

SIDLEY

SIDLEY AUSTIN LLP
 1501 K STREET, N.W.
 WASHINGTON, D.C. 20005
 +1 202 736 8000
 +1 202 736 8711 FAX

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+1 202 736 8889
 RATKINS@SIDLEY.COM

May 1, 2023

Via E-Filing

Cynthia T. Brown
 Chief, Section of Administration
 Surface Transportation Board
 Office of Proceedings
 395 E Street, SW
 Washington, DC 20423

Re: Docket No. FD 36699, Norfolk Southern Railway Co. and The Cincinnati, New Orleans and Texas Pacific Railway Co.—Acquisition—Trustees of the Cincinnati Southern Railway

Docket No. FD 36699 (Sub-No. 1), The Cincinnati, New Orleans and Texas Pacific Railway Co.—Intra-Corporate Family Operation Exemption—Line of Norfolk Southern Railway Co.

Dear Ms. Brown:

Enclosed for e-filing in the above-captioned proceedings are an application for a minor transaction together with accompanying attachments pursuant to 49 U.S.C. § 11323(a)(2) and 49 C.F.R. Part 1180, as well as a related verified notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(3).

The filing fees for the minor application and the verified notice of exemption were paid using Pay.gov.

Please contact me with any questions.

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FD Nos. 36699 & 36699 (Sub-No. 1)

May 1, 2023

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Respectfully submitted,

/s/ Raymond A. Atkins

Raymond A. Atkins, Ph.D.

*Counsel for Norfolk Southern Railway Company
and The Cincinnati, New Orleans and Texas
Pacific Railway Company*

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 36699

**NORFOLK SOUTHERN RAILWAY COMPANY AND THE CINCINNATI,
NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY
—ACQUISITION—
TRUSTEES OF THE CINCINNATI SOUTHERN RAILWAY**

APPLICATION

Nabanita C. Nag
Jason M. Morris
Thomas E. Zoeller
Hanna M. Chouest
Julianne C. Freeman
NORFOLK SOUTHERN RAILWAY COMPANY
650 West Peachtree Street N.W.
Atlanta, GA 30308

Raymond A. Atkins
Terence M. Hynes
Allison C. Davis
Sidley Austin LLP
1501 K Street, N.W.
Washington, DC 20005
(202) 736-8000
thynes@sidley.com

*Counsel for Norfolk Southern Railway Company and The Cincinnati, New Orleans
and Texas Pacific Railway Company*

Dated: May 1, 2023

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EXHIBITS AND APPENDICES

Exhibit 1 Maps

Map A NSR System

Map B CNOTP System / CSR Line

Exhibit 2 Agreement

Asset Purchase and Sale Agreement dated as of November 21, 2022, between the Board of Trustees of the Cincinnati Southern Railway, Norfolk Southern Railway Company, and The Cincinnati, New Orleans and Texas Pacific Railway Company

Exhibit 15 Operating Plan—Minor

Appendix A Opinion of Counsel

Appendix B Verified Statement of Michael R. McClellan

Appendix C Support Statement of Mayor Aftab Pureval

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 36699

**NORFOLK SOUTHERN RAILWAY COMPANY AND THE CINCINNATI,
NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY
—ACQUISITION—
TRUSTEES OF THE CINCINNATI SOUTHERN RAILWAY**

APPLICATION

Norfolk Southern Railway Company (“NSR”), on behalf of itself and its wholly owned subsidiary, The Cincinnati, New Orleans and Texas Pacific Railway Company (“CNOTP”) (collectively, “Applicants”), files this minor application (“Application”) pursuant to 49 U.S.C. § 11323(a)(2) and 49 C.F.R. Part 1180 seeking approval from the Surface Transportation Board (“STB” or “Board”) for NSR to acquire from the Trustees of the Cincinnati Southern Railway (“Trustees”) and operate approximately 338.2 miles of rail line between Cincinnati, OH and Chattanooga, TN, known as the Cincinnati Southern Railway (the “CSR Line”).¹ The Trustees, which hold the CSR Line on behalf of the City of Cincinnati, are a common carrier by rail.²

The CSR Line was constructed by the City of Cincinnati in the late 19th century to promote commerce. The CSR Line was leased to CNOTP pursuant to a

¹ See Exhibit 1, Map B.

² See Notice of Consummation, *Trs. of the Cincinnati S. Ry.—Abandonment Exemption—In Scott Cnty., Tenn.*, Docket No. AB 557 (Sub-No. 1X), at 1 n.1 (filed Dec. 15, 2015); Verified Notice of Exempt Abandonment, *Trs. of the Cincinnati S. Ry.—Abandonment Exemption—In Scott Cnty., Tenn.*, AB 557 (Sub-No. 1X), at 2 n.1 (filed Oct. 8, 2015).

lease agreement dated October 11, 1881, and CNOTP has operated the CSR Line continuously since that time. The lease has been extended and modified several times over the years. The most recent lease modification was approved by the Interstate Commerce Commission in 1987.³

CNOTP was acquired by the Southern Railway Company (“SRC”) in 1899.⁴ In 1982, SRC and Norfolk and Western Railway Company came under the common control of Norfolk Southern Corporation, a non-carrier holding company.⁵ SRC was renamed NSR in 1990. As a result, CNOTP is a wholly owned subsidiary of NSR, and the CSR Line is operated as part of the NSR system.

NSR has agreed to purchase the CSR Line from the Trustees (the “Transaction”). Although the lease between CNOTP and the Trustees will be terminated as part of this Transaction,⁶ Applicants intend for CNOTP to continue to operate the CSR Line for the foreseeable future.⁷ Accordingly, filed along with this Application in Docket No. FD 36699 (Sub-No. 1) is a related verified notice of

³ *Cincinnati, New Orleans & Tex. Pac. Ry.—Exemption of Modification of Lease—Cincinnati S. Ry.*, Docket No. FD 21666 (Sub-No. 1) (ICC decided Nov. 6, 1987).

⁴ *Modification & Extension of Lease of Cincinnati S. Ry.*, 138 I.C.C. 745, 746 (1928) (“[S]ince 1899 the Cincinnati Southern [line] has been operated as a part of the Southern Railway system.”).

⁵ *Norfolk S. Corp.—Control—Norfolk & W. Ry. & S. Ry.*, 366 I.C.C. 173 (1982).

⁶ Exhibit 2, Asset Purchase and Sale Agreement (“PSA”), Exhibit F (“Form of Termination of Existing Lease”).

⁷ See PSA, Section 5.06 (“[NSR] may operate or elect to allow CNOTP to continue to operate the [CSR] Line.”).

exemption for CNOTP to continue operating the CSR Line following consummation of the Transaction.⁸

The CSR Line extends from the City of Cincinnati, Hamilton County, Ohio, at the point of connection to NSR estimated to be at or near calculated milepost 0.0±, and proceeds south to the point of connection to The Alabama Great Southern Railroad Company (a subsidiary of NSR) in the City of Chattanooga, Hamilton County, Tennessee, at or near calculated milepost 338.2±, together with all branch lines, sidings, and other appurtenant railroad facilities associated therewith.⁹

CNOTP has operated the CSR Line for more than 140 years. The Transaction will not result in any change in the current patterns of service or in the number of employees working on the CSR Line. No employee of CNOTP or NSR will be dismissed or displaced as a result of the Transaction. The Transaction will not result in an increase or decrease in the volume of rail traffic on the CSR Line.

The purpose of the Transaction is to convert Applicants' interest in the CSR Line from a leasehold to fee simple ownership. As explained in the accompanying Verified Statement of Michael R. McClellan, negotiations regarding the extension and modification of the CSR Line lease have become increasingly complicated and time-consuming, creating uncertainty regarding the cost of operating the CSR Line.

⁸ See *The Cincinnati, New Orleans & Tex. Pac. Ry.—Intra-Corporate Family Operation Exemption—Line of Norfolk S. Ry.*, Docket No. FD 36699 (Sub-No. 1).

⁹ Given the long history of the CSR Line, the identification of specific mileposts at the Line's termini has varied slightly over time. The correct description of the CSR Line is that set forth in Exhibit A of the PSA and that which is used in this Application. The property description contained in Recital A of the PSA (at page 1) is incorrect.

Acquiring outright ownership of the CSR Line will eliminate the time, expense, and financial unpredictability associated with periodic renegotiation of the CSR Line lease and will secure long-term control over this critical north-south artery in the NSR rail network. Owning the asset will also cement NSR's strategic investment decisions on the CSR Line.¹⁰

The proposed sale of the CSR Line will also benefit the City of Cincinnati and its citizens by providing an ongoing and renewable source of income to fund future investments in the City's infrastructure. Pursuant to legislation recently enacted by the State of Ohio, the proceeds of the sale will be deposited into a trust fund administered by the Trustees. The City will be the sole beneficiary of the trust, and will receive annual distributions to be used to rehabilitate, modernize and replace streets, bridges, parks, recreational facilities, and other City infrastructure. By converting its ownership of a single asset (the CSR Line) to beneficial ownership of a trust fund with a principal balance of \$1.6 billion, the City will diversify its investment portfolio, creating opportunities to earn returns that exceed the amount of CNOTP's annual lease payments. Indeed, as explained in the accompanying Support Statement of Mayor Aftab Pureval, the City's conservative estimate is that the trust fund will yield more than double the income currently received from CNOTP

¹⁰ See Appendix B, Verified Statement of Michael R. McClellan ("V.S. McClellan"), at 3.

under the lease. Sale of the CSR Line will also enable the City to avoid the time, expense, and uncertainty involved in renegotiating the CSR Line lease.¹¹

The Transaction will assure the uninterrupted availability of reliable rail service for both customers located on the CSR Line and those customers whose freight traverses the CSR Line in overhead service. And the enhanced incentive to invest will promote Applicants' long-term ability to provide safe and reliable service to shippers.¹² Simply converting CNOTP's leasehold interest to outright ownership by CNOTP's parent company, NSR, will not reduce the competitive options available to any shipper.

In this Application, Applicants respectfully request Board approval for the acquisition and operation of the CSR Line by NSR. The Application demonstrates that the Transaction: (1) is a minor transaction; (2) satisfies the criteria for approval under 49 U.S.C. § 11324(d); and (3) will not result in changes in carrier operations that would exceed the thresholds for an environmental review or that would require historic assessment under the Board's regulations.

SUMMARY

Applicants request Board approval for this minor Application for NSR to acquire from the Trustees and to operate approximately 338.2 miles of rail line, constituting the CSR Line, located between Cincinnati, OH and Chattanooga, TN, as described below and identified in Map B of Exhibit 1.

¹¹ See Appendix C, Support Statement of Mayor Aftab Pureval ("Mayor Pureval Support Statement"), at 2.

¹² See Appendix B, V.S. McClellan, at 6.

APPLICANTS' PROPOSED ACQUISITION IS A MINOR TRANSACTION

The Transaction is a minor transaction, as that term is defined in the Board's regulations. The Transaction is not a "major" transaction under 49 C.F.R. § 1180.2(a) because it does not involve the "control or merger of two or more class I railroads."

In addition, the Transaction is not a "significant" transaction under 49 C.F.R. § 1180.2(b). Under § 1180.2(b), a non-major transaction is not significant if a determination can be made either: (1) that "the transaction clearly will not have any anticompetitive effects," or (2) that "any anticompetitive effects of the transaction will clearly be outweighed by the transaction's anticipated contribution to the public interest in meeting significant transportation needs."

The Board has found that it was unlikely that a transaction would have any anticompetitive effects where, as here, no shipper would have fewer competitive rail options and longstanding operations would continue unchanged as a result of this Transaction.¹³

¹³ See *CSX Transp., Inc.—Lease—W. & Atl. R.R.*, Docket No. FD 36220, slip op. at 5 (STB served Nov. 21, 2018) (finding "[n]othing in the record thus far suggest[ing] that the Lease would have anticompetitive effects, because the Lease proposes to generally maintain the status quo by allowing CSXT to continue operating over the Line as it and its predecessors have done since 1890" and that "[i]t does not appear, under the terms of the proposed Lease, that any shipper would have fewer competitive rail alternatives"); see also *CSX Transp., Inc. & Del. & Hudson Ry.—Joint Use Agreement*, Docket No. FD 35348, slip op. at 7 (STB served May 27, 2010) (explaining that it did not appear that "any shipper would have fewer competitive rail alternatives as a result of the transaction"); *Norfolk S. Ry., Pan Am. Rys.—Joint Control & Operating/Pooling Agreements—Pan Am S.*, Docket No. FD 35147, slip op. at 9 (STB served June 26, 2008) (similar).

As shown below, the Transaction clearly will not have any anticompetitive effects and therefore qualifies as a minor transaction. Applicants will continue to operate the CSR Line in the same manner that they have operated it for more than a century, with no change in service patterns or train operations anticipated as a result of the Transaction. The Transaction will not reduce the competitive options available to any shipper on the CSR Line. Shippers will continue to be served as they are today; there will be no two-to-one corridors or shippers and no reduction in the number of railroads serving any shipper. No connecting railroad will be foreclosed from interchange—Applicants will maintain the same interchanges with the same connecting carriers at the same locations where those railroads interchange traffic today. The Transaction is of limited geographic scope, involving only a 338.2-mile rail line that traverses portions of central Tennessee and central Kentucky, and the southwestern tip of Ohio.¹⁴

Moreover, the Transaction’s anticipated contributions to the public interest are significant. The Transaction will eliminate uncertainty regarding the future cost of operating the CSR Line, and will facilitate NSR’s ability to make decisions regarding future capital investment in the CSR Line. It will ensure continuity of service to customers, both local and overhead.

¹⁴ See *Norfolk S. Ry.—Acquisition & Operation—Certain Rail Lines of the Del. & Hudson Ry.*, Docket No. FD 35873, slip op. at 9 (STB served Dec. 16, 2014) (noting that a minor transaction involving the acquisition of a 282.55-mile rail line “only involve[d] rail lines in a relatively small geographic area” of two states).

And the citizens of the City of Cincinnati will reap substantial public benefits from the Transaction. The sale of the CSR Line to NSR will generate \$1.6 billion, which will be deposited into a trust fund for the sole benefit of the City. Distributions from the trust fund will be available to support needed investments in the City's infrastructure, including streets, bridges, parks, recreational facilities, and other public infrastructure.¹⁵ Indeed, the as the Mayor of Cincinnati observed in announcing the proposed sale, the Transaction presents "an historic opportunity to deliver great value to citizens of Cincinnati and realize a substantial return" on the city's investment.¹⁶

Applicants respectfully request that the Board find that the Transaction is a minor transaction under 49 C.F.R. § 1180.2(c).

APPLICATION INFORMATION

Congress has mandated that, in proceedings such as this one that do not involve the merger or control of at least two Class I rail carriers, the Board "shall approve" the transaction unless it finds both that: "(1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States;

¹⁵ See Appendix C, Mayor Pureval Support Statement at 2.

