad.

- (d) Notwithstanding any of the foregoing provisions of this Section, when any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife and vegetation, occurs with one or more trains of CSXT being involved, and any or all of such trains are handling only NSR cars or NSR cars as well as cars in CSXT's account, then, as between themselves: (i) CSXT shall be solely responsible for any such damage or destruction to the environment which results solely from a substance which was being transported in the car or cars of, or in the account of CSXT, and from which there was a release; (ii) NSR shall be solely responsible for any such damage or destruction to the environment which results

solely from a substance which was being transported in NSR cars and from which there was a release; and (iii) responsibility for any such damage or destruction to the environment which results from a substance in the cars of, or in cars in the account of, both CSXT and NSR from which there was a release shall be shared by both parties hereto in proportion to the total number of cars which each party had in its accounts, containing the same substance and from which there was a release.

- (e) In every case of death or injury suffered by an employee of CSXT or NSR, when compensation to such employee or employee's dependents is required to be paid under any present or future state or federal workmen's compensation, occupational disease, employers' liability or other law, and NSR under provisions of this Agreement, is required to pay same or a portion of same in installments over a period of time, NSR 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) CSXT agrees that it will, upon request from NSR, institute or defend, in NSR's name, any action relating to a claim for loss, damage, destruction, injury or death. NSR agrees to indemnify CSXT and save it harmless from any loss, costs, expenses and legal fees incurred by CSXT instituting or defending any such action in its name, or on behalf of NSR.
- (g) Each party hereto agrees to indemnify and save harmless the other party hereto from and against all liabilities, costs and expenses which it has agreed to assume under this Section. Furthermore, each party hereto agrees to indemnify and save harmless the other party for any legal fees, arbitration expenses and awards or expenses incurred by the indemnifying party in connection with any liability, cost and expense assumed by the other party hereto in this Section.
- (h) CSXT shall notify NSR of any accident, or incident which results in or could result in an action, claim, suit or demand against NSR by CSXT or any third party or which results in or could result in any indemnification or claim for indemnification by CSXT against NSR. Such notice shall include all available details with respect to time, place and circumstances and details of all investigations made.

- (i) Locomotives shall be considered as performing switching service on behalf of NSR when such locomotives are coupled to a train containing NSR cars.
- (j) Whenever circumstances require wrecking service or wrecking train service in connection with the switching subject of this Agreement, CSXT shall perform such service as promptly as possible, and the cost thereof shall be borne as provided in this Section.
- (k) Each party will investigate, adjust and defend all cargo related claim liability filed with it in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract filed pursuant to 49 U.S.C. Section 10709.
- (l) 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 attorney's and other full-time employees of either party engaged directly or indirectly in such work shall be borne by such party.

- (m) Excluding cargo related claim liability filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, 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 concurrence of such other party in the consideration for such settlement or compromise exceeds Thirty-Five Thousand Dollars (\$35,000).
- (n) Section 6, Subsections a through m shall apply only to the amount of Loss resulting from a single incident which is \$25 million or less. Responsibility for Losses resulting from a single incident which exceed \$25 million shall be allocated to the extent of such excess to CSXT and NSR in proportion to their respective fault or negligence in causing such Loss subject to the following rules: (1) the total amount of Loss for which each party would otherwise be responsible under Section 6, Subsections a through m shall be determined, on a comparative percentage basis; (2) for each party, multiply \$25 million by the comparative percentage determined for the party in Section 6(n)(1); (3) the Loss for which each party is responsible in excess of the amount determined in Section 6(n)(2) shall be allocated between or among CSXT and NSR in proportion to their respective fault or

negligence in causing the Loss. As used in this Section 6(n) the term "Loss" shall exclude consequential, indirect, incidental or other similar damage, injury or loss to either CSXT or NSR and claims for exemplary and punitive damages by any party hereto on its own behalf against another party hereto. By way of example, if a Loss from a single incident were \$100 million, of which CSXT would be responsible for \$80 million under Section 6, Subsections a through m and NSR would be responsible for \$20 million under Section 6, Subsections a through m, they CSXT would be responsible for \$20 million and NSR would be responsible for \$5 million of such Loss under Section 6(n)(1), and the remaining \$75 million of Loss would be apportioned between or among CSXT and NSR in proportion to their respective fault or negligence in causing the Loss. Any dispute between or among the parties hereto in computing the comparative percentage, in determining their respective fault or negligence in causing the Loss or otherwise relating to their respective responsibilities for Loss arising out of, incidental to or occurring in connection with any such incident, including any Loss exceeding \$25 million, shall be submitted for resolution by binding arbitration pursuant to Section 9. The \$25 million amount referred to in this Section 6(n) may be adjusted every five

years following the date of this Agreement with the prior approval of all parties, which approval may be given or refused in sole discretion of each party.

- (o) Each party shall assume and bear all responsibility for Loss caused by acts or omissions of any its employees while under the influence of drugs or alcohol or by the intentional and criminal misconduct of any such employee and Section 6, Subsections a through n shall not apply to any such Loss.

SECTION 7. EMPLOYEE CLAIMS

Each party agrees to indemnify and hold harmless the other party 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, either pursuant to employee protective conditions imposed by a governmental agency as conditions for that agency's approval of this Agreement and operations hereunder, or pursuant to a collective bargaining agreement. It is the intention of the parties that each party shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

SECTION 8. ARBITRATION

Any irreconcilable dispute arising between the parties with respect to this Agreement shall be jointly submitted for binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay the compensations, 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 of the arbitrator.

SECTION 9. TERM AND TERMINATION

- (a) This Agreement shall take effect on the day and year first above written and continue in full force and effect for one thirty (30) year period and continue

thereafter year to year until terminated by mutual consent of the parties hereto.

- (b) The rights, benefits, duties and obligations running from or to NSR under this Agreement shall in all events expire (except liabilities incurred prior to termination) upon the earlier of (i) termination of this Agreement or (ii) terminations of the NSR Operating Agreement (including any renewals thereof) and the rights, benefits, duties and obligations running from or to CSXT under this Agreement shall in all events expire (except liabilities incurred prior to termination) upon the earlier of (i) termination of this Agreement or (ii) termination of the CSXT Operating Agreement (including any renewals thereof); provided, however, that upon termination of the NSR Operating Agreement, the rights, benefits, duties and obligations running from or to NSR under this Agreement shall run from or to PRR and upon termination of the CSXT Operating Agreement, the rights, benefits, duties and obligations running from or to CSXT under this Agreement shall run from or to NYC.
- (c) This Agreement encompasses any and all understandings between the parties as to the switching of the General Motors Goodman Yard facility at Lordstown, Ohio and

makes null and void any previous agreements between the parties or their predecessors, specifically that certain agreement dated March 25, 1976, as supplemented.

- (c) Termination of this Agreement shall not relieve or release either party hereto from any obligation assumed or from any liability which may have arisen or been incurred by either party under the terms of this Agreement prior to the termination hereof.

SECTION 10. SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Neither party hereto shall transfer or assign this Agreement, or any of its rights, interests, or obligations hereunder, to any person, firm or corporation without obtaining the prior written consent of the other party.

SECTION 11. 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 mutually agree, and shall be addressed as follows:

- (a) If to CSXT:

Assistant Vice President - Joint Facilities
CSX Transportation, Inc. J200
500 Water Street
Jacksonville, Florida 32202

- (b) If to NSR:

Vice President Transportation & Mechanical
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, Virginia 23510-2191

- (c) If to PRR: (To Be Furnished)

- (d) If to NYC: (To Be Furnished)

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

SECTION 12. GENERAL PROVISIONS

- (a) This Agreement and each and every provision hereof are 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 in any third party to recover by way of damages or otherwise against either of the parties hereto.
- (b) All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

- (c) This Agreement and the attachments annexed hereto and integrated herewith contains the entire agreement of the parties hereto and supersedes any and all oral understandings between the parties with respect to the subject matter hereof.
- (d) No term or provisions of this Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to this Agreement.
- (e) 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.

SECTION 13. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement or as may be necessary or appropriate for a party hereto to enforce its rights under this Agreement, during the term of this Agreement and during three (3) years after termination of this Agreement, the terms and provisions of this Agreement and all information to which access is provided or obtained hereunder will be kept confidential and

will not be disclosed by either NSR or CSXT to any party other than each party's respective parent corporation, subsidiaries and affiliates, and their respective directors, officers, agents, employees and attorneys, without the prior written approval of the other party.

SECTION 14. INDEMNITY COVERAGE

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

SECTION 15. FORCE MAJEURE

CSXT shall not be responsible to NSR for delays or failure to perform under this Agreement if such delays or failure to perform are covered by circumstances beyond its control, including, but not limited to, Acts of God, floods, storms, earthquakes, hurricanes, tornadoes, or other severe weather or climatic conditions, acts of public enemy, war, blockade, insurrection, vandalism or sabotage, fire, accident, wreck, derailment, washout or explosion, strike, lockout or labor

disputes experienced by the parties hereto, embargoes or AAR service orders; Federal Railroad Administration (FRA) orders, or governmental laws, orders or regulations.

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

WITNESS

CSX TRANSPORTATION, INC.

AVP - Joint Facilities

WITNESS

NORFOLK SOUTHERN RAILWAY COMPANY

Title

WITNESS

PENNSYLVANIA LINES LLC

Title

WITNESS

NEW YORK CENTRAL LLC

Title

THIS AGREEMENT, entered into this _____ day of _____, 1997, by and between Norfolk Southern Railway Company, including its subsidiaries and affiliates, a Virginia corporation, hereinafter referred to as "NSR" and CSX Transportation, Inc. a Virginia corporation, hereinafter referred to as "CSXT";

WITNESSETH:

WHEREAS, CSX Corporation, as parent of CSXT, and Norfolk Southern Corporation, as parent of NSR, entered into a Letter Agreement, dated April 8, 1997, agreeing to joint participation in the acquisition of Conrail, Inc., and

WHEREAS, Exhibit "A" of said Letter Agreement defines certain Joint Use/Shared Access and Other City Detail ("Shared Assets") to be granted between the parties hereto under terms of said Letter Agreement; and

WHEREAS, under provisions of said Letter Agreement, CSXT will have rail access to the Ford Motor Company assembly plant at Fairlane, Ohio; and

WHEREAS, for operating efficiencies, the parties desire that NSR switch cars to and from the Ford Motor Company assembly plant at Fairlane, Ohio for the accounts of CSXT and NSR;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

SECTION 1. INDUSTRY SWITCHING

- (a) NSR, acting as agent for CSXT, will perform switching of cars to and from the Ford Motor Company assembly plant (hereinafter referred to as "Industry"), located at or near former Conrail milepost 216, in Fairlane, Ohio, for the account of CSXT, and provide services as necessary to handle such traffic between said Industry and mutually agreed upon trackage at Cleveland, Ohio. NSR will use its own crews and locomotives to perform said services.
- (b) For revenue purposes, cars switched under this Agreement shall remain in the account of CSXT, and NSR shall not be entitled to any line haul revenue for the handling of such cars, nor appear in any rates, routes or divisions pertaining to any cars in the account of CSXT, except as specified in Section 5 hereof.
- (c) CSXT shall assume its own car hire expenses, and NSR shall assess and collect all related demurrage charges.

SECTION 2. DELIVERY AND RECEIPT OF CARS

- (a) Cars handled under this Agreement shall be considered as having been delivered by one party to the other when placed on mutually agreed upon trackage designated for such deliveries, accompanied or preceded by the necessary data for forwarding and to insure delivery and acceptance by the designated representative of the receiving road.
- (b) NSR and CSXT shall provide each other with suitable information (which may be transferred by paper documents, facsimiles, or electronic means, or by other means, as mutually agreed) necessary for the handling of cars switched under this Agreement, which will identify for each car:
- (1) Car initial and number.
 - (2) Loaded or empty.
 - (3) Destination station and consignee on inbound movements.
 - (4) Origin and shipper as supplied by the shipper on outbound movements.
 - (5) All required hazardous materials information.
 - (6) Any other information as agreed between the parties to be necessary or convenient for the safe, efficient movements of cars switched under terms of this Agreement.

(c) NSR may make repairs to cars switched under terms of this Agreement as may be necessary for safe transit, and NSR may make adjustments to or transfers of lading from crippled, defective or overloaded cars, as in its determination may be necessary to safely move said cars. CSXT shall reimburse NSR its full cost for repairs, adjustments and lading transfers promptly upon receipt of billing therefor.

SECTION 3. INSPECTION

NSR shall not be responsible for making any mechanical inspection of cars in the account of CSXT switched to and from the industry.

SECTION 4. INTERRUPTION, DELAY

In the event the use of trackage in performing the referenced switching services shall be interrupted or traffic delayed at any time from any cause, neither party shall have any claim against the other party for liability of any kind from such interruption or delay.

SECTION 5. COMPENSATION

(a) CSXT shall pay NSR a mutually agreed upon rate for each

loaded car handled by NSR for the account of CSXT to and from the Industry for the first six months from the effective date of this Agreement. After said six months, NSR and CSXT will jointly conduct a study to determine NSR's actual cost of handling cars in the account of CSXT to and from the Industry, and the agreed upon rate, hereinafter referred to as the "Current Charge", will be retroactive to the effective date of this Agreement.

- (b) At the option of either party hereto the Current Charge shall be open to renegotiation every five (5) years from the effective date of this Agreement. In the event the parties fail to reach agreement upon such renegotiation, such failure shall not constitute a breach of this Agreement and the parties shall continue to be bound by the terms of compensation provided in this Section 5 until the matter is settled or submitted to binding arbitration as provided in Section 8.
- (c) The Current Charge shall be revised upward or downward each year, beginning with the bill rendered during the first month of July following the effective date of this Agreement, to compensate for the increase or decrease in the cost of labor and material, including 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 Railroads, hereinafter called "AAR". In making such determination, the final "Material prices, wage rates and supplements combined (including fuel)" indexes for the East District shall be used.

(d) The Current Charge shall be revised by calculating the percentage of increase or decrease in the index of the latest calendar year as related to the index for the previous calendar year and applying that percentage to the Current Charge.

(e) By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figure for 1996; "B" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figures for 1997; "C" to be the Current Charge; and "D" to be the percentage of increase or decrease the revised Current Charge would be determined by the following calculations:

$$(1) \frac{(B-A)}{A} = D$$

(2) $(C \times D) + C =$ revised Current Charge rounded to the nearest cent, effective July 1 of the year being revised.

- (f) In the event the base for the "Annual Indexes of Chargeout 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 the "Annual Indexes of Chargeout 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 parties shall submit the matter to arbitration.
- (g) NSR shall keep and maintain an accurate account of all loaded cars handled by it for the account of CSXT, and shall at the end of each month, render an itemized bill, computed in accordance with the provisions herein, to CSXT for payment.
- (h) CSXT shall pay within thirty (30) days from receipt thereof, and any errors or omissions in such bills shall be adjusted in subsequent billing.
- (i) 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.

6. LIABILITY

Except as provided in Subsection (n) below, the responsibility between the parties hereto for loss of, damage to, and destruction of any property whatsoever and injury to and death of any person or persons whomsoever, resulting from, arising out of, incidental to or occurring in connection with this Agreement, hereinafter referred to as a Loss, shall be apportioned as follows without regard to consideration of fault or negligence:

- (a) Whenever a Loss occurs with only one train operated by NSR being involved and such train is handling cars, empty or loaded, in only CSXT's account or cars in CSXT's account as well as cars in NSR's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account being handled in such train, and the parties hereto further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including without limitation, the train(s), locomotive(s), equipment or trackage, so occurring shall be either: (i) borne solely by CSXT if the train is handling only CSXT cars, or (ii) borne solely by each party hereto in proportion to the number of cars, both empty and loaded, which each party hereto

has in its own account in such train, if the train is handling cars in the accounts of both parties hereto.

- (b) Whenever a Loss occurs with more than one train operated by NSR being involved and any or all of such trains are handling only CSXT cars or CSXT cars as well as cars in NSR's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, empty and loaded, including lading, in its own account handled in such trains, and the parties further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including, without limitation, trains, locomotives, equipment or trackage, so occurring shall be borne as follows: total liability, cost and expense arising not otherwise borne separately by the parties as provided above shall be first equally divided by the number of trains involved and then (i) that portion of said liability, cost and expense apportioned to any train(s) which is (are) handling cars, both empty and loaded, only the account of CSXT shall be borne solely by CSXT, (ii) that portion of said liability, cost and expense apportioned to any train(s) which is (are) handling only NSR cars shall be borne solely by NSR, and (iii) that portion of said train(s) handling cars, both empty and loaded, in the

accounts of both parties shall be shared and borne by each party hereto in proportion to the number of cars, both empty and loaded, which each party has in its own account in each such train.

- (c) Whenever a Loss occurs with the train(s) of NSR and another railroad or other company that is not a party to this Agreement being involved and any of such NSR train(s) is (are) handling only CSXT cars, and/or CSXT cars as well as cars in NSR's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account handled in the NSR train(s), and the parties hereto further agree as between themselves that all other liability, cost and expense incurred by NSR as a result thereof shall be shared by both parties hereto in proportion to the total number of cars, both empty and loaded, which each party has in its own account in the NSR trains so involved, excluding any cost and expense paid by said other railroad.

- (d) Notwithstanding any of the foregoing provisions of this Section, when any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife and vegetation, occurs with

one or more trains of NSR being involved, and any or all of such trains are handling only CSXT cars or CSXT cars as well as cars in NSR's account, then, as between themselves: (i) CSXT shall be solely responsible for any such damage or destruction to the environment which results solely from a substance which was being transported in the car or cars of, or in the account of CSXT, and from which there was a release; (ii) NSR shall be solely responsible for any such damage or destruction to the environment which results solely from a substance which was being transported in the car or cars of NSR, and from which there was a release; and (iii) responsibility for any such damage or destruction to the environment which results from a substance in the cars of, or in cars in the account of, both CSXT and NSR from which there was a release shall be shared by both parties hereto in proportion to the total number of cars which each party had in its accounts, containing the same substance and from which there was a release.

- (e) In every case of death or injury suffered by an employee of CSXT or NSR, when compensation to such employee or employee's dependents is required to be paid under any present or future state or federal workmen's compensation, occupational disease,

employers' liability or other law, and CSXT under provisions of this Agreement, is required to pay same or a portion of same in installments over a period of time, CSXT 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) NSR agrees that it will, upon request from CSXT, institute or defend, in CSXT's name, any action relating to a claim for loss, damage, destruction, injury or death. CSXT agrees to indemnify NSR and save it harmless from any loss, costs, expenses and legal fees incurred by NSR instituting or defending any such action in its name, or on behalf of CSXT.
- (g) Each party hereto agrees to indemnify and save harmless the other party hereto from and against all liabilities, costs and expenses which it has agreed to assume under this Section. Furthermore, each party hereto agrees to indemnify and save harmless the other party for any legal fees, arbitration expenses and awards or expenses incurred by the indemnifying party in connection with any liability, cost and expense assumed by the other party hereto in this Section.

- (h) NSR shall notify CSXT of any accident, or incident which results in or could result in an action, claim, suit or demand against CSXT by NSR or any third party or which results in or could result in any indemnification or claim for indemnification by NSR against CSXT. Such notice shall include all available details with respect to time, place and circumstances and details of all investigations made.
- (i) Locomotives shall be considered as performing switching service on behalf of CSXT when such locomotives are coupled to a train containing CSXT cars.
- (j) Whenever circumstances require wrecking service or wrecking train service in connection with the switching subject of this Agreement, NSR shall perform such service as promptly as possible, and the cost thereof shall be borne as provided in this Section.
- (k) Each party will investigate, adjust and defend all cargo related claim liability filed with it in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract filed pursuant to 49 U.S.C. Section 10709.

- (l) 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 attorney's and other full-time employees of either party engaged directly or indirectly in such work shall be borne by such party.
- (m) Excluding cargo related claim liability filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, 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 concurrence of such other party in the consideration for such settlement or compromise exceeds Thirty-Five Thousand Dollars (\$35,000).
- (n) The provisions set forth in Subsections 11 (a through m), 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 \$25 million.