¹⁶ Press Release, City of Cincinnati, Mayor Aftab Announces Proposed Sale of Cincinnati Southern Railway to Norfolk Southern for \$1.6 Billion (Nov. 21, 2022), <https://www.cincinnati-oh.gov/cityofcincinnati/news/proposed-sale-of-cincinnati-southern-railway/> (noting that the sale proceeds will go into an infrastructure trust fund to support the rehabilitation and modernization of existing city infrastructure).

and (2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.” 49 U.S.C. § 11324(d).

The Board must approve a transaction under § 11324(d) unless it finds that it will cause “adverse competitive impacts that are both ‘likely’ and ‘substantial.’”¹⁷ Accordingly, the Board’s “primary focus is on whether there would be adverse competitive impacts that are both likely and substantial.”¹⁸ If so, public interest factors are considered. But even then, the Board may not disapprove a transaction unless the anticompetitive impacts outweigh the public benefits of the transaction.¹⁹

As demonstrated in this Application, the Transaction would clearly have no anticompetitive effects, let alone ones that are “likely” and “substantial.” The acquisition will allow Applicants to continue to operate the CSR Line, as they have for more than a century.²⁰ The only difference is that the leasehold interest in the CSR Line will be converted to a fee simple ownership interest. No shipper will lose a competitive rail option, as Applicants will continue to provide the same train services

¹⁷ *Norfolk S. Ry.—Acquisition & Operation—Certain Rail Lines of Del. & Hudson Ry.*, Docket No. FD 35873, slip op. at 14 (STB served May 15, 2015) (“*NS/D&H*”), *petition for rev. dismissed sub nom. Riffin v. STB*, No. 16-1043 (D.C. Cir. Mar. 31, 2017); *Canadian Nat’l Ry. & Grand Trunk Corp.—Control—EJ&E W. Co.*, Docket No. FD 35087, slip op. at 13 (STB served Dec. 24, 2008) (“*CN/EJ&E*”) (same).

¹⁸ *CN/EJ&E*, slip op. at 13; *see NS/D&H*, slip op. at 14 (“our primary focus is on the anticipated competitive effects”).

¹⁹ *See* 49 U.S.C. § 11324(d)(2); *NS/D&H*, slip op. at 14; *Paducah & Louisville Ry.—Acquisition—CSX Transp., Inc.*, Docket No. FD 34738, slip op. at 4 (STB served Nov. 18, 2005); *CN/EJ&E*, slip op. at 13.

²⁰ *CSX Transp., Inc.—Lease—W. & Atl. R.R.*, Docket No. FD 36220, slip op. at 3 (STB served Apr. 8, 2019) (finding that renewal of a lease where railroad did not plan changes in operation was “competitively neutral because it leaves CSXT in the same position that CSXT and its predecessors have occupied for more than a century”).

that they do today as part of the NSR system. Applicants will also continue to interchange traffic with connecting carriers in the same manner as they do today.

Applicants therefore request that the Board approve the Transaction. In support of this Application, and pursuant to the Board's regulations at 49 C.F.R. Part 1180, Applicants submit the following information:

1. Supporting Information

1180.6(a)(1)(i) *A brief summary of the proposed transaction, the name of the applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed.*

On November 21, 2022, Applicants executed an Asset Purchase and Sale Agreement ("PSA") with the Trustees. The PSA provides for the sale to NSR of the CSR Line, consisting of approximately 338.2 miles of rail line between Cincinnati, OH and Chattanooga, TN. In this Application, Applicants seek the Board's approval for NSR to acquire and operate the CSR Line. In the related verified notice of exemption filed in Docket No. FD 36699 (Sub-No. 1), CNOTP seeks to continue operating the CSR Line following consummation of the Transaction.

The Applicants involved in the Transaction are Norfolk Southern Railway Company, on behalf of itself and its wholly owned subsidiary, The Cincinnati, New Orleans and Texas Pacific Railway Company:

Norfolk Southern Railway Company
650 West Peachtree Street N.W.
Atlanta, GA 30308
(470) 463-6314

The Cincinnati, New Orleans and Texas Pacific Railway Company
650 West Peachtree Street N.W.

Atlanta, GA 30308
(470) 463-6314

Also involved in the Transaction as seller is:

Trustees of the Cincinnati Southern Railway
c/o City of Cincinnati Law Department
801 Plum Street, Suite 214
Cincinnati, OH 45202
(513) 352-4544

Questions and correspondence regarding this Application may be addressed to:

Raymond A. Atkins
Terence M. Hynes
Allison C. Davis
Sidley Austin LLP
1501 K Street, N.W.
Washington, DC 20005
(202) 736-8000
thynes@sidley.com

1180.6(a)(1)(ii) The proposed time schedule for consummation of the proposed transaction.

The Transaction will be consummated as soon as practicable after the Board's decision approving this Application becomes effective and upon satisfaction of all other conditions precedent to closing set forth in the PSA, including approval of the proposed sale by the voters of Cincinnati.

1180.6(a)(1)(iii) The purpose sought to be accomplished by the proposed transaction, e.g., operating economies, eliminating excess facilities, improving service, or improving the financial viability of the applicants.

Applicants seek authority for NSR to acquire and operate the CSR Line. NSR's subsidiary, CNOTP, has leased and operated the Line since 1881.²¹ As noted above,

²¹ *Supra* at 2.

upon consummation of the proposed sale, the lease between CNOTP and the Trustees will be terminated. However, in the related verified notice of exemption, CNOTP seeks authority to continue operating the CSR Line. Applicants do not contemplate any changes in day-to-day rail operations or the number of employees on the CSR Line as a result of the Transaction.

The purpose of the Transaction is to convert CNOTP's leasehold interest in the CSR Line to a fee simple ownership interest by NSR. The CSR Line is a critical north-south artery in the NSR network. The CSR Line links NSR's east-west lines between St. Louis, MO and Danville, KY, and between Memphis, TN and Chattanooga, TN, with other parts of the NSR system. An average of 40 trains traverse all or a portion of the CSR Line each day.²²

As explained in the accompanying Verified Statement of Michael R. McClellan, the terms of the CSR Line lease are subject to periodic renegotiation. Over time, those negotiations have become increasingly complicated and time-consuming, creating uncertainty regarding the cost of operating the CSR Line. Acquiring the CSR Line will eliminate the time, expense, and financial unpredictability associated with the need to renegotiate the terms of the CSR Line lease. Owning the asset will cement NSR's strategic investment decisions on the CSR Line, which plays a vital role in NSR's overall rail operations.²³ Finally, the sale will assure the availability of

²² See Exhibit 15, Operating Plan—Minor, Table 1.

²³ See Appendix B, V.S. McClellan, at 3.

uninterrupted, reliable rail service and the enhanced incentive to invest will promote Applicants' long-term ability to provide safe and reliable service to shippers.²⁴

1180.6(a)(1)(iv) *The nature and amount of any new securities or other financial arrangements.*

Applicants will not issue new securities to finance the Transaction. NSR anticipates that the purchase price will be paid from cash on hand and/or its credit facilities.

1180.6(a)(2) *A detailed discussion of the public interest justifications in support of the application, indicating how the proposed transaction is consistent with the public interest, with particular regard to the relevant statutory criteria, including:*

1180.6(a)(2)(i) *The effect of the transaction on inter- and intramodal competition, including a description of the relevant market (see § 1180.7). Include a discussion of whether, as a result of the transaction, there is likely to be any lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States.*

The Transaction will not result in a lessening of competition, creation of a monopoly, or restraint of trade in any region of the United States. NSR is acquiring a rail line has been operated as part of its system for more than a century. Indeed, the Board has recognized that “no adverse impact on competition” would result from a railroad acquiring a line that it had previously been leasing.²⁵

²⁴ See *id.* at 6.

²⁵ *V&S Ry.—Acquisition & Operation Exemption—Colo. Dep’t of Transp.*, Docket No. FD 35664, slip op. at 3 (STB served Nov. 13, 2012).

The Transaction will not reduce the number of competitive options available to any shipper—the number of rail carriers serving each shipper on the CSR Line will remain the same. Nor will any connecting railroad be foreclosed from interchange—Applicants will maintain the same interchanges with the same connecting carriers at the same locations where those railroads interchange traffic today.

Applicants do not plan to make operational changes as a result of the Transaction. The traffic on the CSR Line consists primarily of general merchandise and intermodal traffic moving overhead to/from other points on the NSR system, or to/from interchange with other railroads. Applicants will operate the same trains and maintain the same interchanges as they do today. The CSR Line also serves approximately 100 local on-line industries in diverse sectors, including chemicals, wood and pulp, automotive, manufacturing, steel, energy, and agriculture. No change to the current traffic mix is anticipated as a result of the Transaction.

Applicants will continue to invest in the CSR Line to ensure that it supports reliable and consistent rail service into the future. No anticipated competitive effects will result relative to other railroads, motor carriers, or intermodal competition at intermediate points.

1180.6(a)(2)(ii) ***The financial consideration involved in the proposed transaction, and any economies, to be effected in operations, and any increase in traffic, revenues, earnings available for fixed charges, and net earnings, expected to result from the consummation of the proposed transaction.***

Pursuant to the terms of the PSA, NSR will pay the Trustees, in cash, a base purchase price of \$1,600,000,000. In addition, the City will receive (i) an Accelerated

Transaction Fee of \$4,500,000 and (ii) under certain circumstances set forth in the PSA, a Deferred Transaction Fee of \$20,000,000.²⁶ As described above, operations over the CSR Line will not change as a result of the Transaction. Applicants do not anticipate an increase in traffic, revenues, earnings, or net earnings to result from the Transaction.

1180.6(a)(2)(iii) *The effect of the increase, if any, of total fixed charges resulting from the proposed transaction.*

To the extent that NSR utilizes its credit facilities to finance the purchase price, the Transaction will result in related interest expense.

1180.6(a)(2)(iv) *The effect of the proposed transaction upon the adequacy of transportation service to the public, as measured by the continuation of essential transportation services by applicants and other carriers.*

The Transaction will preserve the competitive and operational status quo. No harm to essential transportation services will occur. Applicants will continue to provide local and overhead rail service via the CSR Line, as has been done for more than a century. Essential services provided by other carriers will not be affected by the Transaction.

1180.6(a)(2)(v) *The effect of the proposed transaction upon applicant carriers' employees (by class or craft), the geographic points where the impact will occur, the time frame of the impact (for at least 3 years after consolidation), and whether any employee protection agreements have been reached.*

²⁶ The purchase price and the Deferred Transaction Fee are subject to possible increases based on the timing of closing and changes in the implicit price deflator through gross national product as published by the Bureau of Economic Analysis, all as set forth in Section 2.04 of the PSA.

Applicants do not plan to make any changes to the number of employees working on the CSR Line in connection with the Transaction. No employees of NSR or CNOTP will be dismissed or displaced as a result of the Transaction.

The Transaction is a line sale subject to Board approval pursuant to 49 U.S.C. § 11323(a)(2). In accordance with 49 U.S.C. § 11326 and Board precedent, the appropriate employee protective conditions to impose are those set out in *New York Dock Railway—Control—Brooklyn Eastern District Terminal*, 360 I.C.C. 60 (1979), *affirmed New York Dock Railway v. United States*, 609 F.2d 83 (2d Cir. 1979), *as modified by Wilmington Terminal Railroad—Purchase & Lease—CSX Transportation Inc.*, 6 I.C.C. 2d 799, 814-26 (1990), *affirmed sub nom. Railway Labor Executives' Association v. ICC*, 930 F.2d 511 (6th Cir. 1991).²⁷

1180.6(a)(2)(vi) *The effect of inclusion (or lack of inclusion) in the proposed transaction of other railroads in the territory, under 49 U.S.C. 11324.*

Inclusion is not available as a form of relief in a minor transaction. In any event, there is no basis for including another railroad in the Transaction because the Transaction will not adversely affect the ability of any other carrier to provide essential services.

²⁷ See *Bessemer & Lake Erie R.R.—Acquisition & Operation—Certain Rail Lines of CSX Transp., Inc. in Onondaga, Oswego, Jefferson, Saint Lawrence, & Franklin Counties, N.Y.*, Docket No. FD 36347, slip op. at 13–14 (STB served Apr. 6, 2020), *reh'g denied, appeal docketed sub nom. Bessemer & Lake Erie R.R. v. STB*, No. 21-1726 (7th Cir. 2021).

1180.6(a)(3)

Any other supporting or descriptive statements applicants deem material.

As described in the Verified Statement of Michael R. McClellan, acquisition of the CSR Line will eliminate the time, expense and financial unpredictability associated with renegotiation of the CSR Line lease, ensure NSR's long-term control of a vital portion of its rail network, and facilitate strategic investment decisions on the CSR Line.²⁸

As the support statement from Cincinnati Mayor Aftab Pureval demonstrates, the proposed sale of the CSR Line presents an important opportunity for the City of Cincinnati. Pursuant to legislation recently enacted by the State of Ohio, the proceeds of the sale will be deposited into a trust fund of which the City will be the sole beneficiary. The City will receive annual distributions from the fund to rehabilitate, modernize, or replace streets, bridges, parks, recreational facilities, and other public infrastructure.²⁹

Moreover, by converting its ownership of the CSR Line to beneficial ownership in a trust fund with a principal balance of \$1.6 billion, the City will diversify its investment portfolio and have the ability to pursue greater returns than the City receives in the form of lease payments from CNOTP. Specifically, Mayor Pureval anticipates that a "conservative return on the trust fund's \$1.6 billion principal would yield \$56 million, more than double the [\$25.5 million in] income under the current

²⁸ See Appendix B, V.S. McClellan, at 3.

²⁹ See Appendix C, Mayor Pureval Support Statement at 2.

CSR Line lease.”³⁰ At the same time, the Transaction will achieve the purpose of the current CSR Line lease—*i.e.*, to provide for reliable freight rail service without requiring the City to assume the burden of operating a railroad.

1180.6(a)(4) *An opinion of applicants’ counsel that the transaction meets the requirements of the law and will be legally authorized and valid, if approved by the Board. This should include specific references to any pertinent provisions of applicants’ bylaws or charter or articles of incorporation.*

The opinion of counsel is set forth in Appendix A.

1180.6(a)(5) *A list of the State(s) in which any part of the property of each applicant carrier is situated.*

NSR is a Class I carrier that operates approximately 19,300 route miles in the following states: Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New York, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

CNOTP is a Class III carrier that operates approximately 338.2 miles in the states of Tennessee, Kentucky, and Ohio.

1180.6(a)(6) *Map (exhibit 1). Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the map accompanying each*

³⁰ See *id.*

application, 20 unbound copies of the map shall be filed with the Board.

Exhibit 1 contains Map A showing NSR's system and Map B showing the CSR Line operated by CNOTP.

1180.6(a)(7)(i) Describe the nature of the transaction (e.g., merger, control, purchase, trackage rights), the significant terms and conditions, and the consideration to be paid (monetary or otherwise).