- (i) In the event an incident occurs in which one or both of the parties assert that Total Costs will exceed \$25 million, such party or parties shall promptly notify the other party.
- (ii) All issues concerning liability and allocation of damages shall be submitted under principals of comparative fault to binding arbitration as set forth in Section 8.
- (iii) In all incidents involving a release of the contents of a car into the environment, the carrier in whose account the car is at the time of the incident will be responsible, as between the parties, for any allocation based upon a defective or otherwise not serviceable condition of the car which causes or contributes to the release.

SECTION 7. EMPLOYEE CLAIMS

Each party agrees to indemnify and hold harmless the other party 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, either pursuant to employee

protective conditions imposed by a governmental agency as conditions for that agency's approval of this Agreement and operations hereunder, or pursuant to a collective bargaining agreement. It is the intention of the parties that each party shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

SECTION 8. ARBITRATION

Any irreconcilable dispute arising between the parties with respect to this Agreement shall be jointly submitted for binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay the compensations, 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 of the arbitrator.

SECTION 9. TERM AND TERMINATION

- (a) This Agreement shall take effect on the day and year first above written and continue in full force and effect for one thirty (30) year period and continue thereafter year to year until terminated by mutual consent of the parties hereto.
- (b) Termination of this Agreement shall not relieve or release either party hereto from any obligation assumed or from any liability which may have arisen or been incurred by either party under the terms of this Agreement prior to the termination hereof.

SECTION 10. SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Neither party hereto shall transfer or assign this Agreement, or any of its rights, interests, or obligations hereunder, to any person, firm or corporation without obtaining the prior written consent of the other party.

SECTION 11. 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 mutually agree, and shall be addressed as follows:

(a) If to NSR:

Vice President Transportation & Mechanical
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, Virginia 23510-2191

(b) If to CSXT:

Assistant Vice President - Joint Facilities
CSX Transportation, Inc. J200
500 Water Street
Jacksonville, Florida 32202

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

SECTION 12. GENERAL PROVISIONS

(a) This Agreement and each and every provision hereof are 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 in any third party to recover by way of damages or otherwise against either of the parties hereto.

(b) All Section headings are inserted for convenience only and shall not affect any construction or interpretation

of this Agreement.

- (c) This Agreement and the attachments annexed hereto and integrated herewith contains the entire agreement of the parties hereto and supersedes any and all oral understandings between the parties with respect to the subject matter hereof.
- (d) No term or provisions of this Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to this Agreement.
- (e) 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.

SECTION 13. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement or as may be necessary or appropriate for a party hereto to enforce its rights under this Agreement, during the term of this Agreement and during three (3) years after termination of this Agreement, the terms and provisions of this Agreement and all information to which access

is provided or obtained hereunder will be kept confidential and will not be disclosed by either CSXT or NSR to any party other than each party's respective parent corporation, subsidiaries and affiliates, and their respective directors, officers, agents, employees and attorneys, without the prior written approval of the other party.

SECTION 14. INDEMNITY COVERAGE

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

SECTION 15. FORCE MAJEURE

NSR shall not be responsible to CSXT for delays or failure to perform under this Agreement if such delays or failure to perform are covered by circumstances beyond its control, including, but not limited to, Acts of God, floods, storms, earthquakes, hurricanes, tornadoes, or other severe weather or climatic conditions, acts of public enemy, war, blockade, insurrection, vandalism or sabotage, fire, accident, wreck, derailment, washout or explosion, strike, lockout or labor

disputes experienced by the parties hereto, embargoes or AAR service orders; Federal Railroad Administration (FRA) orders, or governmental laws, orders or regulations.

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

WITNESS

CSX TRANSPORTATION, INC.

AVP - Joint Facilities

WITNESS

NORFOLK SOUTHERN RAILWAY COMPANY

Title

THIS AGREEMENT, entered into this _____ day of _____, 1997, by and between Norfolk Southern Railway Company, including its subsidiaries and affiliates, a Virginia corporation, hereinafter referred to as "NSR" and CSX Transportation, Inc. a Virginia corporation, hereinafter referred to as "CSXT";

WITNESSETH:

WHEREAS, CSX Corporation, as parent of CSXT, and Norfolk Southern Corporation, as parent of NSR, entered into a Letter Agreement, dated April 8, 1997, agreeing to joint participation in the acquisition of Conrail, Inc., and

WHEREAS, Exhibit "A" of said Letter Agreement defines certain Joint Use/Shared Access and Other City Detail ("Shared Assets") to be granted between the parties hereto under terms of said Letter Agreement; and

WHEREAS, under provisions of said Letter Agreement, CSXT will have rail access to the Ford Motor Company assembly plant at Lorain (Avon Lake), Ohio; and

WHEREAS, for operating efficiencies, the parties desire that NSR switch cars to and from the Ford Motor Company assembly plant at Lorain, Ohio for the accounts of CSXT and NSR;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

SECTION 1. INDUSTRY SWITCHING

- (a) NSR, acting as agent for CSXT, will perform switching of cars to and from the Ford Motor Company assembly plant (hereinafter referred to as "Industry"), located on the former Conrail "Chicago Line", at or near milepost 205, in Lorain, Ohio, for the account of CSXT, and provide services as necessary to handle such traffic between said Industry and mutually agreed upon trackage at Cleveland, Ohio. NSR will use its own crews and locomotives to perform said services.
- (b) For revenue purposes, cars switched under this Agreement shall remain in the account of CSXT, and NSR shall not be entitled to any line haul revenue for the handling of such cars, nor appear in any rates, routes or divisions pertaining to any cars in the account of CSXT, except as specified in Section 5 hereof.
- (c) CSXT shall assume its own car hire expenses, and NSR shall assess and collect all related demurrage charges.

SECTION 2.

DELIVERY AND RECEIPT OF CARS

- (a) Cars handled under this Agreement shall be considered as having been delivered by one party to the other when placed on mutually agreed upon trackage designated for such deliveries, accompanied or preceded by the necessary data for forwarding and to insure delivery and acceptance by the designated representative of the receiving road.
- (b) NSR and CSXT shall provide each other with suitable information (which may be transferred by paper documents, facsimiles, or electronic means, or by other means, as mutually agreed) necessary for the handling of cars switched under this Agreement, which will identify for each car:
- (1) Car initial and number.
 - (2) Loaded or empty.
 - (3) Destination station and consignee on inbound movements.
 - (4) Origin and shipper as supplied by the shipper on outbound movements.
 - (5) All required hazardous materials information.
 - (6) Any other information as agreed between the parties to be necessary or convenient for the safe, efficient movements of cars switched

under terms of this Agreement.

- (c) NSR may make repairs to cars switched under terms of this Agreement as may be necessary for safe transit, and NSR may make adjustments to or transfers of lading from crippled, defective or overloaded cars, as in its determination may be necessary to safely move said cars. CSXT shall reimburse NSR its full cost for repairs, adjustments and lading transfers promptly upon receipt of billing therefor.

SECTION 3. INSPECTION

NSR shall not be responsible for making any mechanical inspection of cars in the account of CSXT switched to and from the industry.

SECTION 4. INTERRUPTION, DELAY

In the event the use of trackage in performing the referenced switching services shall be interrupted or traffic delayed at any time from any cause, neither party shall have any claim against the other party for liability of any kind from such interruption or delay.

SECTION 5. COMPENSATION

- (a) CSXT shall pay NSR a mutually agreed upon rate for each loaded car handled by NSR for the account of CSXT to and from the Industry for the first six months from the effective date of this Agreement. After said six months, NSR and CSXT will jointly conduct a study to determine NSR's actual cost of handling cars in the account of CSXT to and from the Industry, and the agreed upon rate, hereinafter referred to as the "Current Charge", will be retroactive to the effective date of this Agreement.
- (b) At the option of _____ by hereto the Current Charge shall be open to _____ tion every five (5) years from the effective _____ of this Agreement. In the event the parties _____ to reach agreement upon such renegotiation, such failure shall not constitute a breach of this Agreement and the parties shall continue to be bound by the terms of compensation provided in this Section 5 until the matter is settled or submitted to binding arbitration as provided in Section 8.
- (c) The Current Charge shall be revised upward or downward each year, beginning with the bill rendered during the first month of July following the effective date of

this Agreement, to compensate for the increase or decrease in the cost of labor and material, including 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 Railroads, hereinafter called "AAR". In making such determination, the final "Material prices, wage rates and supplements combined (including fuel)" indexes for the East District shall be used.

- (d) The Current Charge shall be revised by calculating the percentage of increase or decrease in the index of the latest calendar year as related to the index for the previous calendar year and applying that percentage to the Current Charge.
- (e) By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figure for 1996; "B" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figures for 1997; "C" to be the Current Charge; and "D" to be the percentage of increase or decrease the revised Current Charge would be determined by the following calculations:

$$(1) \frac{(B-A)}{A} = D$$

(2) $(CxD) + C =$ revised Current Charge rounded to the nearest cent, effective July 1 of the year being revised.

- (f) In the event the base for the "Annual Indexes of Chargeout 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 the "Annual Indexes of Chargeout 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 parties shall submit the matter to arbitration.
- (g) NSR shall keep and maintain an accurate account of all loaded cars handled by it for the account of CSXT, and shall at the end of each month, render an itemized bill, computed in accordance with the provisions herein, to CSXT for payment.
- (h) CSXT shall pay within thirty (30) days from receipt thereof, and any errors or omissions in such bills shall be adjusted in subsequent billing.
- (i) 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.

6. LIABILITY

Except as provided in Subsection (n) below, the responsibility between the parties hereto for loss of, damage to, and destruction of any property whatsoever and injury to and death of any person or persons whomsoever, resulting from, arising out of, incidental to or occurring in connection with this Agreement, hereinafter referred to as a Loss, shall be apportioned as follows without regard to consideration of fault or negligence:

- (a) Whenever a Loss occurs with only one train operated by NSR being involved and such train is handling cars, empty or loaded, in only CSXT's account or cars in CSXT's account as well as cars in NSR's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account being handled in such train, and the parties hereto further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including without limitation, the train(s), locomotive(s), equipment or trackage, so

occurring shall be either: (i) borne solely by CSXT if the train is handling only CSXT cars, or (ii) borne solely by each party hereto in proportion to the number of cars, both empty and loaded, which each party hereto has in its own account in such train, if the train is handling cars in the accounts of both parties hereto.

- (b) Whenever a Loss occurs with more than one train operated by NSR being involved and any or all of such trains are handling only CSXT cars or CSXT cars as well as cars in NSR's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, empty and loaded, including lading, in its own account handled in such trains, and the parties further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including, without limitation, trains, locomotives, equipment or trackage, so occurring shall be borne as follows: total liability, cost and expense arising not otherwise borne separately by the parties as provided above shall be first equally divided by the number of trains involved and then (i) that portion of said liability, cost and expense apportioned to any train(s) which is (are) handling cars, both empty and loaded, only the account of CSXT shall be borne solely by CSXT, (ii) that portion of

said liability, cost and expense apportioned to any train(s) which is (are) handling only NSR cars shall be borne solely by NSR, and (iii) that portion of said train(s) handling cars, both empty and loaded, in the accounts of both parties shall be shared and borne by each party hereto in proportion to the number of cars, both empty and loaded, which each party has in its own account in each such train.

- (c) Whenever a Loss occurs with the train(s) of NSR and another railroad or other company that is not a party to this Agreement being involved and any of such NSR train(s) is (are) handling only CSXT cars, and/or CSXT cars as well as cars in NSR's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account handled in the NSR train(s), and the parties hereto further agree as between themselves that all other liability, cost and expense incurred by NSR as a result thereof shall be shared by both parties hereto in proportion to the total number of cars, both empty and loaded, which each party has in its own account in the NSR trains so involved, excluding any cost and expense paid by said other railroad.

- (d) Notwithstanding any of the foregoing provisions of this Section, when any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife and vegetation, occurs with one or more trains of NSR being involved, and any or all of such trains are handling only CSXT cars or CSXT cars as well as cars in NSR's account, then, as between themselves: (i) CSXT shall be solely responsible for any such damage or destruction to the environment which results solely from a substance which was being transported in the car or cars of, or in the account of CSXT, and from which there was a release; (ii) NSR shall be solely responsible for any such damage or destruction to the environment which results solely from a substance which was being transported in the car or cars of NSR, and from which there was a release; and (iii) responsibility for any such damage or destruction to the environment which results from a substance in the cars of, or in cars in the account of, both CSXT and NSR from which there was a release shall be shared by both parties hereto in proportion to the total number of cars which each party had in its accounts, containing the same substance and from which there was a release.
- (e) In every case of death or injury suffered by an

employee of CSXT or NSR, when compensation to such employee or employee's dependents is required to be paid under any present or future state or federal workmen's compensation, occupational disease, employers' liability or other law, and CSXT under provisions of this Agreement, is required to pay same or a portion of same in installments over a period of time, CSXT 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) NSR agrees that it will, upon request from CSXT, institute or defend, in CSXT's name, any action relating to a claim for loss, damage, destruction, injury or death. CSXT agrees to indemnify NSR and save it harmless from any loss, costs, expenses and legal fees incurred by NSR instituting or defending any such action in its name, or on behalf of CSXT.
- (g) Each party hereto agrees to indemnify and save harmless the other party hereto from and against all liabilities, costs and expenses which it has agreed to assume under this Section. Furthermore, each party hereto agrees to indemnify and save harmless the other

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party for any legal fees, arbitration expenses and awards or expenses incurred by the indemnifying party in connection with any liability, cost and expense assumed by the other party hereto in this Section.

- (h) NSR shall notify CSXT of any accident, or incident which results in or could result in an action, claim, suit or demand against CSXT by NSR or any third party or which results in or could result in any indemnification or claim for indemnification by NSR against CSXT. Such notice shall include all available details with respect to time, place and circumstances and details of all investigations made.
- (i) Locomotives shall be considered as performing switching service on behalf of CSXT when such locomotives are coupled to a train containing CSXT cars.
- (j) Whenever circumstances require wrecking service or wrecking train service in connection with the switching subject of this Agreement, NSR shall perform such service as promptly as possible, and the cost thereof shall be borne as provided in this Section.
- (k) Each party will investigate, adjust and defend all cargo related claim liability filed with it in

accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract filed pursuant to 49 U.S.C. Section 10709.

- (l) 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 attorney's and other full-time employees of either party engaged directly or indirectly in such work shall be borne by such party.
- (m) Excluding cargo related claim liability filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, 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 concurrence of such other party in the consideration for such settlement or compromise exceeds Thirty-Five Thousand Dollars (\$35,000).
- (n) The provisions set forth in Subsections 11 (a through m), 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 \$25 million.

- (i) In the event an incident occurs in which one or both of the parties assert that Total Costs will exceed \$25 million, such party or parties shall promptly notify the other party.
- (ii) All issues concerning liability and allocation of damages shall be submitted under principals of comparative fault to binding arbitration as set forth in Section 8.
- (iii) In all incidents involving a release of the contents of a car into the environment, the carrier in whose account the car is at the time of the incident will be responsible, as between the parties, for any allocation based upon a defective or otherwise not serviceable condition of the car which causes or contributes to the release.

SECTION 7. EMPLOYEE CLAIMS

Each party agrees to indemnify and hold harmless the other party 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, either pursuant to employee protective conditions imposed by a governmental agency as conditions for that agency's approval of this Agreement and operations hereunder, or pursuant to a collective bargaining agreement. It is the intention of the parties that each party shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

SECTION 8. ARBITRATION

Any irreconcilable dispute arising between the parties with respect to this Agreement shall be jointly submitted for binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay the compensations, 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 of the arbitrator.

SECTION 9. TERM AND TERMINATION

- (a) This Agreement shall take effect on the day and year first above written and continue in full force and effect for one thirty (30) year period and continue thereafter year to year until terminated by mutual consent of the parties hereto.
- (b) Termination of this Agreement shall not relieve or release either party hereto from any obligation assumed or from any liability which may have arisen or been incurred by either party under the terms of this Agreement prior to the termination hereof.

SECTION 10. SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Neither party hereto shall transfer or assign this Agreement, or any of its rights, interests, or obligations hereunder, to any person, firm or corporation without obtaining the prior written consent of the other party.

SECTION 11. 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 mutually agree, and shall be addressed as follows:

(a) If to NSR:

Vice President Transportation & Mechanical
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, Virginia 23510-2191

(b) If to CSXT:

Assistant Vice President - Joint Facilities
CSX Transportation, Inc. J200
500 Water Street
Jacksonville, Florida 32202

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

SECTION 12. GENERAL PROVISIONS

- (a) This Agreement and each and every provision hereof are 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 in any third party to recover by way of damages or otherwise against either of the parties hereto.
- (b) All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- (c) This Agreement and the attachments annexed hereto and integrated herewith contains the entire agreement of the parties hereto and supersedes any and all oral understandings between the parties with respect to the subject matter hereof.
- (d) No term or provisions of this Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to this Agreement.
- (e) 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.

SECTION 13. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement or as may be necessary or appropriate for a party hereto to enforce its rights under this Agreement, during the term of this Agreement and during three (3) years after termination of this Agreement, the terms and provisions of this Agreement and all information to which access is provided or obtained hereunder will be kept confidential and will not be disclosed by either CSXT or NSR to any party other than each party's respective parent corporation, subsidiaries and affiliates, and their respective directors, officers, agents, employees and attorneys, without the prior written approval of the other party.

SECTION 14. INDEMNITY COVERAGE

As part of the consideration hereof, each party hereby agrees that all of its indemnity commitments in this Agreement in favor of the other party shall also extend to and indemnify the parent corporation, the subsidiaries and affiliates of such other

party, and all of their respective directors, officers, agents and employees.

SECTION 15. FORCE MAJEURE

NSR shall not be responsible to CSXT for delays or failure to perform under this Agreement if such delays or failure to perform are covered by circumstances beyond its control, including, but not limited to, Acts of God, floods, storms, earthquakes, hurricanes, tornadoes, or other severe weather or climatic conditions, acts of public enemy, war, blockade, insurrection, vandalism or sabotage, fire, accident, wreck, derailment, washout or explosion, strike, lockout or labor disputes experienced by the parties hereto, embargoes or AAR service orders; Federal Railroad Administration (FRA) orders, or governmental laws, orders or regulations.

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

WITNESS

CSX TRANSPORTATION, INC.

AVP - Joint Facilities

WITNESS

NORFOLK SOUTHERN RAILWAY COMPANY

Title

THIS AGREEMENT, entered into this _____ day of _____, 1997, by and between CSX Transportation, Inc. a Virginia corporation, hereinafter referred to as "CSXT", Norfolk Southern Railway Company, including its subsidiaries and affiliates, a Virginia corporation, hereinafter referred to as "NSR", Pennsylvania Lines LLC, a Delaware limited liability company (hereinafter referred to as "PRR") and New York Central LLC, a Delaware limited liability company (hereinafter referred to as "NYC");

WITNESSETH:

WHEREAS, CSX Corporation ("CSX"), parent to CSXT, and Norfolk Southern Corporation ("NSC"), parent to NSR, entered into a Transaction Agreement (the "Transaction Agreement") between themselves; CSXT, a wholly-owned subsidiary of CSX; NSR; Conrail, Inc. ("CRR"); Consolidated Railroad Corporation ("CRC"), a wholly-owned subsidiary of CRR; and CRR Holdings LLC; and

WHEREAS, CSX and NSC have indirectly acquired all the outstanding capital stock of CRR; and

WHEREAS, pursuant to the Transaction Agreement, certain assets of CRC have been allocated to NYC, which is a wholly-owned subsidiary of CRC, to be operated by CSXT under the terms of an Allocated Assets Operating Agreement (the "CSXT Operating Agreement") between NYC and CSXT; and

WHEREAS, pursuant to the Transaction Agreement, certain assets of CRC have been allocated to PRR, which is a wholly-owned subsidiary of CRC, to be operated by NSR under the terms of an Allocated Assets Operating Agreement (the "NSR Operating Agreement") between PRR and NSR;

WHEREAS, under provisions of the Transaction Agreement, NSR will have rail access to certain industries at Crawfordsville, Indiana using lines owned by NYC and operated by CSXT under the CSXT Operating Agreement; and

WHEREAS, for operating efficiencies, the parties desire that CSXT switch cars to and from the respective industries at Crawfordsville, Indiana, for the accounts of NSR and CSXT;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

SECTION 1. INDUSTRY SWITCHING

- (a) CSXT, acting as agent for NSR, will perform switching of cars to and from the hereinafter identified industries (each hereinafter referred to as "Industry"), located at Crawfordsville, Indiana, for the account of NSR, and provide services as necessary

to handle such traffic between said Industry and mutually agreed upon trackage at Crawfordsville, Indiana. CSXT will use its own crews and locomotives to perform said services. The industries are:

- (1) Nvcor Steel Company
 - (2) R. R. Donnelly & Sons
 - (3) Heidtman Steel Products, Inc.
 - (4) Inland Container Corporation
 - (5) Midland Steel & Wire
- (b) For revenue purposes, cars switched under this Agreement shall remain in the account of NSR, and CSXT shall not be entitled to any line haul revenue for the handling of such cars, nor appear in any rates, routes or divisions pertaining to any cars in the account of NSR, except as specified in Section 5 hereof.
- (c) NSR shall assume its own car hire expenses, and CSXT shall assess and collect all related demurrage charges.