Applicants seek authority from the Board for NSR to acquire and operate the CSR Line, as described above in section 1180.6(a)(1)(i). The terms of the Transaction are set forth in the PSA set forth in Exhibit 2. The consideration for the purchase of the CSR Line is set forth above in section 1180.6(a)(2)(ii) and in Exhibit 2. In a related verified notice of exemption filed in Docket No. FD 36699 (Sub-No. 1), CNOTP seeks to continue to operate the CSR Line.

1180.6(a)(7)(ii) Agreement (exhibit 2). Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction. In addition, parties to exempt trackage rights agreements and renewal of agreements described at § 1180.2(d)(7) must submit one copy of the executed agreement or renewal agreement with the notice of exemption, or within 10 days of the date that the agreement is executed, whichever is later.

A copy of the Asset Purchase and Sale Agreement among NSR, CNOTP, and the Trustees is provided in Exhibit 2.

1180.6(a)(7)(iii) If a consolidation or merger is proposed indicate: (A) The name of the company resulting from the consolidation or merger; (B) the State or territory under the laws of which the consolidated company is to be formed or the merged company is to file its certificate of amendment; (C) the capitalization proposed for the resulting company; and (D) the

amount and character of the capital stock and other securities to be issued.

Not applicable.

1180.6(a)(7)(iv) Court Order (exhibit 3). If a trustee, receiver, assignee, or personal representative of the real party in interest is an applicant, submit a certified copy of the order, if any, of the court having jurisdiction, authorizing the contemplated action.

Not applicable.

1180.6(a)(7)(v) State whether the property involved in the proposed transaction includes all the property of the applicant carriers and, if not, describe what property is included in the proposed transaction.

The Transaction includes all of the rail assets of the Trustees. Certain real property owned by the Trustees and not used for rail purposes is excluded from the Transaction.³¹ The Transaction does not involve all of the property of NSR. The CSR Line is the entirety of the CNOTP system.

1180.6(a)(7)(vi) Briefly describe the principal routes and termini of the lines involved, the principal points of interchange on the routes, and the amount of main-line mileage and branch line mileage involved.

The CSR Line begins in the City of Cincinnati, Hamilton County, Ohio, at the point of connection to NSR estimated to be at or near calculated milepost 0.0±, and proceeds south to the point of connection to The Alabama Great Southern Railroad Company (a subsidiary of NSR) in the City of Chattanooga, Hamilton County, Tennessee, at or near calculated milepost 338.2±, together with all branch lines, sidings, and other appurtenant railroad facilities associated therewith.

³¹ See Exhibit 2, PSA, Exhibit B.

Interchange with other carriers occurs at the following locations:

- Chattanooga, TN: CSX Transportation, Inc. (“CSXT”), the Chattooga & Chickamauga Railway Co., and the East Chattanooga Belt Railway Company;
- Cincinnati, OH: CSXT, Indiana & Ohio Railway Company, and the Central Railroad Company of Indiana; and
- Lexington, KY: R. J. Corman Railroad Co./Central Kentucky Lines.

All current interchanges will remain in place and no changes are contemplated as a result of the Transaction.

1180.6(a)(7)(vii) *State whether any governmental financial assistance is involved in the proposed transaction and, if so, the form, amount, source, and application of such financial assistance.*

No governmental financial assistance is involved in the Transaction.

1180.6(a)(8) *Environmental data (exhibit 4). Submit information and data with respect to environmental matters prepared in accordance with 49 CFR part 1105. In major and significant transactions, applicants shall, as soon as possible, and no later than the filing of a notice of intent, consult with the Board’s Office of Environmental Analysis for the proper format of the environmental report.*

The Transaction does not require environmental information under 49 C.F.R. § 1105.6(c)(1) because the Transaction will not lead to operational changes exceeding the thresholds for environmental review in 49 C.F.R. § 1105.7(e)(4) & (5).

Because there will be no change in operations or traffic volumes as a result of the Transaction, the Transaction will not affect the transportation of energy resources (49 C.F.R. § 1105.7(e)(4)(i)); will not have an effect on recyclable commodities (49 C.F.R. § 1105.7(e)(4)(ii)); will not increase or decrease overall energy efficiency (49 C.F.R. § 1105.7(e)(4)(iii)); and will not divert a total of 1,000 carloads

per year or an average of 50 carloads per mile per year from the CSR Line (49 C.F.R. § 1105.7(e)(4)(iv)).

Similarly, the Transaction will not affect air quality because it will not result in an increase: (1) in rail traffic of at least 100 percent or of at least eight trains per day on any segment of the CSR Line; (2) in rail yard activity of at least 100 percent; or (3) in average truck traffic of more than 10 percent of the average daily traffic or 50 vehicles per day on any affected road segment. *See* 49 C.F.R. § 1105.7(e)(5)(i)(A)–(C).

Where the CSR Line passes through nonattainment areas under the Clean Air Act, the Transaction will not affect air quality since it will not result in either: (1) an increase in rail traffic of at least 50 percent or an increase of at least three trains a day on any segment of rail line; (2) an increase in rail yard activity of at least 20 percent; or (3) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment. 49 C.F.R. § 1105.7(e)(5)(i)(A)–(C).³²

For these reasons, the Transaction is not subject to environmental reporting requirements. *See* 49 C.F.R. § 1105.6(c).

Similarly, the Transaction does not require an historic report under 49 C.F.R. § 1105.8(b) because the Transaction is “for the purpose of continued rail operations where further STB approval is required to abandon any service and there are no plans

³² The CSR Line does not pass through a federal class I airshed. Of the eighteen counties the Line traverses, two of them—Kenton and Boone, KY—are in nonattainment of a criteria pollutant. *See* 49 C.F.R. § 1105.7(e)(5)(ii)(A)–(C).

to dispose of or alter properties subject to STB jurisdiction that are 50 years old or older.” 49 C.F.R. § 1105.8(b)(l). Applicants will continue to operate the CSR Line as they have for more than a century.

2. Operational Data

1180.8(c) *For minor transactions: Operating plan-minor (exhibit 15). Discuss any significant changes in patterns or types of service as reflected by the operating plan expected to be used after consummation of the transaction. Where relevant, submit information related to the following: (1) Traffic level density on lines proposed for joint operations. (2) Impacts on commuter or other passenger service operated over a line which is to be downgraded, eliminated, or operated on a consolidated basis. (3) Operating economies, which include, but are not limited to, estimated savings. (4) Any anticipated discontinuances or abandonments.*

CNOTP has continuously operated the CSR Line since 1881. The Transaction will simply convert a leasehold interest to a fee simple interest. Applicants do not plan any changes in current operations as a result of the Transaction. The Transaction will not result in an increase or decrease of rail traffic on the CSR Line. See Exhibit 15 (Operating Plan—Minor).

(1) Traffic level density on lines proposed for joint operations. There are no lines involved that will be used in joint operations with other carriers as a result of the Transaction, nor will the Transaction result in any change in traffic level density on the CSR Line.

(2) Impacts on commuter or other passenger service operated over a line which is to be downgraded, eliminated, or operated on a consolidated basis. There are no

passenger or commuter operations on the CSR Line, nor does the Transaction contemplate the introduction of passenger or commuter operations on the CSR Line. Therefore, there will be no impacts on commuter or other passenger service.

(3) Operating economies, which include, but are not limited to, estimated savings. Applicants do not expect any material operating economies as a result of the Transaction because there will be no changes in current operations as a result of the Transaction. Converting the leasehold interest to ownership may generate savings as assets amortized under the lease become depreciable assets. To the extent that NSR utilizes its credit facilities to finance the purchase price, the Transaction will result in related interest expense.

(4) Any anticipated discontinuances or abandonments. Rail service will not be discontinued or abandoned on any portion of the CSR Line as a result of the Transaction.

Pursuant to the PSA, Applicants have agreed to engage in good faith negotiations with the State of Ohio to donate NSR's East Peavine Line to the state as interim trail manager pursuant to 16 U.S.C. §§ 1241–51, on customary terms and subject to obtaining any required STB approval or exemption.³³ The East Peavine Line, which extends approximately 21.52 miles between Vera Junction, OH, and Rardon, OH, is not part of, nor does it connect with, the CSR Line.

³³ PSA at 4, 28.

CONCLUSION

For the reasons set forth above, Applicants respectfully request that the Board grant this Application in its entirety.

Respectfully submitted,

Nabanita C. Nag
Jason M. Morris
Thomas E. Zoeller
Hanna M. Chouest
Julianne C. Freeman
NORFOLK SOUTHERN RAILWAY COMPANY
650 West Peachtree Street N.W.
Atlanta, GA 30308

/s/ Raymond A. Atkins
Raymond A. Atkins
Terence M. Hynes
Allison C. Davis
Sidley Austin LLP
1501 K Street, N.W.
Washington, DC 20005
(202) 736-8000
thynes@sidley.com

*Counsel for Norfolk Southern Railway Company and The Cincinnati, New Orleans
and Texas Pacific Railway Company*

Dated: May 1, 2023

SIGNATURE OF APPLICANT'S OFFICER

49 C.F.R. 1180.4(c)(2)(i)

I, Nabanita C. Nag, declare under penalty of perjury that I am Executive Vice President and Chief Legal Officer of Norfolk Southern Corporation, Vice President of Norfolk Southern Railway Company ("NSR"), and Vice President of The Cincinnati, New Orleans and Texas Pacific Railway Company ("CNOTP"), which is a wholly owned subsidiary of NSR. I am duly authorized to sign, to verify, and to file this Application on behalf of NSR and CNOTP. The statements in this Application are true and correct to the best of my knowledge and belief.


Nabanita C. Nag

Executed on: April 21, 2023

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of May 2023, the foregoing Application in Docket No. FD 36699, including all exhibits, appendices, and attachments thereto, as well as the related Verified Notice of Exemption in Docket No. FD 36699 (Sub-No. 1), were served upon the following by first-class mail in accordance with 49 C.F.R. § 1180.4(c)(5): the Secretary of the United States Department of Transportation (c/o the Federal Railroad Administration); the Attorney General of the United States; the Federal Trade Commission; and the Governors, Public Service Commissions, and Departments of Transportation of the States of Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, and the District of Columbia.



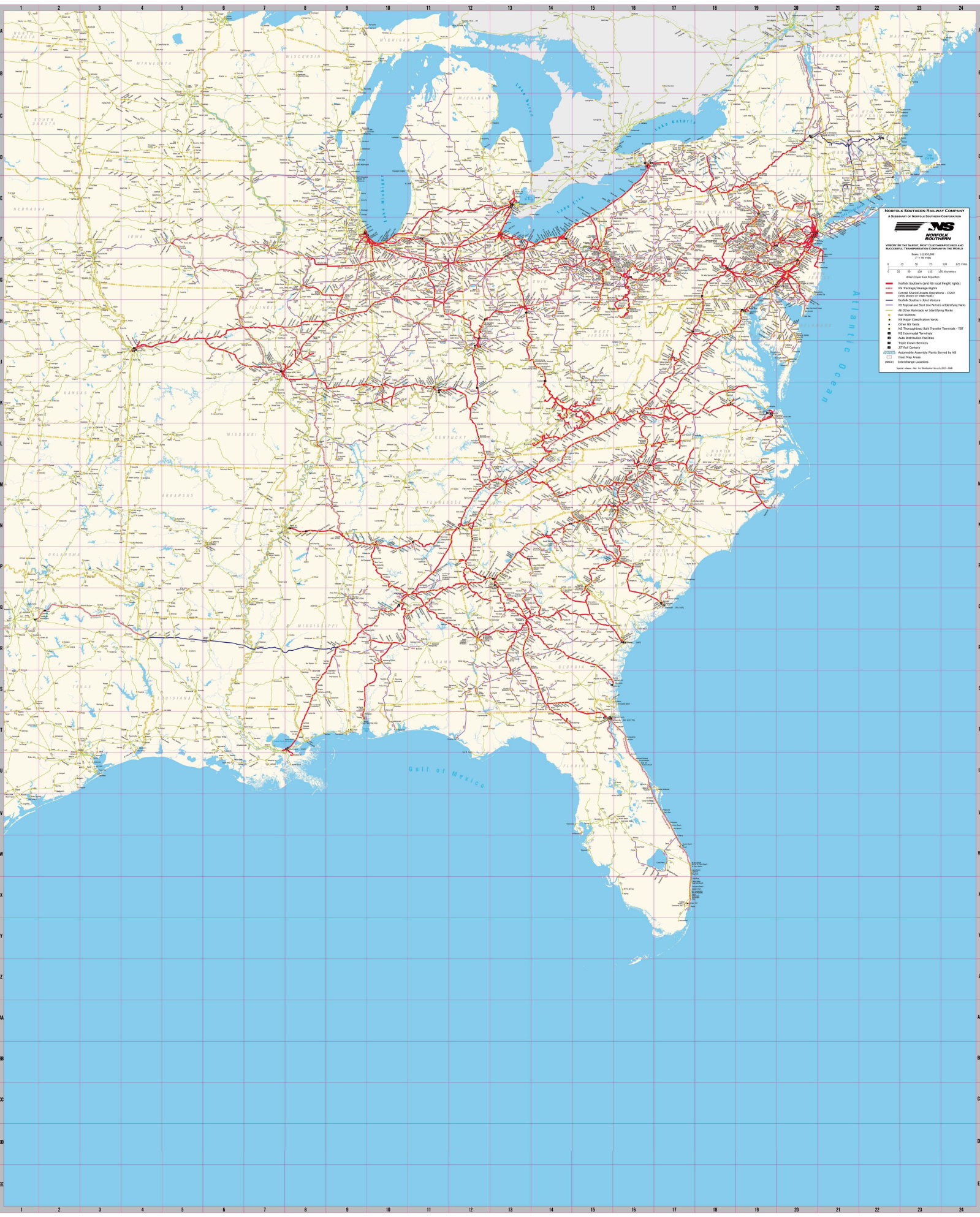
Stephen Laudone

EXHIBIT 1

MAPS

Map A

NSR System



NORFOLK SOUTHERN RAILWAY COMPANY
A Division of Norfolk Southern Corporation

NS
NORFOLK SOUTHERN

VISION: IN THE EAST, NORTH AND SOUTH, WE ARE THE LEADER IN RAIL TRANSPORTATION. IN THE WEST, WE ARE THE LEADER IN LOGISTICS.