SECTION 2. DELIVERY AND RECEIPT OF CARS

- (a) Cars handled under this Agreement shall be considered as having been delivered by one party to the other when placed on mutually agreed upon trackage designated for such deliveries, accompanied or preceded by the

necessary data for forwarding and to insure delivery and acceptance by the designated representative of the receiving road.

- (b) CSXT and NSR shall provide each other with suitable information (which may be transferred by paper documents, facsimiles, or electronic means, or by other means, as mutually agreed) necessary for the handling of cars switched under this Agreement, which will identify for each car:

- (1) Car initial and number.
- (2) Loaded or empty.
- (3) Destination station and consignee on inbound movements.
- (4) Origin and shipper as supplied by the shipper on outbound movements.
- (5) All required hazardous materials information.
- (6) Any other information as agreed between the parties to be necessary or convenient for the safe, efficient movements of cars switched under terms of this Agreement.

- (c) CSXT may make repairs to cars switched under terms of this Agreement as may be necessary for safe transit, and CSXT may make adjustments to or transfers of lading from crippled, defective or overloaded cars, as in its determination may be necessary to safely move said cars. NSR shall reimburse CSXT its full cost for

repairs, adjustments and lading transfers promptly upon receipt of billing therefor.

SECTION 3. INSPECTION

CSXT shall not be responsible for making any mechanical inspection of cars in the account of NSR switched to and from the industry.

SECTION 4. INTERRUPTION, DELAY

In the event the use of trackage in performing the referenced switching services shall be interrupted or traffic delayed at any time from any cause, neither party shall have any claim against the other party for liability of any kind from such interruption or delay.

SECTION 5. COMPENSATION

- (a) NSR shall pay CSXT a mutually agreed upon rate for each loaded car handled by CSXT for the account of NSR to and from the Industry for the first six months from the effective date of this Agreement. After said six months, CSXT and NSR will jointly conduct a study to determine CSXT's actual cost of handling cars in the

account of NSR to and from the Industry, and the agreed upon rate, hereinafter referred to as the "Current Charge", will be retroactive to the effective date of this Agreement.

- (b) At the option of either party hereto the Current Charge shall be open to renegotiation every five (5) years from the effective date of this Agreement. In the event the parties fail to reach agreement upon such renegotiation, such failure shall not constitute a breach of this Agreement and the parties shall continue to be bound by the terms of compensation provided in this Section 5 until the matter is settled or submitted to binding arbitration as provided in Section 8.
- (c) The Current Charge shall be revised upward or downward each year, beginning with the bill rendered during the first month of July following the effective date of this Agreement, to compensate for the increase or decrease in the cost of labor and material, including 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 Railroads, hereinafter called "AAR". In making such determination, the final "Material prices, wage rates and supplements combined

(including fuel)" indexes for the East District shall be used.

(d) The Current Charge shall be revised by calculating the percentage of increase or decrease in the index of the latest calendar year as related to the index for the previous calendar year and applying that percentage to the Current Charge.

(e) By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figure for 1996; "B" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figures for 1997; "C" to be the Current Charge; and "D" to be the percentage of increase or decrease the revised Current Charge would be determined by the following calculations:

$$(1) \quad \frac{(B-A)}{A} = D$$

$$(2) \quad (C \times D) + C = \text{revised Current Charge rounded to the nearest cent, effective July 1 of the year being revised.}$$

(f) In the event the base for the "Annual Indexes of Chargeout 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 the "Annual Indexes of Chargeout 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 parties shall submit the matter to arbitration.

- (g) CSXT shall keep and maintain an accurate account of all loaded cars handled by it for the account of NSR, and shall at the end of each month, render an itemized bill, computed in accordance with the provisions herein, to NSR for payment.
- (h) NSR shall pay within thirty (30) days from receipt thereof, and any errors or omissions in such bills shall be adjusted in subsequent billing.
- (i) 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.

Section 6. LIABILITY

The responsibility between the parties hereto for loss of, damage to, and destruction of any property whatsoever and injury

to and death of any person or persons whomsoever, resulting from, arising out of, incidental to or occurring in connection with this Agreement, hereinafter referred to as a Loss, shall be apportioned as follows without regard to consideration of fault or negligence:

- (a) Whenever a Loss occurs with only one train operated by CSXT being involved and such train is hauling cars, empty or loaded, in only NSR's account or cars in NSR's account as well as cars in CSXT's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account being handled in such train, and the parties hereto further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including without limitation, the train(s), locomotive(s), equipment or trackage, so occurring shall be either: (i) borne solely by NSR if the train is handling only NSR cars, or (ii) borne solely by each party hereto in proportion to the number of cars, both empty and loaded, which each party hereto has in its own account in such train, if the train is handling cars in the accounts of both parties hereto.

(b) Whenever a Loss occurs with more than one train operated by CSXT being involved and any or all of such trains are handling only NSR cars or NSR cars as well as cars in CSXT's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, empty and loaded, including lading, in its own account handled in such trains, and the parties further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including, without limitation, trains, locomotives, equipment or trackage, so occurring shall be borne as follows: total liability, cost and expense arising not otherwise borne separately by the parties as provided above shall be first equally divided by the number of trains involved and then (i) that portion of said liability, cost and expense apportioned to any train(s) which is (are) handling cars, both empty and loaded, only the account of CSXT shall be borne solely by CSXT, (ii) that portion of said liability, cost and expense apportioned to any train(s) which is (are) handling only NSR cars shall be borne solely by NSR, and (iii) that portion of said train(s) handling cars, both empty and loaded, in the accounts of both parties shall be shared and borne by each party hereto in proportion to the number of

cars, both empty and loaded, which each party has in its own account in each such train.

- (c) Whenever a Loss occurs with the train(s) of CSXT and another railroad or other company that is not a party to this Agreement being involved and any of such CSXT train(s) is (are) handling only NSR cars, and/or NSR cars as well as cars in CSXT's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account handled in the CSXT train(s), and the parties hereto further agree as between themselves that all other liability, cost and expense incurred by CSXT as a result thereof shall be shared by both parties hereto in proportion to the total number of cars, both empty and loaded, which each party has in its own account in the CSXT trains so involved, excluding any cost and expense paid by said other railroad.
- (d) Notwithstanding any of the foregoing provisions of this Section, when any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife and vegetation, occurs with one or more trains of CSXT being involved, and any or all of such trains are handling only NSR cars or NSR

cars as well as cars in CSXT's account, then, as between themselves: (i) CSXT shall be solely responsible for any such damage or destruction to the environment which results solely from a substance which was being transported in the car or cars of, or in the account of CSXT, and from which there was a release; (ii) NSR shall be solely responsible for any such damage or destruction to the environment which results solely from a substance which was being transported in NSR cars and from which there was a release; and (iii) responsibility for any such damage or destruction to the environment which results from a substance in the cars of, or in cars in the account of, both CSXT and NSR from which there was a release shall be shared by both parties hereto in proportion to the total number of cars which each party had in its accounts, containing the same substance and from which there was a release.

- (e) In every case of death or injury suffered by an employee of CSXT or NSR, when compensation to such employee or employee's dependents is required to be paid under any present or future state or federal workmen's compensation, occupational disease, employers' liability or other law, and NSR under provisions of this Agreement, is required to pay same

or a portion of same in installments over a period of time, NSR 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) CSXT agrees that it will, upon request from NSR, institute or defend, in NSR's name, any action relating to a claim for loss, damage, destruction, injury or death. NSR agrees to indemnify CSXT and save it harmless from any loss, costs, expenses and legal fees incurred by CSXT instituting or defending any such action in its name, or on behalf of NSR.
- (g) Each party hereto agrees to indemnify and save harmless the other party hereto from and against all liabilities, costs and expenses which it has agreed to assume under this Section. Furthermore, each party hereto agrees to indemnify and save harmless the other party for any legal fees, arbitration expenses and awards or expenses incurred by the indemnifying party in connection with any liability, cost and expense assumed by the other party hereto in this Section.

- (h) CSXT shall notify NSR of any accident, or incident which results in or could result in an action, claim, suit or demand against NSR by CSXT or any third party or which results in or could result in any indemnification or claim for indemnification by CSXT against NSR. Such notice shall include all available details with respect to time, place and circumstances and details of all investigations made.
- (i) Locomotives shall be considered as performing switching service on behalf of NSR when such locomotives are coupled to a train containing NSR cars.
- (j) Whenever circumstances require wrecking service or wrecking train service in connection with the switching subject of this Agreement, CSXT shall perform such service as promptly as possible, and the cost thereof shall be borne as provided in this Section.
- (k) Each party will investigate, adjust and defend all cargo related claim liability filed with it in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract filed pursuant to 49 U.S.C. Section 10709.

- (l) 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 attorney's and other full-time employees of either party engaged directly or indirectly in such work shall be borne by such party.
- (m) Excluding cargo related claim liability filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, 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 concurrence of such other party in the consideration for such settlement or compromise exceeds Thirty-Five Thousand Dollars (\$35,000).
- (n) Section 6, Subsections a through m shall apply only to the amount of Loss resulting from a single incident which is \$25 million or less. Responsibility for Losses resulting from a single incident which exceed \$25 million shall be allocated to the extent of such excess to CSXT and NSR in proportion to their respective fault or negligence in causing such Loss subject to the following rules: (1) the total amount of

Loss for which each party would otherwise be responsible under Section 6, Subsections a through m shall be determined, on a comparative percentage basis; (2) for each party, multiply \$25 million by the comparative percentage determined for the party in Section 6(n)(1); (3) the Loss for which each party is responsible in excess of the amount determined in Section 6(n)(2) shall be allocated between or among CSXT and NSR in proportion to their respective fault or negligence in causing the Loss. As used in this Section 6(n) the term "Loss" shall exclude consequential, indirect, incidental or other similar damage, injury or loss to either CSXT or NSR and claims for exemplary and punitive damages by any party hereto on its own behalf against another party hereto. By way of example, if a Loss from a single incident were \$100 million, of which CSXT would be responsible for \$80 million under Section 6, Subsections a through m and NSR would be responsible for \$20 million under Section 6, Subsections a through m, they CSXT would be responsible for \$20 million and NSR would be responsible for \$5 million of such Loss under Section 6(n)(1), and the remaining \$75 million of Loss would be apportioned between or among CSXT and NSR in proportion to their respective fault or negligence in causing the Loss. Any dispute between or among the parties hereto

in computing the comparative percentage, in determining their respective fault or negligence in causing the Loss or otherwise relating to their respective responsibilities for Loss arising out of, incidental to or occurring in connection with any such incident, including any Loss exceeding \$25 million, shall be submitted for resolution by binding arbitration pursuant to Section 9. The \$25 million amount referred to in this Section 6(n) may be adjusted every five years following the date of this Agreement with the prior approval of all parties, which approval may be given or refused in sole discretion of each party.

- (o) Each party shall assume and bear all responsibility for Loss caused by acts or omissions of any its employees while under the influence of drugs or alcohol or by the intentional and criminal misconduct of any such employee and Section 6, Subsections a through n shall not apply to any such Loss.

SECTION 7. EMPLOYEE CLAIMS

Each party agrees to indemnify and hold harmless the other party 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, either pursuant to employee protective conditions imposed by a governmental agency as conditions for that agency's approval of this Agreement and operations hereunder, or pursuant to a collective bargaining agreement. It is the intention of the parties that each party shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

SECTION 8. ARBITRATION

Any irreconcilable dispute arising between the parties with respect to this Agreement shall be jointly submitted for binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay the compensations, 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 of the arbitrator.

SECTION 9. TERM AND TERMINATION

- (a) This Agreement shall take effect on the day and year first above written and continue in full force and effect for one thirty (30) year period and continue thereafter year to year until terminated by mutual consent of the parties hereto.

- (b) The rights, benefits, duties and obligations running from or to NSR under this Agreement shall in all events expire (except liabilities incurred prior to termination) upon the earlier of (i) termination of this Agreement or (ii) terminations of the NSR Operating Agreement (including any renewals thereof) and the rights, benefits, duties and obligations running from or to CSXT under this Agreement shall in all events expire (except liabilities incurred prior to termination) upon the earlier of (i) termination of this Agreement or (ii) termination of the CSXT Operating Agreement (including any renewals thereof); provided, however, that upon termination of the NSR

Operating Agreement, the rights, benefits, duties and obligations running from or to NSR under this Agreement shall run from or to PRR and upon termination of the CSXT Operating Agreement, the rights, benefits, duties and obligations running from or to CSXT under this Agreement shall run from or to NYC.

- (c) Termination of this Agreement shall not relieve or release either party hereto from any obligation assumed or from any liability which may have arisen or been incurred by either party under the terms of this Agreement prior to the termination hereof.

SECTION 10. SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Neither party hereto shall transfer or assign this Agreement, or any of its rights, interests, or obligations hereunder, to any person, firm or corporation without obtaining the prior written consent of the other party.

SECTION 11. 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 mutually agree, and shall be addressed as follows:

(a) If to CSXT:

Assistant Vice President - Joint Facilities
CSX Transportation, Inc. J200
500 Water Street
Jacksonville, Florida 32202

(b) If to NSR:

Vice President Transportation & Mechanical
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, Virginia 23510-2191

(c) If to PRR: (To Be Furnished)

(d) If to NYC: (To Be Furnished)

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

SECTION 12. GENERAL PROVISIONS

(a) This Agreement and each and every provision hereof are 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 in any third party to recover by way of damages or otherwise against either of the parties hereto.

- (b) All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- (c) This Agreement and the attachments annexed hereto and integrated herewith contains the entire agreement of the parties hereto and supersedes any and all oral understandings between the parties with respect to the subject matter hereof.
- (d) No term or provisions of this Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to this Agreement.
- (e) 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.

SECTION 13. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement or as may be necessary or appropriate for a party hereto to enforce its rights under this

Agreement, during the term of this Agreement and during three (3) years after termination of this Agreement, the terms and provisions of this Agreement and all information to which access is provided or obtained hereunder will be kept confidential and will not be disclosed by either NSR or CSXT to any party other than each party's respective parent corporation, subsidiaries and affiliates, and their respective directors, officers, agents, employees and attorneys, without the prior written approval of the other party.

SECTION 14. INDEMNITY COVERAGE

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

SECTION 15. FORCE MAJEURE

CSXT shall not be responsible to NSR for delays or failure to perform under this Agreement if such delays or failure to perform are covered by circumstances beyond its control, including, but not limited to, Acts of God, floods, storms,

earthquakes, hurricanes, tornadoes, or other severe weather or climatic conditions, acts of public enemy, war, blockade, insurrection, vandalism or sabotage, fire, accident, wreck, derailment, washout or explosion, strike, lockout or labor disputes experienced by the parties hereto, embargoes or AAR service orders; Federal Railroad Administration (FRA) orders, or governmental laws, orders or regulations.

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

WITNESS

CSX TRANSPORTATION, INC.

AVP - Joint Facilities

WITNESS

NORFOLK SOUTHERN RAILWAY COMPANY

Title

WITNESS

PENNSYLVANIA LINES LLC

Title

WITNESS

NEW YORK CENTRAL LLC

Title

THIS AGREEMENT, entered into this _____ day of _____, 1997, by and between CSX Transportation, Inc. a Virginia corporation, hereinafter referred to as "CSXT", Norfolk Southern Railway Company, including its subsidiaries and affiliates, a Virginia corporation, hereinafter referred to as "NSR", Pennsylvania Lines LLC, a Delaware limited liability company (hereinafter referred to as "PRR") and New York Central LLC, a Delaware limited liability company (hereinafter referred to as "NYC");

WITNESSETH:

WHEREAS, CSX Corporation ("CSX"), parent to CSXT, and Norfolk Southern Corporation ("NSC"), parent to NSR, have entered into a Transaction Agreement (the "Transaction Agreement") between themselves; CSXT, a wholly-owned subsidiary of CSX; NSR; Conrail, Inc. ("CRR"); Consolidated Railroad Corporation ("CRC"), a wholly-owned subsidiary of CRR; and CRR Holdings LLC; and

WHEREAS, CSX and NSC have indirectly acquired all the outstanding capital stock of CRR; and

WHEREAS, pursuant to the Transaction Agreement, certain assets of CRC have been allocated to NYC, which is a wholly-owned subsidiary of CRC, to be operated by CSXT under the terms of an Allocated Assets Operating Agreement (the "CSXT Operating Agreement") between NYC and CSXT; and

WHEREAS, pursuant to the Transaction Agreement, certain assets of CRC have been allocated to PRR, which is a wholly-owned subsidiary of CRC, to be operated by NSR under the terms of an Allocated Assets Operating Agreement (the "NSR Operating Agreement") between PRR and NSR;

WHEREAS, under provisions of the Transaction, NSR will have rail access to certain industries at Sidney, Ohio using lines owned by NYC and operated by CSXT under the CSXT Operating Agreement; and

WHEREAS, for operating efficiencies, the parties desire that CSXT switch cars to and from the respective industries at Sidney, Ohio, for the accounts of NSR and CSXT;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

SECTION 1. INDUSTRY SWITCHING

- (a) CSXT, acting as agent for NSR, will perform switching of cars to and from the hereinafter identified industries (each hereinafter referred to as "Industry"), located at Sidney, Ohio, for the account of NSR, and provide services as necessary to handle such

traffic between said Industry and mutually agreed upon trackage at Sidney, Ohio. CSXT will use its own crews and locomotives to perform said services. The industries are:

- (1) Cargill, Inc.
- (2) Countrymarle Cooperative, Inc.
- (3) Myojo Foods

- (b) For revenue purposes, cars switched under this Agreement shall remain in the account of NSR, and CSXT shall not be entitled to any line haul revenue for the handling of such cars, nor appear in any rates, routes or divisions pertaining to any cars in the account of NSR, except as specified in Section 5 hereof.
- (c) NSR shall assume its own car hire expenses, and CSXT shall assess and collect all related demurrage charges.

SECTION 2. DELIVERY AND RECEIPT OF CARS

- (a) Cars handled under this Agreement shall be considered as having been delivered by one party to the other when placed on mutually agreed upon trackage designated for such deliveries, accompanied or preceded by the necessary data for forwarding and to insure delivery and acceptance by the designated representative of the receiving road.

(b) CSXT and NSR shall provide each other with suitable information (which may be transferred by paper documents, facsimiles, or electronic means, or by other means, as mutually agreed) necessary for the handling of cars switched under this Agreement, which will identify for each car:

- (1) Car initial and number.
- (2) Loaded or empty.
- (3) Destination station and consignee on inbound movements.
- (4) Origin and shipper as supplied by the shipper on outbound movements.
- (5) All required hazardous materials information.
- (6) Any other information as agreed between the parties to be necessary or convenient for the safe, efficient movements of cars switched under terms of this Agreement.

(c) CSXT may make repairs to cars switched under terms of this Agreement as may be necessary for safe transit, and CSXT may make adjustments to or transfers of lading from crippled, defective or overloaded cars, as in its determination may be necessary to safely move said cars. NSR shall reimburse CSXT its full cost for repairs, adjustments and lading transfers promptly upon receipt of billing therefor.

SECTION 3. INSPECTION

CSXT shall not be responsible for making any mechanical inspection of cars in the account of NSR switched to and from the industry.

SECTION 4. INTERRUPTION, DELAY

In the event the use of trackage in performing the referenced switching services shall be interrupted or traffic delayed at any time from any cause, neither party shall have any claim against the other party for liability of any kind from such interruption or delay.