Scale: 1:1,000,000
1" = 60 miles

0 25 50 100 150 miles

0 25 50 100 150 kilometers

- Active Main Line
- Norfolk Southern Class 1 Freight Right
- NS Trackage Rights
- Central Freight Lines (CFL) - CSX
- Norfolk Southern Joint Venture
- All Other Railroads or Identifying Marks
- All Stations
- NS Major Classification Yards
- All NS Yards
- NS Throughput Bulk Transfer Terminals - TBT
- NS Intermodal Terminals
- Auto Intermodal Facilities
- Truck Transfer Terminals
- Barge Transfer Terminals
- Airport Terminals
- Seaport Terminals
- Intermodal Terminals

© 2000 Norfolk Southern Corporation

Map B

CNOTP System / CSR Line

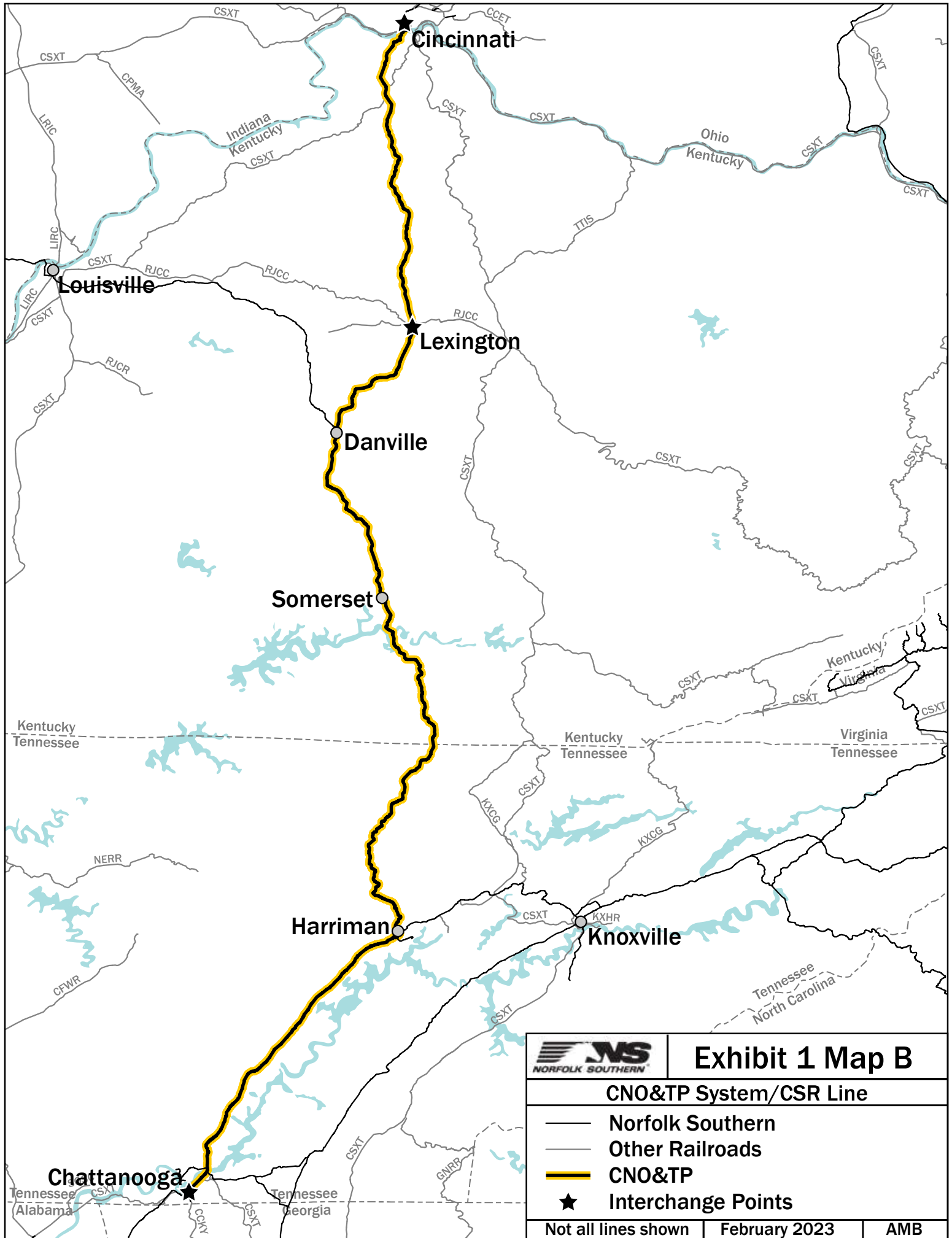


Exhibit 1 Map B

CNO&TP System/CSR Line

- Norfolk Southern
- Other Railroads
- CNO&TP
- Interchange Points

Not all lines shown February 2023 AMB

EXHIBIT 2
AGREEMENT

ASSET PURCHASE AND SALE AGREEMENT

dated as of November 21, 2022

between

Board of Trustees of the Cincinnati Southern Railway,

Norfolk Southern Railway Company and

The Cincinnati, New Orleans and Texas Pacific Railway Company

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ASSET PURCHASE AND SALE AGREEMENT

THIS ASSET PURCHASE AND SALE AGREEMENT (this “Agreement”) is made as of the 21st day of November, 2022, by and among Norfolk Southern Railway Company, a Virginia corporation (“Buyer”), The Cincinnati, New Orleans and Texas Pacific Railway Company, an Ohio corporation (“CNOTP”), and the Board of Trustees of the Cincinnati Southern Railway, a board of trustees organized under the State of Ohio (“Seller”).

RECITALS:

A. Seller owns the railroad starting at approximately Milepost 0.5 in Cincinnati, Ohio, extending through Kentucky, and ending at approximately Milepost 337.4 in Chattanooga, Tennessee, as further described at Exhibit A, and depicted at Exhibit A-1, each attached hereto and made a part hereof (the “Line”).

B. Seller currently leases and has leased the Line for operation by CNOTP pursuant to the Existing Lease (as defined herein) since October 11, 1881, with CNOTP being an Affiliate of Buyer.

C. Seller has agreed to sell, and Buyer has agreed to purchase, in accordance with the terms of this Agreement, all right, title and interest of Seller in all real property held by Seller in conjunction with Seller’s oversight and management of the Cincinnati Southern Railway, including (1) the Line; (2) certain real property associated with the Line; (3) real property interests acquired by Seller in conjunction with its ownership of the Line; (4) real property underlying the Line; (5) real property adjacent to or detached from the Line; and (6) all associated rights, interests, privileges, fixtures, improvements, and appurtenances otherwise associated therewith (the “Real Property”), together with all of Seller’s right, title and interest in all personal property used in the operation of the Line, including all of Seller’s rights in and to the fund maintained by CNOTP pursuant to Section 3(f) of the 1987 Supplementary Agreement and personal property consisting

of or associated with facilities, equipment, roadbed, track (including, without limitation, all main track, side tracks, spur tracks, connecting tracks, yard tracks, industry tracks, and team tracks), connections, ties, bridges, ballasts, signage, stations, track fastening, culverts, ditches, structures, communications and signal facilities, parking and storage areas, depots, yards, shops, buildings, and all other improvements, fixtures, appurtenances, and interest (whether tangible or intangible) owned, used, held for use, or otherwise possessed by Seller located on, in, under, above, or adjacent to the Line (the “Personal Property”) (the Line, Real Property, Personal Property, and all other associated rights, interests, privileges, licenses, agreements, and appurtenances otherwise associated therewith (but excluding the Excluded Assets), and as further described in Section 2.01(a), collectively, the “Acquired Assets”).

D. Norfolk Southern Corporation, a Virginia corporation and as the ultimate parent corporation of Buyer and CNOTP, has agreed to fully and unconditionally guarantee the obligations of Buyer and CNOTP under this Agreement pursuant to a separate guaranty agreement (the "Guaranty") dated the date hereof.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, and with the foregoing recitals incorporated as more fully set forth herein, the Parties hereby agree as follows:

I. DEFINITIONS

1.01. Defined Terms. As used herein, the following terms shall have the meanings specified in this Section 1.01 as follows:

“1987 Supplementary Agreement” – The Supplementary Agreement entered into as of January 1, 1987 between Seller and CNOTP.

“2023 Voter Approval Month” – As defined in Section 2.04(b).

“2024 Voter Approval Month” – As defined in Section 2.04(c).

“Accelerated Transaction Fee” - \$4,500,000.

“Acquired Assets” – As defined in the Recitals.

“Affiliates” – As defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended, and, solely as it pertains to Seller, the Public Parties.

“Agreement” – As defined in the Preamble.

“Assignment and Assumption Agreement” – The assignment and assumption agreement in the form set forth in Exhibit E attached hereto and made a part hereof.

“Assumed Obligations” – As defined in Section 2.04(d).

“Base Purchase Price” – Subject to Section 2.04(b) and Section 2.04(c), \$1,600,000,000.

“Bill of Sale” – The bill of sale in the form set forth in Exhibit D attached hereto and made a part hereof.

“Business Day” – Any day except Saturday, Sunday or any other day on which commercial banks located in Cincinnati, Ohio are authorized or required by law to be closed for business.

“Buyer” – As defined in the Preamble.

“Cincinnati Voter Approval” – Voter approval of the sale of the Line by the voters of the City of Cincinnati as required by the laws of the State of Ohio.

“Cincinnati Voter Rejection” – Rejection of the sale of the Line by the voters of the City of Cincinnati.

“Claims” – Any and all demands, claims, actions or causes of action, suits, proceedings, investigations, assessments, losses, damages, liabilities, costs and expenses, including interest, penalties and attorneys’ fees and disbursements, Third Party Claims, and other costs and expenses.

“Closing” – As defined in Section 3.01.

“Closing Date” – As defined in Section 3.01.

“CNOTP” -- As defined in the Preamble.

“Code” – The Internal Revenue Code of 1986, as amended.

“Contracts” – Contracts, agreements, easements, franchises, rights-of-way, licenses, leases, commitments, arrangements and understandings to which Seller is a party that relate to the Line or its operations, including Pipe and Wire Crossing Agreements, Property Services Agreements, limited distribution tariff agreements, clearance agreements and the like and which are not Excluded Assets.

“Credit Pool” – As defined in Section 2.04(b).

"Credit Pool Additive" – As defined in Section 2.04(c).

“Deeds” – Quit-claim deeds in the form set forth in Exhibit C attached hereto and made a part hereof.

“Deferred Transaction Fee” – Subject to Section 2.04(b) and Section 2.04(c), \$20,000,000.

“Drop Dead Date” – The date that is the later of: (i) June 30, 2025, and (ii) the calendar day immediately following the Primary Date.

“East Peavine Line” -- The real property and other assets comprised of approximately twenty (20) miles of the CT segment located West/Northwest of Vera Junction as further described on Exhibit G attached hereto and made a part hereof.

“East Peavine Line Transaction Documents” – The prospective agreement, documents and instruments to be negotiated between Buyer and the State of Ohio pursuant to which Buyer shall, subject to obtaining any required STB approval or exemption, donate the East Peavine Line to the State of Ohio, as interim trail manager, including a quitclaim deed of donation.

“Encumbrances” – Any mortgage, pledge, option, lien, claim, security interest, agreement, easement, equitable interest, restriction, license, lease, right of reverter, right of entry, right of first refusal, encumbrance or charge (whether arising by contract or operation of law) related to the Acquired Assets or any part thereof, including (i) any general real estate Taxes or special assessments not yet due and payable; (ii) existing laws, orders and regulations, including applicable zoning laws and regulations; (iii) all tenancies, encumbrances, easements, rights, trackage rights, conditions, reservations, leases, licenses, permits, privileges, agreements, third-party agreements, covenants, restrictions, rights of re-entry, possibilities of reverter, and defects in title, whether or not of record or as would be disclosed by a complete and accurate survey and physical inspection of the Acquired Assets and inspection of the title thereto that affect the Real Property as of the Closing Date; (iv) whatever rights the public may have to the use of any roads, alleys, bridges or streets on or crossing the Real Property or streams, rivers, creeks and waterways passing under, across or through the Real Property; and (v) Pipe and Wire Crossing Agreements and any pipes, wires, poles, cables, culverts, drainage courses or systems, or other facilities on or crossing the Real Property together with the rights, if any, of Persons entitled to maintain, repair, renew, replace, use or remove the same.

“Environmental Law” – Any federal, state, local or common law, rule, regulation, ordinance, code, order, decree, judgment, permit requirement, or other requirement of any Governmental Authority, in effect as of the date of this Agreement or at any time thereafter, relating to (i) the pollution or protection of the environment (including air, land, soil, soil vapor, surface waters, ground waters, stream and river sediments, and biota); or (ii) the use, generation, storage, treatment, disposal, processing, transportation (except for transportation as a common carrier), handling, release, emission or remediation of, or exposure to, Hazardous Substances,

including the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. §§ 9601 et seq., the Resource Conservation and Recovery Act (“Solid Waste Disposal Act” or “RCRA”), 42 U.S.C. §§ 6901 et seq., the Clean Air Act, 42 U.S.C. §§ 7401 et seq., the Safe Drinking Water Act, 42 U.S.C. §§ 330f et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101 et seq., and the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2601 et seq.

“Environmental Liabilities” – Claims, judgments, damages (including consequential and punitive damages), losses, penalties, fines, obligations, commitments, liabilities, Encumbrances, violations, costs and expenses (including attorneys’, consultants’ and engineering fees) arising under any Environmental Laws (whether at law or in equity) or in any way relating to (i) the environment (including air, land, soil, soil vapor, surface waters, ground waters, stream and river sediments, and biota); (ii) the presence, use, generation, storage, treatment, disposal, processing, transportation (except for transportation as a common carrier), handling, release, emission or remediation of, or exposure to, Hazardous Substances; or (iii) impacts on human health and safety resulting from the foregoing, including, without limitation, investigation, remediation, clean-up, corrective action, monitoring, or defense of any matter arising under any Environmental Laws, of whatever kind or nature, whether known or unknown, asserted or unasserted, fixed, absolute or contingent, matured or unmatured, accrued or unaccrued, liquidated or unliquidated or due or to become due, whether or not resulting from the actual or alleged violation of or noncompliance with any Environmental Laws.

“Excluded Assets” – All assets of Seller not expressly included in the definition and description of the Acquired Assets as set forth on Exhibit B attached hereto and made a part hereof.

“Excluded Liabilities” – As defined in Section 2.03.

“Existing Lease” – That certain Lease between Seller and CNOTP, dated as of October 11, 1881, as amended and supplemented, including without limitation by the 1987 Supplementary Agreement.

“Formal Announcement” – The passage of a resolution by Seller formally announcing the proposed sale of the Acquired Assets as required by Ohio law, thereby setting the date of the election for the Cincinnati Voter Approval.

“Governmental Authority” – Any governmental body, whether federal, state or local, including any agency, board, bureau, court, commission, department, instrumentality, regulatory authority, or administration of any governmental body, with jurisdiction over the applicable subject matter.

“Governmental Order” – Any order, writ, judgment, injunction, decree, stipulation, decision, authority, notice, determination or award entered by or with any Governmental Authority, including by the STB.

"Guaranty" - As defined in the Recitals.

“Hazardous Substances” – All hazardous or toxic materials or substances, wastes, pollutants, contaminants, or terms of similar meaning, and all other materials or substances that are subject to regulation, defined, or may give rise to any responsibilities or liabilities under any Environmental Law.

“IPD-GNP” – The implicit price deflator through gross national product as published by the Bureau of Economic Analysis.

“IPD Increase” - As defined in Section 2.04(b).

“Labor Protection” – (i) Any and all costs, expenses, legal fees and payments incurred by Seller, including benefits, bonuses, allowances, and arbitration, administrative and litigation

expenses, arising out of any agreement with, or claims or grievances made or lawsuits brought by or on behalf of, employees of Seller or their collective bargaining representatives, in each case pursuant to statute, employee protective conditions imposed by a Governmental Authority, a collective bargaining agreement or any agreement entered into with such employees or their collective bargaining representatives in connection with the transactions contemplated by this Agreement; and (ii) any and all costs and expenses incurred by Seller in connection with any preemptive legal actions undertaken by Seller, including costs and expenses associated with defending any related counterclaims of employees of Seller or their collective bargaining representatives, that are related to matters contemplated by clause (i) above or otherwise related to implementation of the transactions contemplated by this Agreement from the standpoint of collective bargaining.

“Line” – As defined in the Recitals.

“Line Agreements” – As defined in Section 2.01(ii).

“Material Adverse Effect” – Any event, change, development, circumstance or effect that is materially adverse to (x) the ability of Buyer to use and operate the Acquired Assets in substantially the same manner as the Acquired Assets were used and operated by Buyer prior to the date hereof, or (y) the ability of Buyer or CNOTP or Seller to consummate the transactions contemplated by this Agreement; *provided, however*, that "Material Adverse Effect" shall not include any event, occurrence, fact, condition, or change directly or indirectly arising out of or attributable to: (i) the consummation of any action required by this Agreement, (ii) any failure to meet projections and forecasts; *provided* that this clause (ii) shall not prevent a determination that any event, change, development, circumstance or effect (whether short-term or long-term), not otherwise excluded from this definition of Material Adverse Effect, that results in such failure to

meet projections or forecasts has resulted in a Material Adverse Effect, (iii) changes, events or occurrences arising from general business conditions or affecting the rail industry generally (including COVID-19 and variants thereof); *provided*, that, in the case of clause (iii) if such fact, circumstance, change, event, occurrence or effect disproportionately affects the Acquired Assets, taken as a whole, compared to other companies in the industry in which the Buyer operates, then, such impact or impacts shall be taken into account in determining whether there has been a Material Adverse Effect, (iv) any change, effect or circumstance resulting from the announcement of this Agreement, or (v) conditions caused by acts of terrorism or war (whether or not declared) or any man-made disaster or acts of God.

“Operative Documents” – Assignment and Assumption Agreement, Bill of Sale, Deeds, Guaranty, Termination of Existing Lease, all required affidavits and state transfer forms delivered at Closing pursuant to this Agreement, and the certificates in the forms set forth in Exhibits H, I and J, each attached hereto and made a part hereof.

“Parties” – Collectively, CNOTP, Buyer and Seller.

“Party” – Each of CNOTP, Buyer and Seller.

“Person” – Any natural person, proprietorship, partnership (limited or general), corporation, limited liability company, organization, firm, business, joint venture, association, trust or other entity, but excluding the Parties and their respective Affiliates where the context requires.

“Personal Property” – As defined in the Recitals.

“Pipe and Wire Crossing Agreements” – Easements, license agreements, and/or rights of entry agreements, pertaining to above- and below-ground pipes, conduits, wires, cables, casings, inner ducts and other appurtenant materials, equipment and facilities installed, maintained and

operated on and through the rights-of-way and the roadbed of the Real Property, and other crossings related to water, gas, sanitary sewer, storm sewer, pipelines, drains, ditches, irrigation, and conveyor facilities.

“Primary Date” – The date on which polls are open for the primary election with respect to elected offices for the City of Cincinnati to be held in calendar year 2025.

“Proceeding” – Any claim, charge, audit, investigation, hearing, litigation, suit, action (including regulatory action) or proceeding, whether judicial, civil, criminal or administrative (including arbitration and any other alternative dispute resolution procedure).

“Property Services Agreements” – Easements, license agreements and/or rights of entry agreements pertaining to: cell towers, antennas, radio equipment, radar, fiber optics, power transmission facilities (but not power distribution facilities), rail sidings, spur track or industrial track, road crossings, laser transmission systems, wirelines and pipelines running generally parallel to the right-of-way, signboards, timber management and farm management, on or under the Real Property.

“Public Parties” – Collectively, Seller and the City of Cincinnati.

“Purchase Price” – The Base Purchase Price plus the Accelerated Transaction Fee plus the Deferred Transaction Fee.

“Real Property” – As defined in the Recitals.

“Real Property Interests” – Leases, licenses, easements, permits or other interests in or right to enter upon the Real Property.

“Required Consent Contract” – As defined in Section 2.08(a).

“Seller” – As defined in the Preamble.

“Seller Released Parties” – As defined in Section 5.05(c).

“Settlement Agent” – Such third party as Buyer may retain, at Buyer’s sole cost and expense, to administer the Closing and otherwise assist in facilitating the transactions contemplated by this Agreement.

“State Law Change” – A state law change passed by the State of Ohio legislature and signed into law meeting the requirements of Seller with respect to the conduct of the transactions contemplated by this Agreement.

“STB” – United States Surface Transportation Board.

“STB Order” – The order, decision or notice of exemption entered by the STB that (i) approves or exempts the transactions contemplated by this Agreement and (ii) subject to Section 12.05(a) of this Agreement, does not impose any condition granting trackage, haulage or other operating or access rights or terms (*e.g.*, rates or terms of service or interchange) to one or more railroads that, in the reasonable judgment of Buyer, is likely to materially impact Buyer’s anticipated benefits to be obtained hereunder; *provided*, however, that if more than one order is issued by the STB in connection with such contemplated transactions, all such orders shall for purposes of this Agreement, unless otherwise indicated, be referred to collectively as the STB Order.

“Tax” or “Taxes” – All federal, state, local, foreign and other taxes, customs, duties, fees, levies, assessments or charges of any kind whatsoever, including all net income, gross income, gross receipts, sales, use, ad valorem, transfer, franchise, profits, license, withholding, payroll, employment, excise, estimated, severance, stamp, occupation, real or personal property, business, documentary, registration, filing, recordation, unemployment, worker’s compensation, commercial rent, premium, windfall profits, deemed profits, lease, capital, production, corporation, value added, bulk sale or other taxes, customs, duties, fees, levies, assessments or

charges of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amounts imposed by any Governmental Authority (domestic or foreign) regardless of whether disputed or whether related to the filing of a Tax Return (or the failure to file a Tax Return).

“Tax Return” – Any report, return, document, declaration or other information or filing (including any amendment thereto) with respect to Taxes required by law to be supplied to any Governmental Authority or to be collected or maintained, including information returns, any documents accompanying payments of estimated Taxes, or requests for the extension of time in which to file any such report, return, document, declaration or other information or filing.

“Termination Fee” – An amount equal to the Deferred Transaction Fee that would be payable upon Closing if Closing occurred on the date of termination of this Agreement under Section 12.06.

“Termination of Existing Lease” – The document terminating the Existing Lease and related documents in the form set forth in Exhibit F attached hereto and made a part hereof.

“Third Party Claims” – As defined in Section 13.03.

“WARN Act” – Worker Adjustment and Retraining Notification Act, 29 U.S.C. §§ 2101 et seq.

Other Definitional Provisions. Unless otherwise stated, terms, phrases and expressions used in this Agreement (whether or not capitalized) which pertain to railroad operations and service shall have the meaning commonly given such terms under common usage and practice of the railroad industry in 2022. All personal pronouns used in this Agreement shall include the other genders whether used in the masculine or feminine or neuter gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as “herein”, “hereof”,

“hereby”, “hereunder” and “hereinafter” refer to this Agreement as a whole and not to the particular sentence, paragraph or Section where they appear, unless the context otherwise requires. The term “including” shall mean, and shall be interpreted as though such term were, the phrase “including, without limitation,” in each place where such term appears. Whenever reference is made to a Section of this Agreement, such reference is to the Section as a whole, including all of the subsections and paragraphs of such Section, unless the reference is expressly made to a particular subsection or paragraph of such Section. All references in this Agreement to “\$” or “dollars” shall refer to the currency of the United States of America.

II. SALE AND PURCHASE OF ACQUIRED ASSETS; TRANSFER OF LINE AGREEMENTS.

2.01. Sale and Purchase of Acquired Assets. Subject to the terms and conditions hereof, Seller agrees to sell, transfer, assign, and convey to Buyer, and Buyer agrees to purchase from Seller for the Purchase Price, all of Seller’s right, title and interest in or to the Acquired Assets, subject in each case to all and any Encumbrances. Subject to Section 2.02, the Acquired Assets, without duplication, consist of all of Seller’s right, title and interest in and to:

- (i) the Line;
- (ii) subject to Section 2.08, all rights under Contracts related to or associated with the Line (“Line Agreements”), including the Line Agreements listed in Schedule 2.01(ii) attached hereto and made a part hereof;
- (iii) all Real Property and Real Property Interests; and
- (iv) all Personal Property.

2.02. Excluded Assets. It is expressly understood and agreed that, notwithstanding the provisions of Section 2.01, the Acquired Assets shall not include the Excluded Assets.

2.03. Excluded Liabilities. Buyer shall not assume or be obligated to pay, perform or otherwise discharge any of the following liabilities of Seller (all of such liabilities not so assumed by Buyer being referred to herein as the “Excluded Liabilities”):

- (a) any liabilities arising out of or related to the Excluded Assets;
- (b) liabilities arising out of or related to indebtedness for borrowed money;
- (c) any liability of Seller in respect of any breach of or default under, or any non-compliance with respect to, any Line Agreements by Seller to the extent arising out of, relating to or resulting from any act, error or omission of Seller occurring at or prior to Closing;
- (d) any payment obligation of Seller for any goods or services provided to Seller under any Line Agreement prior to Closing; and
- (e) to the extent such obligations exist, any liability of Seller to indemnify any Person by reason of the fact that such Person was a partner, manager, trustee, director, officer, employee or agent of Seller or any of its Affiliates or was serving at the request of any such Person as a partner, manager, trustee, director, officer, employee or agent of another Person.

2.04. Purchase Price.

(a) Payment of Purchase Price. Subject to the terms and conditions of this Agreement, the Purchase Price for the Acquired Assets shall be payable pursuant to the terms and conditions of this Agreement in cash from Buyer (through a Settlement Agent if Buyer shall so elect) to Seller (without defense, setoff, counterclaim or withholding, but subject to any applicable deductions for Seller expenses or costs that Seller has agree to assume herein and have been paid by Buyer) as follows, in each case by wire transfer of immediately available funds to a bank account to be designated in writing by Seller to Buyer (or Settlement Agent, if applicable) not less than five (5) Business Days prior to the applicable payment:

(i) The Accelerated Transaction Fee is due and payable on the date hereof. The Accelerated Transaction Fee is non-refundable and shall not be returned to Buyer if the Closing does not occur.

(ii) The Base Purchase Price and the Deferred Transaction Fee are due and payable upon Closing.

(b) IPD-GNP Escalation - 2024. If the Closing has not occurred on or before December 31, 2023, the Base Purchase Price and the Deferred Transaction Fee shall be increased on January 1, 2024 by the lesser of the year-over-year percentage increase in IPD-GNP (an “IPD Increase”) or one and one-half percent (1.5%) except that:

(i) if there is no IPD Increase as of January 1, 2024 then there shall be no adjustment made on January 1, 2024;

(ii) if the IPD Increase applicable as of January 1, 2024 exceeds 1.5% (e.g., 2% as of January 1, 2024), then the Base Purchase Price and Deferred Transaction Fee as of January 1, 2024 shall be increased by 1.5% and the amount in excess of 1.5% (e.g., 0.5% based on the preceding example) shall be applied to a credit pool (the “Credit Pool”);

(iii) notwithstanding subsection (ii) above, there will be no adjustment to the Base Purchase Price or the Deferred Transaction Fee on January 1, 2024 if Seller shall have received the Accelerated Transaction Fee prior to January 1, 2024 and both of the following conditions have been satisfied: (A) the condition precedent in Section 11.03 (Cincinnati Voter Approval) has been satisfied by November 15, 2023 (the calendar month in which such satisfaction occurs the “2023 Voter Approval Month”), and (B) the condition precedent identified in Section 10.01 and Section 11.01 shall have been satisfied by the end of the eighth (8th) calendar month following the end of the 2023 Voter Approval Month; and

(iv) any Credit Pool balance that remains as of the Closing Date shall expire unused.

(c) IPD-GNP Escalation - 2025. If the Closing has not occurred on or before December 31, 2024, the Base Purchase Price and the Deferred Transaction Fee, as they may have been increased pursuant to Section 2.04(b), shall be increased on January 1, 2025 by the lesser of the associated IPD Increase or one and one-half percent (1.5%) except that:

(i) if there is no IPD Increase and no Credit Pool balance as of January 1, 2025, then there shall be no adjustment made on January 1, 2025;

(ii) if Cincinnati Voter Approval is obtained on or before November 15, 2023, then there shall be no adjustment made on January 1, 2025;

(iii) subject to subsection (ii) above, if the IPD Increase applicable as of January 1, 2025 exceeds 1.5% (e.g., 2% as of January 1, 2025), then the Base Purchase Price and Deferred Transaction Fee, as they may have been increased pursuant to Section 2.04(b), shall be increased by 1.5%, and the amount in excess of 1.5% (e.g., 0.5% based on the preceding example) shall be applied to the Credit Pool;

(iv) subject to subsection (ii) above, if the IPD Increase applicable as of January 1, 2025 is less than 1.5% (e.g., 1.25% as of January 1, 2025) and the amount in the Credit Pool immediately prior to January 1, 2025 is greater than zero (e.g., 0.5% based on the example in Section 2.04(b)), then an amount shall be deducted from the Credit Pool (a “Credit Pool Additive”) and added to the IPD Increase to either increase the IPD Increase to a maximum of 1.5% (e.g., $1.25\% + .25\% = 1.5\%$, with the resulting Credit Pool balance of .25% based on the preceding examples in this Section 2.04(c) and in Section 2.04(b)) or, if the Credit Pool balance immediately prior to January 1, 2025 is insufficient to reach 1.5%, exhaust the Credit Pool, and the Base

Purchase Price and Deferred Transaction Fee, as they may have been increased pursuant to Section 2.04(b), shall be increased by the sum of the IPD Increase and the Credit Pool Additive;

(v) notwithstanding subsections (iii) and (iv) above, there will be no adjustment to the Base Purchase Price or the Deferred Transaction Fee (beyond any adjustment that may have been made on January 1, 2024) on January 1, 2025 if Seller shall have received the Accelerated Transaction Fee prior to January 1, 2024 and both of the following conditions have been satisfied: (A) the condition precedent in Section 11.03 (Cincinnati Voter Approval) has been satisfied by November 15, 2024 (the calendar month in which such satisfaction occurs the “2024 Voter Approval Month”), and (B) the condition precedent identified in Section 10.01 and Section 11.01 shall have been satisfied by the end of the eighth (8th) calendar month following the end of the 2024 Voter Approval Month; and

(vi) any Credit Pool balance that remains as of the Closing Date shall expire unused.