SECTION 5. COMPENSATION

- (a) NSR shall pay CSXT a mutually agreed upon rate for each loaded car handled by CSXT for the account of NSR to and from the Industry for the first six months from the effective date of this Agreement. After said six months, CSXT and NSR will jointly conduct a study to determine CSXT's actual cost of handling cars in the account of NSR to and from the Industry, and the agreed upon rate, hereinafter referred to as the "Current Charge", will be retroactive to the effective date of this Agreement.

- (b) At the option of either party hereto the Current Charge shall be open to renegotiation every five (5) years from the effective date of this Agreement. In the event the parties fail to reach agreement upon such renegotiation, such failure shall not constitute a breach of this Agreement and the parties shall continue to be bound by the terms of compensation provided in this Section 5 until the matter is settled or submitted to binding arbitration as provided in Section 8.
- (c) The Current Charge shall be revised upward or downward each year, beginning with the bill rendered during the first month of July following the effective date of this Agreement, to compensate for the increase or decrease in the cost of labor and material, including 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 Railroads, hereinafter called "AAR". In making such determination, the final "Material prices, wage rates and supplements combined (including fuel)" indexes for the East District shall be used.
- (d) The Current Charge shall be revised by calculating the percentage of increase or decrease in the index of the

latest calendar year as related to the index for the previous calendar year and applying that percentage to the Current Charge.

- (e) By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figure for 1996; "B" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figures for 1997; "C" to be the Current Charge; and "D" to be the percentage of increase or decrease the revised Current Charge would be determined by the following calculations:

$$(1) \quad \frac{(B-A)}{A} = D$$

- 2) $(C \times D) \div C =$ revised Current Charge rounded to the nearest cent, effective July 1 of the year being revised.

- (f) In the event the base for the "Annual Indexes of Chargeout 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 the "Annual Indexes of Chargeout 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 parties shall submit the matter to arbitration.

- (g) CSXT shall keep and maintain an accurate account of all loaded cars handled by it for the account of NSR, and shall at the end of each month, render an itemized bill, computed in accordance with the provisions herein, to NSR for payment.
- (h) NSR shall pay within thirty (30) days from receipt thereof, and any errors or omissions in such bills shall be adjusted in subsequent billing.
- (i) 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.

Section 6. LIABILITY

The responsibility between the parties hereto for loss of, damage to, and destruction of any property whatsoever and injury to and death of any person or persons whomsoever, resulting from, arising out of, incidental to or occurring in connection with this Agreement, hereinafter referred to as a Loss, shall be apportioned as follows without regard to consideration of fault or negligence:

- (a) Whenever a Loss occurs with only one train operated by CSXT being involved and such train is hauling cars, empty or loaded, in only NSR's account or cars in NSR's account as well as cars in CSXT's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account being handled in such train, and the parties hereto further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including without limitation, the train(s), locomotive(s), equipment or trackage, so occurring shall be either: (i) borne solely by NSR if the train is handling only NSR cars, or (ii) borne solely by each party hereto in proportion to the number of cars, both empty and loaded, which each party hereto has in its own account in such train, if the train is handling cars in the accounts of both parties hereto.
- (b) Whenever a Loss occurs with more than one train operated by CSXT being involved and any or all of such trains are handling only NSR cars or NSR cars as well as cars in CSXT's account; then each party hereto agrees to assume and bear all liability, cost and expense for all cars, empty and loaded, including lading, in its own account handled in such trains, and

the parties further agree that injury to or death of any person or persons whomsoever and loss, damage or destruction of all other property, including, without limitation, trains, locomotives, equipment or trackage, so occurring shall be borne as follows: total liability, cost and expense arising not otherwise borne separately by the parties as provided above shall be first equally divided by the number of trains involved and then (i) that portion of said liability, cost and expense apportioned to any train(s) which is (are) handling cars, both empty and loaded, only the account of CSXT shall be borne solely by CSXT, (ii) that portion of said liability, cost and expense apportioned to any train(s) which is (are) handling only NSR cars shall be borne solely by NSR, and (iii) that portion of said train(s) handling cars, both empty and loaded, in the accounts of both parties shall be shared and borne by each party hereto in proportion to the number of cars, both empty and loaded, which each party has in its own account in each such train.

- (c) Whenever a Loss occurs with the train(s) of CSXT and another railroad or other company that is not a party to this Agreement being involved and any of such CSXT train(s) is (are) handling only NSR cars, and/or NSR cars as well as cars in CSXT's account; then each party

hereto agrees to assume and bear all liability, cost and expense for all cars, both empty and loaded, including lading, in its own account handled in the CSXT train(s), and the parties hereto further agree as between themselves that all other liability, cost and expense incurred by CSXT as a result thereof shall be shared by both parties hereto in proportion to the total number of cars, both empty and loaded, which each party has in its own account in the CSXT trains so involved, excluding any cost and expense paid by said other railroad.

- (d) Notwithstanding any of the foregoing provisions of this Section, when any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife and vegetation, occurs with one or more trains of CSXT being involved, and any or all of such trains are handling only NSR cars or NSR cars as well as cars in CSXT's account, then, as between themselves: (i) CSXT shall be solely responsible for any such damage or destruction to the environment which results solely from a substance which was being transported in the car or cars of, or in the account of CSXT, and from which there was a release; (ii) NSR shall be solely responsible for any such damage or destruction to the environment which results

solely from a substance which was being transported in NSR cars and from which there was a release; and (iii) responsibility for any such damage or destruction to the environment which results from a substance in the cars of, or in cars in the account of, both CSXT and NSR from which there was a release shall be shared by both parties hereto in proportion to the total number of cars which each party had in its accounts, containing the same substance and from which there was a release.

- (e) In every case of death or injury suffered by an employee of CSXT or NSR, when compensation to such employee or employee's dependents is required to be paid under any present or future state or federal workmen's compensation, occupational disease, employers' liability or other law, and NSR under provisions of this Agreement, is required to pay same or a portion of same in installments over a period of time, NSR 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) CSXT agrees that it will, upon request from NSR, institute or defend, in NSR's name, any action relating to a claim for loss, damage, destruction, injury or death. NSR agrees to indemnify CSXT and save it harmless from any loss, costs, expenses and legal fees incurred by CSXT instituting or defending any such action in its name, or on behalf of NSR.
- (g) Each party hereto agrees to indemnify and save harmless the other party hereto from and against all liabilities, costs and expenses which it has agreed to assume under this Section. Furthermore, each party hereto agrees to indemnify and save harmless the other party for any legal fees, arbitration expenses and awards or expenses incurred by the indemnifying party in connection with any liability, cost and expense assumed by the other party hereto in this Section.
- (h) CSXT shall notify NSR of any accident, or incident which results in or could result in an action, claim, suit or demand against NSR by CSXT or any third party or which results in or could result in any indemnification or claim for indemnification by CSXT against NSR. Such notice shall include all available details with respect to time, place and circumstances and details of all investigations made.

- (i) Locomotives shall be considered as performing switching service on behalf of NSR when such locomotives are coupled to a train containing NSR cars.
- (j) Whenever circumstances require wrecking service or wrecking train service in connection with the switching subject of this Agreement, CSXT shall perform such service as promptly as possible, and the cost thereof shall be borne as provided in this Section.
- (k) Each party will investigate, adjust and defend all cargo related claim liability filed with it in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract filed pursuant to 49 U.S.C. Section 10709.
- (l) 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 attorney's and other full-time employees of either party engaged directly or indirectly in such work shall be borne by such party.

- (m) Excluding cargo related claim liability filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, 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 concurrence of such other party in the consideration for such settlement or compromise exceeds Thirty-Five Thousand Dollars (\$35,000).
- (n) Section 6, Subsections a through m shall apply only to the amount of Loss resulting from a single incident which is \$25 million or less. Responsibility for Losses resulting from a single incident which exceed \$25 million shall be allocated to the extent of such excess to CSXT and NSR in proportion to their respective fault or negligence in causing such Loss subject to the following rules: (1) the total amount of Loss for which each party would otherwise be responsible under Section 6, Subsections a through m shall be determined, on a comparative percentage basis; (2) for each party, multiply \$25 million by the comparative percentage determined for the party in Section 6(n)(1); (3) the Loss for which each party is responsible in excess of the amount determined in Section 6(n)(2) shall be allocated between or among CSXT and NSR in proportion to their respective fault or

negligence in causing the Loss. As used in this Section 6(n) the term "Loss" shall exclude consequential, indirect, incidental or other similar damage, injury or loss to either CSXT or NSR and claims for exemplary and punitive damages by any party hereto on its own behalf against another party hereto. By way of example, if a Loss from a single incident were \$100 million, of which CSXT would be responsible for \$80 million under Section 6, Subsections a through m and NSR would be responsible for \$20 million under Section 6, Subsections a through m, they CSXT would be responsible for \$20 million and NSR would be responsible for \$5 million of such Loss under Section 6(n)(1), and the remaining \$75 million of Loss would be apportioned between or among CSXT and NSR in proportion to their respective fault or negligence in causing the Loss. Any dispute between or among the parties hereto in computing the comparative percentage, in determining their respective fault or negligence in causing the Loss or otherwise relating to their respective responsibilities for Loss arising out of, incidental to or occurring in connection with any such incident, including any Loss exceeding \$25 million, shall be submitted for resolution by binding arbitration pursuant to Section 8. The \$25 million amount referred to in this Section 6(n) may be adjusted every five

years following the date of this Agreement with the prior approval of all parties, which approval may be given or refused in sole discretion of each party.

- (o) Each party shall assume and bear all responsibility for Loss caused by acts or omissions of any its employees while under the influence of drugs or alcohol or by the intentional and criminal misconduct of any such employee and Section 6, Subsections a through n shall not apply to any such Loss.

SECTION 7. EMPLOYEE CLAIMS

Each party agrees to indemnify and hold harmless the other party 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, either pursuant to employee protective conditions imposed by a governmental agency as conditions for that agency's approval of this Agreement and operations hereunder, or pursuant to a collective bargaining agreement. It is the intention of the parties that each party shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

SECTION 8. ARBITRATION

Any irreconcilable dispute arising between the parties with respect to this Agreement shall be jointly submitted for binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay the compensations, 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 of the arbitrator.