(d) Assumed Obligations. As additional consideration for the Acquired Assets, Buyer shall assume the following obligations and liabilities of Seller (the “Assumed Obligations”):

(i) obligations and liabilities of Seller (if any) arising before (except to the extent such obligations are imposed on Seller under the Existing Lease) or after the Closing Date under Real Property Interests and Contracts assigned to Buyer pursuant to the provisions hereof or under Line Agreements, as provided in Section 2.08(b);

(ii) except for any income tax liability Seller may incur from Seller selling the Acquired Assets to Buyer, all obligations, commitments and liabilities of the Public Parties, of whatever nature, whether known or unknown, asserted or unasserted, fixed, absolute or contingent, matured or unmatured, accrued or unaccrued, liquidated or unliquidated or due or to

become due, which relate to the condition of the Real Property and the other Acquired Assets arising before or after the Closing Date, or which relate exclusively to the ownership, condition or operation of the Acquired Assets arising before or after the Closing Date, including those arising under statutes, rules, regulations and effective or pending orders of Governmental Authorities;

(iii) all Environmental Liabilities of the Public Parties arising before or after the Closing Date which arise out of or are related in any way to the condition, ownership or use of the Real Property or the Line Agreements or any other Acquired Assets, including without limitation (A) any environmental contamination or other condition, or the presence of Hazardous Substances, on the Real Property or other Acquired Assets, whether such contamination or Hazardous Substances are located on or under the Real Property or other Acquired Assets or have migrated or will migrate from or to the Real Property or other Acquired Assets, and (B) the handling, use, treatment, removal, storage, decontamination, cleanup, transport (except for transportation as a common carrier) or disposal of, or exposure to, Hazardous Substances, whether such conditions and/or Environmental Liabilities are known or unknown, suspected or unsuspected, contemplated or un contemplated, and whether or not such conditions were caused by Seller or predecessors or Affiliates of Seller.

2.05. Real Estate Taxes. No pro-rations shall be made for real estate taxes, and, in addition to the Purchase Price, CNOTP shall pay all Taxes assessed against the Acquired Assets that are due and payable as of the Closing Date, and Buyer shall pay all Taxes assessed against the Acquired Assets that become due and payable after the Closing Date.

2.06. Buyer Title/Survey. Buyer, or CNOTP, as applicable, may undertake examination of title to, and may perform surveying of, any aspect of the Acquired Assets prior to Closing as Buyer, or CNOTP, deems necessary, at Buyer's sole cost and expense. Buyer, or CNOTP, may

elect to procure title insurance commitments for any portion of, or all, of the Acquired Assets prior to Closing as Buyer or CNOTP deems necessary, at Buyer's sole cost and expense. While Seller agrees to execute documentation reasonably necessary for Buyer to obtain such coverage, (a) Seller shall not be under any obligation to cure any defects or Encumbrances revealed by such examination that may affect any aspect of the Acquired Assets, and (b) Seller shall not be required to execute an Affidavit of Title or any other similar documents pertaining to title, it being acknowledged by Buyer that Seller is selling the Acquired Assets "as is." Neither any finding disclosed by the examination described above nor Buyer's, or CNOTP's, failure to obtain title insurance at rates, and without exceptions, acceptable to Buyer or CNOTP, as the case may be, shall affect Buyer's obligations to proceed to Closing as otherwise set forth herein. Seller agrees to reasonably cooperate with Buyer's efforts to obtain any subdivision, or other similar effort, to give full effect to the transfer of the Acquired Assets as contemplated by this Agreement. Buyer shall reimburse Seller for any out-of-pocket costs or expenses Seller incurs in connection with such cooperation.

2.07. [Reserved]

2.08. Required Consent Contracts.

(a) Anything in this Agreement to the contrary notwithstanding, Seller shall be under no obligation to assign or otherwise sell, convey or transfer any Line Agreement (or any claim, right or benefit arising thereunder or resulting therefrom) prior to receiving any required consent or approval of a third party for such assignment, conveyance or transfer, or to enter into any other agreement or arrangement with respect thereto, if an attempted assignment, sale, conveyance or transfer thereof, or entering into any such agreement or arrangement, without the consent or approval of a third party, would constitute a breach thereof, or other contravention

thereunder, be ineffective with respect to any party thereto, or in any way adversely affect the rights of Seller or Buyer thereunder; *provided, however*, that, if any such Line Agreement may be so assigned, sold, conveyed or transferred to Buyer without having any of the foregoing consequences, such contract shall be so assigned, sold, conveyed and transferred. With respect to any Line Agreement as to which the consent or approval of a third party is required (each a “Required Consent Contract”), promptly after the date hereof, and for a period of 12 months from and after the Closing, Seller and Buyer will use commercially reasonable efforts to obtain the written consent or approval of such third party(ies) to such Required Consent Contract for the sale, transfer, assignment and novation thereof to Buyer, or written confirmation from such parties reasonably satisfactory in form and substance to Seller and Buyer confirming that such consent is not required; *provided, however*, that Seller shall not be required to pay or incur any costs or expenses (including any requested consent fees) in connection with any effort to obtain any consent or approval under a Required Consent Contract, such costs and expenses to be borne solely by Buyer.

(b) Until such consent or approval is obtained with respect to any Required Consent Contract, to the extent permitted by applicable law and the terms of any Required Consent Contract not assigned pursuant to Section 2.01, from and after the Closing, (i) Buyer will obtain the claims, rights and benefits of Seller arising under such Required Consent Contract, (ii) Buyer will perform, fulfill and discharge all of Seller’s obligations and liabilities thereunder in a timely manner and in accordance with all applicable laws and the terms of such Required Consent Contract for the benefit of Seller and the other party or parties thereto, (iii) Buyer will indemnify, defend, and hold harmless Seller and its Affiliates from any losses asserted against, incurred or suffered by any of them that relate to, result from or arise out of the failure of Buyer to comply

with this Section 2.08(b) with respect to any Required Consent Contract, including as a result of performance, non-performance or deficient performance under such Required Consent Contract and (iv) Seller agrees to enforce, at the reasonable request of Buyer and at the expense and for the account of Buyer, any rights of Seller under or arising from the Required Consent Contracts against any third party, including the right to elect to terminate any such Required Consent Contracts (or rights thereunder) in accordance with the terms of such Required Consent Contracts upon the written direction of Buyer; *provided* that Buyer shall be responsible for any termination fees resulting from or arising out of the termination of any Required Consent Contracts at the direction of Buyer.

(c) With respect to any Required Consent Contract not assigned or transferred pursuant to Section 2.01 for which Buyer must undertake performance pursuant to Section 2.08(b), Seller will pay over to Buyer any monies received by Seller from any third party for services rendered by Buyer after the Closing, less any actual out-of-pocket costs or expenses incurred by Seller as a result of receiving and processing payment of such monies.

III. CLOSING

3.01. Closing Date and Place. The closing of the purchase of the Acquired Assets (the “Closing”) shall take place at the offices of the Settlement Agent or remotely via electronic exchange of documents and signatures (except for the Deeds, for which Seller shall deliver to Buyer original wet-ink, signed and notarized copies for each county in which the Real Property is located) within five (5) Business Days after all conditions (other than the conditions to be satisfied at the Closing, but subject to their satisfaction or waiver at the Closing) to each Party’s obligations under Articles X and XI have been satisfied or waived as provided therein (the “Closing Date”). Buyer and Seller shall cooperate to facilitate recordation of Deeds by use of the Settlement Agent or another title company to promptly record the Deeds as part of the Closing. The provisions of

this Agreement shall survive the Seller's execution and delivery of the Deeds and shall not be deemed to have been merged therein.

3.02. Deliveries by Seller. At or prior to the Closing, Seller shall deliver to Buyer or the Settlement Agent the following, with all instruments being duly executed:

- (i) Original counterpart of the Assignment and Assumption Agreement.

- (ii) Original counterpart of the Bill of Sale.

- (iii) Original Deeds for all of the Real Property in recordable form for each locality and/or county in which the Real Property is located.

- (iv) Original counterpart of the Termination of Existing Lease.

- (v) Seller Officers' Certificate in the form set forth in Exhibit H attached hereto and made a part hereof.

- (vi) Original counterpart of the settlement statement in mutually agreeable form to Buyer, Seller, and the Settlement Agent.

- (vii) All required state transfer forms and affidavits of value, if any, as well as, other documentation, in mutually agreeable form, as may be reasonably required by Buyer's title company or the Settlement Agent to evidence Seller's authority to enter into this Agreement and consummate the transactions contemplated herein, or facilitate recording of the Deeds.

3.03. Deliveries by Buyer. At the Closing, Buyer and its relevant Affiliates shall deliver to Seller the following, with all instruments being duly executed:

- (i) The Base Purchase Price and the Deferred Transaction Fee.

- (ii) Original counterpart of the Bill of Sale.

(iii) Original counterpart of the Assignment and Assumption Agreement.

(iv) Original counterpart of the Termination of Existing Lease.

(v) Buyer Officers' Certificate in the form set forth in Exhibit I attached hereto and made a part hereof.

(vi) Certificate of Incumbency authorizing the transactions contemplated herein in the form set forth in Exhibit J attached hereto and made a part hereof.

(vii) All required state transfer forms and affidavits of value, if any.

(viii) Other documentation, in mutually agreeable form, as may be reasonably required by Buyer's title company or the Settlement Agent to evidence Buyer's authority to enter into this Agreement and consummate the transactions contemplated herein, or facilitate recording of the Deeds.

3.04. Third-Party Agreements. To the extent any third party requires a particular assignment document that has representations and warranties or indemnification provisions that are different from the terms of this Agreement, as between Buyer and Seller this Agreement shall control.

3.05. Closing Costs. Seller shall only be responsible for Seller's attorneys' fees, and any other costs or expenses as expressly set forth in this Agreement. Buyer shall be responsible for all other Closing costs, Buyer's attorney's fees, title insurance premiums, fees for any examination, and other costs and expenses as set forth in this Agreement.

IV. CONFIDENTIALITY OF INFORMATION

4.01. Confidentiality of Information. Each Party may disclose this Agreement to the Internal Revenue Service, any government tax authority, or external auditor and disclosure may also occur if this Agreement is a public record. In the event this Agreement is terminated or expires,

any confidentiality obligations between the parties hereto shall survive for two (2) years after such termination or expiration.

V. ADDITIONAL UNDERTAKINGS AND AGREEMENTS

5.01. Buyer's Support of State Law Change and Cincinnati Voter Approval. Buyer shall, at its expense, undertake all efforts it deems reasonable to support Seller's efforts and coordinate such efforts with Seller to obtain the State Law Change and Cincinnati Voter Approval. Buyer shall pay all costs related to its supporting efforts for obtaining the Cincinnati Voter Approval and shall make payments directly to such third parties as may be identified by Buyer to assist in obtaining such approval. Seller shall not be obligated to reimburse Buyer for any expenses or costs incurred by Buyer in fulfilling its obligations under this Section 5.01.

5.02. Existing Lease.

(a) From the date hereof through the earlier of termination of this Agreement or the Drop Dead Date, neither Seller nor CNOTP or any of their Affiliates shall provide a notice of intent to pursue arbitration under Sections 2 and 8(b) of the 1987 Supplementary Agreement to determine the fair market rental terms for an extension of the term of the Existing Lease. This Agreement shall not be construed to limit the rights of Seller or CNOTP to pursue arbitration under Section 8 of the 1987 Supplementary Agreement of any dispute other than a dispute over the fair market rental terms for an extension of the term of the Existing Lease.

(b) Until the Closing occurs, CNOTP shall fully comply with all of the terms of the Existing Lease, and the failure of CNOTP to do so shall constitute a breach of this Agreement by Buyer and CNOTP.

(c) In the event this Agreement is terminated or the Closing does not occur prior to December 31, 2024, Seller and CNOTP shall negotiate in good faith to reach a letter agreement with respect to modifying Section 2 of the 1987 Supplementary Agreement in a manner that, based

on then-current circumstances, allows for sufficient time to execute the existing provisions of Section 2 of the 1987 Supplementary Agreement, including the possibility of streamlining the procedures therefor.

5.03. Tax Credits. Seller shall continue to properly and timely assign to CNOTP Seller's track miles that Seller is allowed to assign under Section 45G of the Code and under Kentucky Revised Statutes §141.385, and CNOTP shall continue to pay Seller an amount equal to 50% of the tax credits it claims and permanently sustains under Section 45G of the Code and under Kentucky Revised Statutes §141.385.

5.04. Seller's Expenses under Existing Lease. CNOTP shall continue to pay the expenses of Seller in accordance with the Existing Lease through the date of Closing, together with payments to the expense reserve fund.

5.05. Condition of Property.

(a) Buyer acknowledges and agrees, through CNOTP's operation of the Line under the Existing Lease and otherwise, that it has had an adequate opportunity to inspect the Real Property and other Acquired Assets and Seller's records to evaluate the condition of the Real Property and other Acquired Assets and, if the Closing occurs, Buyer shall conclusively be deemed to have accepted the Real Property and other Acquired Assets in their present condition (including condition of title and environmental condition), and such property shall be conveyed at Closing to Buyer "AS IS, WHERE IS, WITH ALL FAULTS", as more fully set forth in Article VI. The Public Parties do not make any representation or warranty, express or implied, with respect to the condition of the Real Property or other Acquired Assets, including with respect to surface and subsurface environmental conditions, whether latent or patent, the nonexistence of any Hazardous Substances, compliance by the Real Property or Seller with any Environmental Law, the existence

of any Environmental Liabilities, or habitability or tenantability of the Real Property. Buyer recognizes that certain of the materials contained in certain assets comprising the Acquired Assets may be or contain Hazardous Substances, including batteries, creosote in railroad ties, asbestos in building materials, lubricating stations, and lead in paint used on bridges and other assets.

(b) Buyer's acceptance of title to the Real Property and other Acquired Assets shall represent Buyer's acknowledgment and agreement that: (i) the Public Parties have not made nor has Buyer relied on any written or oral representation or warranty made by the Public Parties, their agents or employees with respect to the condition or value of the Real Property or other Acquired Assets; (ii) Buyer has had an adequate opportunity to inspect the condition of the Real Property and other Acquired Assets, through CNOTP's operation of the Line under the Existing Lease and otherwise, including environmental conditions, and to inspect documents applicable thereto, and Buyer is relying on such inspection; (iii) the Real Property has been developed and operated as a railroad and for other industrial uses for many years, and the Real Property may be contaminated with Hazardous Substances as a result; (iv) some products and materials that were used in operating facilities on the Line will be left on the Real Property at Closing and, if intended to be discarded and not used, may need to be managed and disposed of in accordance with applicable Environmental Laws; (v) the Real Property may include underground storage tanks (and certain underground storage tanks which may have been removed without investigation), piping (above ground and underground piping), drainage mechanisms, and the like; and (vi) Buyer has read and understands Seller's disclaimer in Article VI and such disclaimer is in full force and effect and legally binding on Buyer.

(c) Effective upon the Closing, and without further act, deed or instrument, Buyer, on behalf of itself and its Affiliates, successors, successors-in-interest, and assigns, hereby

releases the Public Parties, and their successors and assigns and their respective trustees, officials, officers, directors, shareholders, employees, agents and representatives (“Seller Released Parties”), from any and all obligations and liabilities with respect to any existing or future Claims at any time (including any liability Buyer may incur as a result of Third Party Claims) arising out of or in any way relating to (i) the condition of the Real Property and other Acquired Assets, (ii) non-compliance with Environmental Law related to the Real Property and other Acquired Assets, (iii) Environmental Liabilities related to the Real Property and other Acquired Assets, including any environmental contamination, or presence of Hazardous Substances on the Real Property or other Acquired Assets, whether such contamination or Hazardous Substances are located on or under the Real Property or other Acquired Assets or have migrated or will migrate from or to the Real Property or other Acquired Assets, and the handling, use, treatment, removal, storage, decontamination, cleanup, transport, or disposal of, or exposure to, Hazardous Substances from the Real Property or other Acquired Assets, and (iv) the East Peavine Line, and Buyer hereby waives any cause of action (including any right of contribution) Buyer and its Affiliates had, has or may in the future have against Seller Released Parties with respect to the foregoing, whether arising under common law, or federal, state or local statute, rule or regulation (all such obligations and liabilities being hereby assumed by Buyer and constituting Assumed Obligations). The foregoing shall apply to any condition or noncompliance with Environmental Law, including any environmental condition, known or unknown, suspected or unsuspected, contemplated or un contemplated or any liability Buyer may incur as a result of Third Party Claims. The Deeds shall provide substantially in effect as a covenant running with the land that (i) Successor Railroads (as defined in Exhibit B to the Deed) shall acknowledge and affirm of record such Successor Railroad's release and waiver of claims against Seller Released Parties and Seller's disclaimers of

liability, and the Successor Railroad's assumption of Buyer's obligations (which shall be joint and several with Buyer) to release, indemnify and defend the Seller Released Parties and (ii) other transferees shall acknowledge and affirm of record such transferee's release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability (in the case of this clause (ii), with reasonable limitations for limitations imposed by state law and principles of sovereign immunity).

5.06. Labor and Labor Protection. For the avoidance of doubt, upon Closing, Buyer may operate or elect to allow CNOTP to continue to operate the Line with CNOTP's existing employees and pursuant to existing collective bargaining agreements. Buyer shall pay all costs, expenses, legal fees and payments incurred by Seller related to Labor Protection and other matters referred to in the definition of Labor Protection.

5.07. WARN Act. Buyer shall comply and cause compliance with the provisions of the WARN Act and any other federal, state or local laws regarding "plant closings," "mass layoffs" or similar triggering events, or change of control, with respect to Buyer's employment loss (as defined in the WARN Act) to Buyer's employees employed in operating the Line.

5.08. East Peavine Line. Buyer shall engage in good faith negotiations with the State of Ohio to come to an agreement on interim trail use, under which Buyer would donate the East Peavine Line to the State of Ohio, as interim trail manager, pursuant to 16 U.S.C. §§ 1241-51, on terms customary for Class I railroads to states pursuant to the East Peavine Line Transaction Documents.

5.09. Consents and Filings.

(a) Subject to Section 2.08 and Section 5.01, Buyer shall be responsible for obtaining all necessary consents, other than the State Law Change and the Cincinnati Voter

Approval, for the transfer of any Acquired Asset and shall complete all required regulatory filings, including making filings with the STB to obtain the STB Order. Subject to Section 5.01 and to the extent permitted by law, Seller shall undertake all reasonable efforts to obtain the State Law Change and facilitate the Cincinnati Voter Approval, provided that the Parties acknowledge that the conduct of elections and the content of ballots associated with Cincinnati Voter Approval is solely within the authority of the Hamilton County Board of Elections. At the expense and upon the written request of Buyer, Seller shall use its reasonable best efforts to assist Buyer to obtain as soon as practicable after execution hereof, and prior to Closing, all licenses, permits, consents, waivers, approvals, authorizations, qualifications and orders of Governmental Authorities relating to the Acquired Assets as may be required in order to enable Buyer, CNOTP and Seller to perform their respective obligations under this Agreement, and each of the agreements and instruments called for hereunder, including required or desired approvals, exemptions or actions, if any, by the STB with respect to Seller's sale and Buyer's purchase of the Acquired Assets, including (i) assisting Buyer in the preparation and filing of all applications, forms, registrations and notices required to be filed to consummate the transactions contemplated by this Agreement, (ii) cooperating with Buyer in its efforts to obtain any consent or approval of any third party, including any Governmental Authority, required to be obtained or made by Buyer or Seller in connection with the transactions contemplated by this Agreement and (iii) the execution and delivery of any additional instruments necessary to consummate the transactions contemplated by this Agreement and to fully carry out the purposes of this Agreement. Except as mutually agreed by the Parties, Buyer shall make all required filings and notices no later than thirty (30) days after the date of the State Law Change. Buyer and Seller shall cooperate and use their reasonable best efforts to respond as promptly as practicable to all inquiries received from the STB or other Governmental

Authorities for initial or additional information or documentation. The Parties will provide one another with an opportunity to review and comment upon one another's proposed filings, and all such filings shall be subject to the approval of both Parties (such approval not to be unreasonably withheld, conditioned or delayed).

(b) Without limiting the generality of subsection (a) above, (i) Buyer shall use commercially reasonable efforts to eliminate any objections or concerns asserted with respect to the transactions contemplated hereby by any Governmental Authority with jurisdiction over the enforcement of any laws applicable to Buyer's acquisition of the Acquired Assets so as to enable the Parties to consummate the transactions contemplated hereby as soon as reasonably practicable and prior to the time at which a Party may terminate this Agreement pursuant to Section 12.05(a), Section 12.05(b), Section 12.05(d) and Section 12.05(e), including but not limited to: entering into negotiations, providing information, making proposals, entering into and performing agreements or submitting to or challenging judicial or administrative orders; (ii) Buyer shall take promptly all other actions and do all other things reasonably necessary and proper to avoid or eliminate each and every impediment under any law that may be asserted by any Governmental Authority or any other party to the consummation of the transactions contemplated at the Closing in accordance with the terms of this Agreement; (iii) Seller shall provide reasonable assistance to and cooperate with Buyer in the efforts contemplated by this Section 5.09(b); and (iv) Buyer shall reimburse Seller for any out-of-pocket costs and expenses Seller incurs in connection with those efforts.

VI. SELLER'S REPRESENTATION AND WARRANTIES; DISCLAIMER.

6.01. Representations and Warranties. Neither Seller nor any other Person acting on behalf of Seller has made, makes or shall be deemed to have made any express or implied representation or warranty, either written or oral, with respect to Seller or the transaction

contemplated hereby except as set forth in this Article VI. Seller represents and warrants to Buyer as of the date hereof as follows:

(a) Seller is a board of trustees duly organized and validly existing and in good standing under laws of the State of Ohio.

(b) Seller has the power and authority to own and lease the Acquired Assets and to carry on its business as now conducted.

(c) Subject to receipt of the Cincinnati Voter Approval and the State Law Change, (A) the execution, delivery and performance by Seller of this Agreement and of all other agreements and instruments called for hereunder, and the consummation by Seller of the transactions contemplated by this Agreement, and all such other agreements and instruments called for hereunder, have been (or will be as of the deliverable date) duly and validly authorized by all necessary action of Seller under applicable law and (B) this Agreement constitutes, and each other agreement and instrument called for hereunder will constitute, upon execution and delivery by each other party hereto and thereto the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with their respective terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity).

(d) Litigation. There is no Proceeding pending, or to the actual knowledge of Seller, threatened against or involving Seller at law or in equity before or by any court, arbitrator or other Governmental Authority (a) which would restrict or limit the ability of Seller to perform its obligations under this Agreement or any other agreement or instrument called for hereunder to

which Seller is a party or (b) which seeks to prevent the consummation of the transactions contemplated hereby or thereby.

6.02. Disclaimer.

EXCEPT AS SET FORTH IN THIS ARTICLE VI, THE SALE AND PURCHASE AND THE OTHER TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT SHALL BE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND BY SELLER; SELLER DISCLAIMS ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE ACQUIRED ASSETS; BUYER AND SELLER AGREE THAT THE REAL PROPERTY AND THE ACQUIRED ASSETS ARE BEING CONVEYED “AS IS, WHERE IS, WITH ALL FAULTS”; SELLER MAKES NO REPRESENTATION OR WARRANTY AS TO WHETHER, UPON CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED HEREUNDER, THE ACQUIRED ASSETS WILL BE SUFFICIENT FOR BUYER’S PURPOSES; AND SELLER DOES NOT MAKE, AND EXPRESSLY DISCLAIMS, ANY REPRESENTATION OR WARRANTY REGARDING CONDITION OF TITLE, THE ENVIRONMENTAL CONDITION OF THE REAL PROPERTY, THE PHYSICAL CONDITION OR MAINTENANCE HISTORY OF THE LINE, THE REAL PROPERTY, AND THE ACQUIRED ASSETS.

VII. BUYER’S REPRESENTATIONS AND WARRANTIES

Neither Buyer nor any other Person acting on behalf of Buyer has made, makes or shall be deemed to have made any express or implied representation or warranty, either written or oral, with respect to Buyer or the transaction contemplated hereby except as set forth in this Article VII. Buyer represents and warrants to Seller as of the date hereof as follows:

7.01. Organization and Authority.

(a) Buyer is a corporation duly organized and validly existing and in good standing under the laws of the Commonwealth of Virginia. Buyer is duly qualified to do business in, and is in good standing under the laws of, each other state in which the ownership or lease of its property or the nature or conduct of its business or both makes such qualification necessary, except where the failure to be so qualified would not have a Material Adverse Effect.

(b) Buyer has the corporate power and authority to own, lease and operate the Acquired Assets and to carry on its business as now conducted.

(c) The execution, delivery and performance by Buyer of this Agreement and of all other agreements and instruments called for hereunder, and the consummation by Buyer of the transactions contemplated by this Agreement, and all such other agreements and instruments called for hereunder, have been (or will be as of the deliverable date) duly and validly authorized by all necessary corporate or shareholder action of Buyer under applicable law, the articles of incorporation and bylaws of Buyer and otherwise (none of which actions have been modified or rescinded, and all of which actions are in full force and effect). This Agreement constitutes, and each other agreement and instrument called for hereunder will constitute, upon execution and delivery by each other party hereto and thereto, the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a Proceeding at law or in equity).

7.02. No Conflicts; Consents of Third Parties. The execution, delivery and performance of this Agreement by Buyer will not (a) conflict with the articles of incorporation or bylaws of

Buyer; (b) conflict with, result in a breach of, constitute (with or without due notice or lapse of time or both) a default under, result in the acceleration of obligations under, create in any Party the right to terminate, modify or cancel, or require any notice, consent or waiver under, any lease, agreement, commitment, financing arrangement (including financial covenants) or other instrument to which Buyer is a party; (c) violate any order, judgment, or decree, to which Buyer or any of its Affiliates are bound; or (d) constitute a violation by Buyer of any law or regulation applicable to it, except in the case of clauses (b), (c) or (d) where the failure would not result in a Material Adverse Effect. Except for the STB Order, no authorization, consent, waiver of right of first refusal, or approval of, or designation, declaration or filing with, any Governmental Authority is required on the part of Buyer in connection with the execution, delivery, and performance of this Agreement.

7.03. Litigation. There is no Proceeding pending, or to the actual knowledge of Buyer, threatened against or involving Buyer at law or in equity before or by any court, arbitrator or other Governmental Authority (a) which would restrict or limit the ability of Buyer to perform its obligations under this Agreement or any other agreement or instrument called for hereunder to which Buyer is a party or (b) which seeks to prevent the consummation of the transactions contemplated hereby or thereby.

7.04. Information Provided. Buyer represents and warrants that it is taking full responsibility for making its own evaluation of the physical condition of the Acquired Assets, the Real Property, title to the Real Property and Encumbrances thereon, and the Acquired Assets, including the environmental condition of the property. Buyer also represents and warrants that it is making its own evaluation of projected revenues and operating results from the Acquired Assets

and that Seller has not provided any estimates, projections, forecasts, plans, budgets or pro-forma information.

7.05. Financial Resources. Buyer will have at Closing the financial resources necessary to pay the Base Purchase Price and the Deferred Transaction Fee and to consummate the transactions contemplated hereby.

7.06. Continued Operation. Buyer is purchasing the Line for continued railway operation, including provision of rail service to customers on the Line.

VIII. CNOTP'S REPRESENTATIONS AND WARRANTIES

Neither CNOTP nor any other Person acting on behalf of CNOTP has made, makes or shall be deemed to have made any express or implied representation or warranty, either written or oral, with respect to CNOTP or the transaction contemplated hereby except as set forth in this Article

VIII. CNOTP represents and warrants to Seller as of the date hereof as follows:

8.01. Organization and Authority.

(a) CNOTP is a corporation duly organized and validly existing and in good standing under laws of the State of Ohio. CNOTP is duly qualified to do business in, and is in good standing under the laws of, each other state in which the ownership or lease of its property or the nature or conduct of its business or both makes such qualification necessary, except where the failure to be so qualified would not have a Material Adverse Effect.

(b) CNOTP has the corporate power and authority to own, lease and operate its assets and to carry on its business as now conducted.

(c) The execution, delivery and performance by CNOTP of this Agreement and of all other agreements and instruments called for hereunder, and the consummation by CNOTP of the transactions contemplated by this Agreement, and all such other agreements and instruments called for hereunder, have been duly and validly authorized by all necessary corporate or

shareholder action of CNOTP under applicable law, the articles of incorporation and bylaws of CNOTP. This Agreement constitutes, and each other agreement and instrument called for hereunder will constitute, upon execution and delivery by each other party hereto and thereto the legal, valid and binding obligation of CNOTP, enforceable against CNOTP in accordance with their respective terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity).

8.02. No Conflicts; Consents of Third Parties. The execution, delivery and performance of this Agreement by CNOTP will not (a) conflict with the articles of incorporation or bylaws of CNOTP; (b) conflict with, result in a breach of, constitute (with or without due notice or lapse of time or both) a default under, result in the acceleration of obligations under, create in any Person the right to terminate, modify or cancel, or require any notice, consent or waiver under, any lease, agreement, commitment, financing arrangement (including financial covenants) or other instrument to which CNOTP is a party; (c) violate any order, judgment, or decree, to which CNOTP is bound; or (d) constitute a violation by CNOTP of any law or regulation applicable to it, except in the case of clauses (b), (c) or (d) where the failure would not result in a Material Adverse Effect. Except for the STB Order, no authorization, consent, waiver of right of first refusal, or approval of, or designation, declaration or filing with, any Governmental Authority is required on the part of CNOTP in connection with the execution, delivery, and performance of this Agreement.