SECTION 9. TERM AND TERMINATION

- (a) This Agreement shall take effect on the day and year first above written and continue in full force and effect for one thirty (30) year period and continue

thereafter year to year until terminated by mutual consent of the parties hereto.

- (b) The rights, benefits, duties and obligations running from or to NSR under this Agreement shall in all events expire (except liabilities incurred prior to termination) upon the earlier of (i) termination of this Agreement or (ii) terminations of the NSR Operating Agreement (including any renewals thereof) and the rights, benefits, duties and obligations running from or to CSXT under this Agreement shall in all events expire (except liabilities incurred prior to termination) upon the earlier of (i) termination of this Agreement or (ii) termination of the CSXT Operating Agreement (including any renewals thereof); provided, however, that upon termination of the NSR Operating Agreement, the rights, benefits, duties and obligations running from or to NSR under this Agreement shall run from or to PRR and upon termination of the CSXT Operating Agreement, the rights, benefits, duties and obligations running from or to CSXT under this Agreement shall run from or to NYC.

- (c) Termination of this Agreement shall not relieve or release either party hereto from any obligation assumed or from any liability which may have arisen or been

incurred by either party under the terms of this Agreement prior to the termination hereof.

SECTION 10. SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Neither party hereto shall transfer or assign this Agreement, or any of its rights, interests, or obligations hereunder, to any person, firm or corporation without obtaining the prior written consent of the other party.

SECTION 11. 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 mutually agree, and shall be addressed as follows:

(a) If to CSXT:

Assistant Vice President - Joint Facilities
CSX Transportation, Inc. J200
500 Water Street
Jacksonville, Florida 32202

(b) If to NSR:

Vice President Transportation & Mechanical
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, Virginia 23510-2191

(c) If to PRR: (To Be Furnished)

(D) If to NYC: (To Be Furnished)

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

SECTION 12. GENERAL PROVISIONS

- (a) This Agreement and each and every provision hereof are 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 in any third party to recover by way of damages or otherwise against either of the parties hereto.
- (b) All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- (c) This Agreement and the attachments annexed hereto and integrated herewith contains the entire agreement of the parties hereto and supersedes any and all oral understandings between the parties with respect to the subject matter hereof.
- (d) No term or provisions of this Agreement may be changed,

waived, discharged, or terminated except by an instrument in writing signed by both parties to this Agreement.

- (e) 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.

SECTION 13. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement or as may be necessary or appropriate for a party hereto to enforce its rights under this Agreement, during the term of this Agreement and during three (3) years after termination of this Agreement, the terms and provisions of this Agreement and all information to which access is provided or obtained hereunder will be kept confidential and will not be disclosed by either NSR or CSXT to any party other than each party's respective parent corporation, subsidiaries and affiliates, and their respective directors, officers, agents, employees and attorneys, without the prior written approval of the other party.

SECTION 14. INDEMNITY COVERAGE

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

SECTION 15. FORCE MAJEURE

CSXT shall not be responsible to NSR for delays or failure to perform under this Agreement if such delays or failure to perform are covered by circumstances beyond its control, including, but not limited to, Acts of God, floods, storms, earthquakes, hurricanes, tornadoes, or other severe weather or climatic conditions, acts of public enemy, war, blockade, insurrection, vandalism or sabotage, fire, accident, wreck, derailment, washout or explosion, strike, lockout or labor disputes experienced by the parties hereto, embargoes or AAR service orders; Federal Railroad Administration (FRA) orders, or governmental laws, orders or regulations.

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

WITNESS

CSX TRANSPORTATION, INC.

AVP - Joint Facilities

WITNESS

NORFOLK SOUTHERN RAILWAY COMPANY

Title

WITNESS

PENNSYLVANIA LINES LLC

Title

WITNESS

NEW YORK CENTRAL LLC

Title

THIS AGREEMENT, entered into this _____ day of _____, 1997, by and between Norfolk Southern Railway Company, including its subsidiaries and affiliates, a Virginia corporation, hereinafter referred to as "NSR", CSX Transportation, Inc. a Virginia corporation, hereinafter referred to as "CSXT"; Pennsylvania Lines LLC, a Delaware limited liability company, hereinafter referred to as "PRR" and New York Central LLC, a Delaware limited liability company, hereinafter referred to as "NYC";

WITNESSETH:

WHEREAS, CSX Corporation ("CSX"), parent to _____ and Norfolk Southern Corporation ("NSC"), parent to _____ have entered into a Transaction Agreement (the "Transaction Agreement") between themselves; CSXT, a wholly-owned subsidiary of CSX; NSR; Conrail, Inc. ("CRR"); Consolidated Railroad Corporation ("CRC"), a wholly-owned subsidiary of CRR; and CRR Holdings LLC; and

WHEREAS, CSX and NSC have indirectly acquired all the outstanding capital stock of CRR; and

WHEREAS, pursuant to the Transaction Agreement, certain assets of CRC have been allocated to NYC, which is a wholly-owned

subsidiary of CRC, to be operated by CSXT under the terms of an Allocated Assets Operating Agreement (the "CSXT Operating Agreement") between NYC and CSXT; and

WHEREAS, pursuant to the Transaction Agreement, certain assets of CRC have been allocated to PRR, which is a wholly-owned subsidiary of CRC, to be operated by NSR under the terms of an Allocated Assets Operating Agreement (the "NSR Operating Agreement") between PRR and NSR; and

WHEREAS, under provisions of the Transaction Agreement, CSXT will have rail access to the Ford Parts Plant in the vicinity of MP S108.5 at Sandusky, Ohio, using lines owned by NYC and operated by CSXT under the CSXT Operating Agreement; and

WHEREAS, for operating efficiencies, the parties desire that NSR switch cars to and from the Ford Parts Plant at Sandusky, Ohio for the accounts of CSXT and NSR;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

SECTION 1. INDUSTRY SWITCHING

- (a) NSR, acting as agent for CSXT, will perform switching of cars to and from the Ford Parts Plant (hereinafter referred to as "Industry"), located at or near Sandusky, Ohio, for the account of CSXT, and provide services as necessary to handle such traffic between said Industry and mutually agreed upon trackage at Bucyrus, Ohio. NSR will use its own crews and locomotives to perform said services.

- (b) For revenue purposes, cars switched under this Agreement shall remain in the account of CSXT, and NSR shall not be entitled to any line haul revenue for the handling of such cars, nor appear in any rates, routes or divisions pertaining to any cars in the account of CSXT, except as specified in Section 5 hereof.

- (c) CSXT shall assume its own car hire expenses, and NSR shall assess and collect all related demurrage charges.

SECTION 2. DELIVERY AND RECEIPT OF CARS

- (a) Cars handled under this Agreement shall be considered as having been delivered by one party to the other when

placed on mutually agreed upon trackage designated for such deliveries, accompanied or preceded by the necessary data for forwarding and to insure delivery and acceptance by the designated representative of the receiving road.

- (b) NSR and CSXT shall provide each other with suitable information (which may be transferred by paper documents, facsimiles, or electronic means, or by other means, as mutually agreed) necessary for the handling of cars switched under this Agreement, which will identify for each car:

- (1) Car initial and number.
- (2) Loaded or empty.
- (3) Destination station and consignee on inbound movements.
- (4) Origin and shipper as supplied by the shipper on outbound movements.
- (5) All required hazardous materials information.
- (6) Any other information as agreed between the parties to be necessary or convenient for the safe, efficient movements of cars switched under terms of this Agreement.

(c) NSR may make repairs to cars switched under terms of this Agreement as may be necessary for safe transit, and NSR may make adjustments to or transfers of lading from crippled, defective or overloaded cars, as in its determination may be necessary to safely move said cars. CSXT shall reimburse NSR its full cost for repairs, adjustments and lading transfers promptly upon receipt of billing therefor.

SECTION 3. INSPECTION

NSR shall not be responsible for making any mechanical inspection of cars in the account of CSXT switched to and from the industry.

SECTION 4. INTERRUPTION, DELAY

In the event the use of trackage in performing the referenced switching services shall be interrupted or traffic delayed at any time from any cause, neither party shall have any claim against the other party for liability of any kind from such interruption or delay.

SECTION 5. COMPENSATION

(a) CSXT shall pay NSR a mutually agreed upon rate for each loaded car handled by NSR for the account of CSXT to and from the Industry for the first six months from the effective date of this Agreement. After said six months, NSR and CSXT will jointly conduct a study to determine NSR's actual cost of handling cars in the account of CSXT to and from the Industry, and the agreed upon rate, hereinafter referred to as the "Current Charge", will be retroactive to the effective date of this Agreement.

(b) At the option of either party hereto the Current Charge shall be open to renegotiation every five (5) years from the effective date of this Agreement. In the event the parties fail to reach agreement upon such renegotiation, such failure shall not constitute a breach of this Agreement and the parties shall continue to be bound by the terms of compensation provided in this Section 5 until the matter is settled or submitted to binding arbitration as provided in Section 8.

- (c) The Current Charge shall be revised upward or downward each year, beginning with the bill rendered during the first month of July following the effective date of this Agreement, to compensate for the increase or decrease in the cost of labor and material, including 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 Railroads, hereinafter called "AAR". In making such determination, the final "Material prices, wage rates and supplements combined (including fuel)" indexes for the East District shall be used.
- (d) The Current Charge shall be revised by calculating the percentage of increase or decrease in the index of the latest calendar year as related to the index for the previous calendar year and applying that percentage to the Current Charge.
- (e) By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (including fuel)" final index figure for 1996; "B" to be the "Material prices, wage rates and supplements combined

(including fuel)" final index figures for 1997; "C" to be the Current Charge; and "D" to be the percentage of increase or decrease the revised Current Charge would be determined by the following calculations:

$$(1) \quad \frac{(B-A)}{A} = D$$

(2) $(C \times D) + C =$ revised Current Charge rounded to the nearest cent, effective July 1 of the year being revised.

- (f) In the event the base for the "Annual Indexes of Chargeout 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 the "Annual Indexes of Chargeout 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 parties shall submit the matter to arbitration.
- (g) NSR shall keep and maintain an accurate account of all loaded cars handled by it for the account of CSXT, and shall at the end of each month, render an itemized