8.03. Litigation. There is no Proceeding pending, or to the actual knowledge of CNOTP, threatened against or involving CNOTP at law or in equity before or by any court, arbitrator or other Governmental Authority (a) which would restrict or limit the ability of CNOTP to fully perform its obligations under this Agreement or any other agreement and instrument called for hereunder to which CNOTP is a party or (b) which seeks to prevent the consummation of the transactions contemplated hereby or thereby.

IX. COVENANTS

9.01. Conduct of Business. Without the prior written approval of Buyer, from the date of this Agreement until the Closing, Seller shall not, and shall not permit any of its Affiliates to:

(a) sell, assign, lease, mortgage, pledge, grant any right or interest in, or otherwise transfer or dispose of, all or any part of its real or personal property rights which comprise, or operating rights that relate to, any part of the Acquired Assets;

(b) terminate or amend any Line Agreements, *provided* that Seller may renew or extend (on substantially similar terms as, or terms more favorable to Seller than, the existing Line Agreement) any Line Agreement that otherwise would terminate by its terms;

(c) seek to abandon any part of the rail lines included in the Line;

(d) grant to any third party trackage rights, haulage rights or any rights to use or occupy any portion of the Line or the Real Property; or

(e) authorize any of, or commit or agree to take, whether in writing or otherwise, or do any of, the foregoing actions.

9.02. Further Action. After the Closing, at the request of a Party, the other Party shall cooperate and use commercially reasonable efforts to carry out the intent of this Agreement, and each Party will execute and deliver such other documents and instruments of conveyance, assignment, transfer, assumption and delivery and take such other actions as the other Party

reasonably may request in order to consummate, complete and carry out the transactions contemplated hereby. Except where the responsibility for the expense is expressly allocated by this Agreement, the expense of complying with any such request shall be borne by the requesting Party.

X. CONDITIONS PRECEDENT TO BUYER'S OBLIGATION TO CLOSE

The obligations of Buyer to purchase the Line and the Acquired Assets and to proceed with the Closing are subject, at the option of Buyer, to the satisfaction or waiver at or prior to the Closing of each of the following conditions:

10.01. STB Order. The STB Order shall have been obtained and become final and effective and otherwise be in full force and effect.

10.02. State Law Change. The State Law Change shall have become effective.

10.03. Cincinnati Voter Approval. The Formal Announcement shall have occurred and Cincinnati Voter Approval shall have been obtained and become effective.

10.04. Representations and Warranties. The representations and warranties of Seller made herein or in any agreement, instrument or document executed pursuant to this Agreement shall have been true and correct as of the date of this Agreement or as of the date of such other agreement, instrument or document, as the case may be (except for such representations and warranties that speak as of an earlier date, which representations and warranties shall have been true and correct as of such earlier date), and shall be true and correct in all respects (where such representations or warranties contain materiality qualifiers) or in all material respects (where such representations or warranties do not contain materiality qualifiers), as the case may be, on the Closing Date as though such representations and warranties were made on and as of the Closing Date (except for such representations and warranties that speak as of an earlier date, which representations and warranties shall be true and correct in all respects or in all material respects,

as the case may be, as of such earlier date); and Seller shall have performed and complied in all material respects with all covenants and agreements required by this Agreement to be performed or complied with by Seller on or prior to the Closing.

10.05. Documents at Closing. Seller shall have delivered to Buyer or the Settlement Agent all agreements, instruments and documents required to be delivered by Seller to Buyer pursuant to Section 3.02.

10.06. No Governmental Action or Legal Proceedings. As of the Closing Date, no statute, rule, regulation, order, decree, directive, writ or judgment shall have been enacted, adopted, issued, promulgated or rendered by any government or by any Governmental Authority (and not subsequently dismissed, settled, withdrawn or terminated) which would (a) prevent the consummation at Closing of or restrain or invalidate the transactions contemplated by this Agreement, and by each of the other material agreements and instruments called for hereunder, (b) materially interfere with or prohibit the continued effectiveness of such agreements and instruments or (c) prevent, limit, restrict or impair in any material respect the ownership, use or operation of the Acquired Assets by Buyer in a manner which would have a Material Adverse Effect, which Material Adverse Effect arose after the date of this Agreement.

XI. CONDITIONS PRECEDENT TO SELLER'S OBLIGATION TO CLOSE

The obligations of Seller to sell, transfer, convey and deliver the Acquired Assets and to proceed with the Closing are subject, at the option of Seller, to the satisfaction or waiver at or prior to the Closing of each of the following conditions:

11.01. STB Order. The STB Order shall have been obtained and become final and effective and otherwise be in full force and effect.

11.02. State Law Change. The State Law Change shall have become effective.

11.03. Cincinnati Voter Approval. The Formal Announcement shall have occurred and Cincinnati Voter Approval shall have been obtained and become effective, provided that, if the State Law Change shall become effective, Seller shall implement the Formal Announcement in a timely manner that would allow Cincinnati Voter Approval to be a ballot item for an election determined by Seller after consultation with Buyer.

11.04. Representations and Warranties. The representations and warranties of Buyer and CNOTP made herein or in any agreement, instrument or document called for hereunder shall have been true and correct as of the date of this Agreement or as of the date of such other agreement, instrument or document, as the case may be (except for such representations and warranties that speak as of an earlier date, which representations and warranties shall have been true and correct as of such earlier date), and shall be true and correct in all respects (where such representations or warranties contain materiality qualifiers) or in all material respects (where such representations or warranties do not contain materiality qualifiers), as the case may be, on the Closing Date as though such representations and warranties were made on and as of the Closing Date (except for such representations and warranties that speak as of an earlier date, which representations and warranties shall be true and correct in all respects or in all material respects, as the case may be, as of such earlier date); and Buyer and CNOTP shall have performed and complied in all material respects with all covenants and agreements required by this Agreement to be performed or complied with by Buyer and CNOTP on or prior to the Closing.

11.05. Documents at Closing. Buyer and its Affiliates shall have delivered to Seller on or before the Closing Date all agreements, instruments and documents required to be delivered by Buyer to Seller pursuant to Section 3.03.

11.06. No Governmental Action or Legal Proceedings. As of the Closing Date, no statute, rule, regulation, order, decree, directive, writ or judgment shall have been enacted, adopted, issued, promulgated or rendered by any government or by any Governmental Authority (and not subsequently dismissed, settled, withdrawn or terminated) which would as of the Closing Date (a) prevent the consummation at Closing of or restrain or invalidate the transactions contemplated by this Agreement, and by each of the other agreements and instruments called for hereunder, or (b) materially interfere with or prohibit the continued effectiveness of such agreements and instruments.

XII. RISK OF LOSS; TERMINATION

12.01. Risk of Loss. Subject to the limitations hereinafter stated, the risk of loss or damage by fire or other casualty or cause to the Acquired Assets or any eminent domain proceeding until the Closing shall be upon Buyer. In the event of such loss or damage prior to the Closing, Buyer shall consummate the Closing and pay the Purchase Price regardless of any casualty event or act of God or any eminent domain proceeding.

12.02. Termination By Agreement. This Agreement may be terminated at any time prior to the Closing by the mutual written consent of Seller, Buyer, and CNOTP; and at any time after December 31, 2024, by the mutual written consent of Seller and Buyer.

12.03. Termination By Buyer. This Agreement may be terminated at any time prior to the Closing by Buyer by written notice to Seller if neither Buyer nor CNOTP is then in material breach of any provision of this Agreement and there has been a material breach or failure to perform any covenant or agreement made by Seller pursuant to this Agreement that would give rise to the failure of any of the conditions specified in Articles X or XI and such breach, inaccuracy or failure cannot be cured by Seller by the Drop Dead Date.

12.04. Termination by Seller. This Agreement may be terminated at any time prior to the Closing by Seller by written notice to Buyer if Seller is not then in material breach of any provision of this Agreement and there has been a material breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by Buyer or CNOTP pursuant to this Agreement that would give rise to the failure of any of the conditions specified in Articles X or XI and such breach, inaccuracy or failure cannot be cured by Buyer or CNOTP, as the case may be, by the Drop Dead Date.

12.05. Other Termination Provisions. In addition to the provisions of Section 12.03 and Section 12.04, this Agreement may be terminated at any time prior to the Closing by written notice to the other Party as follows:

(a) by Buyer if the STB issues an order, decision or notice of exemption that would be the STB Order but for failure to satisfy clause (ii) of that definition, except that, if Buyer does not exercise its rights under this subsection (a) within thirty (30) days of the issue date of such order, decision or notice of exemption, such order, decision or notice of exemption shall be deemed to be the STB Order;

(b) by either Party if Cincinnati Voter Approval is not obtained on or before the Drop Dead Date;

(c) by Seller if Cincinnati Voter Approval is obtained on or before the Drop Dead Date but the other conditions to Closing (other than the conditions to be satisfied at the Closing, but subject to their satisfaction or waiver at Closing) to each Party's obligations under Articles X and XI are not satisfied by July 31, 2026;

(d) by either Party if any law that makes consummation of the transactions contemplated by this Agreement illegal or otherwise prohibited; or

(e) by either Party if any Governmental Authority shall have issued a Governmental Order restraining or enjoining the transactions contemplated by this Agreement, and such Governmental Order shall have become final and non-appealable.

12.06. Termination Fee.

(a) If this Agreement is terminated (i) by Buyer pursuant to Section 12.05(a) and at the time of termination there shall not have been a Cincinnati Voter Rejection or (ii) by Seller pursuant to Section 12.05(c) and, at the time of such termination, all of the conditions set forth in Article X and Article XI have been satisfied other than Section 10.01 and Section 11.01 and conditions that by their nature are to be satisfied at the Closing, but that are capable of being satisfied if the Closing were to occur on the date of such termination, then in each such case Buyer shall pay to Seller, by wire transfer in immediately available funds to an account specified by Seller, an amount equal to the Termination Fee. The Termination Fee due under this Section 12.06 shall be paid on the second Business Day immediately following the date of termination of this Agreement as contemplated by this Section 12.06.

(b) The parties each acknowledge that the agreements contained in this Section 12.06 are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, Seller would not have entered into this Agreement, and that any amounts payable pursuant to Section 12.06 do not constitute a penalty but constitute payment of liquidated damages and that such liquidated damages are reasonable in light of the substantial but indeterminate harm anticipated to be caused by Buyer's failure to obtain the STB Order, the difficulty of proof of loss of damages, the inconvenience and non-feasibility of otherwise obtaining an adequate remedy, and the value of the transactions to be consummated thereunder. If Buyer does not pay any amount payable pursuant to this Section 12.06, and Seller commences a suit to

obtain such payment, then (i) if such suit results in a judgment against Buyer for the Termination Fee set forth in this Section 12.06 or any portion of such fee, Buyer shall pay to Seller Seller's costs and expenses (including reasonable attorneys' fees and expenses) in connection with such suit, or (ii) if such suit results in a judgment in favor of Buyer, Seller shall pay to Buyer Buyer's costs and expenses (including reasonable attorneys' fees and expenses) in connection with such suit.

12.07. Effect of Termination. In the event of the termination of this Agreement as provided in this Article XII, this Agreement shall forthwith become null and void and of no further force or effect, except for provisions that are specifically identified as intended to survive such termination (including Sections 2.03(a)(i) and 4.01, Section 12.06 (as contemplated therein) and this Section 12.07). Notwithstanding the foregoing, nothing herein shall relieve any Party hereto from liability for any fraud or any intentional and material breach of any provision hereof.

XIII. SURVIVAL; INDEMNIFICATION

13.01. Survival of Warranties and Covenants; Limitations; Exclusive Remedy.

(a) All representations and warranties made the Parties in this Agreement shall survive the execution and delivery of this Agreement and the Closing and shall remain operative and in full force and effect for a period of eighteen (18) months following the Closing Date, except the representations and warranties in Section 6.01, Section 7.01 and Section 8.01 shall survive for 10 years, provided that the foregoing time limits shall not limit any Claim based on fraud.

(b) All covenants made by the Parties in this Agreement or pursuant hereto which by their terms are specifically intended to be performed (i) at or prior to Closing are terminated at Closing except that liability for any pre-Closing breach of Sections 5.02, 5.03, 5.04, 5.08 and 5.09 shall survive the Closing and (ii) from and after the Closing shall survive the Closing

until fully performed; provided, however, that the foregoing time limits shall not limit any Claim based on fraud.

13.02. Indemnification by Buyer. Subject to the limitations, conditions and provisions of this Article XIII and the Operative Documents, Buyer and CNOTP shall jointly and severally indemnify, defend and hold harmless Seller, its Affiliates and their respective officials, directors, officers, employees and agents from, against and with respect to all Claims asserted against, imposed upon or incurred directly or indirectly by Seller, by reason of, or resulting from, or in connection with (a) any breach of any representation or warranty of Buyer or CNOTP contained in this Agreement or the Operative Documents; (b) any noncompliance by Buyer or CNOTP with any covenants, agreements or undertakings of Buyer or CNOTP contained in this Agreement; (c) the ownership, use and operation of the Acquired Assets by Buyer after Closing; (d) use of the East Peavine Line for purposes other than railroad purposes; (e) the donation of the Peavine Line to, or use of the Peavine Line by, the State of Ohio; and (f) the Assumed Obligations.

13.03. Conditions of Indemnification. The obligations and liabilities of Buyer with respect to its indemnities pursuant to this Article XIII, resulting from any claim or other assertion of liability by third parties (hereinafter called collectively, “Third Party Claims”), shall be subject to the following terms and conditions:

(a) Seller must give Buyer written notice of any such Claim within ninety (90) days after Seller receives notice thereof, but failure to give notice in such period shall only relieve Buyer of its indemnity obligations if and to the extent the delay materially prejudices the defense of such Claim.

(b) Buyer shall have the right to promptly undertake, without conditions or reservation of rights, by counsel or other representatives of its own choosing and reasonably acceptable to Seller, the defense of such Claim at Buyer's cost and risk.

(c) In the event that Buyer shall elect not to undertake such defense, or within a reasonable time after notice of any such Claim from Seller shall fail to defend, Seller (upon further written notice to Buyer) shall have the right on behalf of and for the account and risk of Buyer to undertake the defense, compromise or settlement of such Claim by counsel or other representatives of Seller's own choosing. In such event, Buyer shall pay to Seller, in addition to any other sums required to be paid hereunder, the costs and expenses incurred by Seller in connection with such defense, compromise or settlement as and when such costs and expenses are so incurred.

(d) Anything in this Section 13.03 to the contrary notwithstanding, (i) if there is a reasonable probability that a Claim may materially and adversely affect Seller, Seller shall have the right, at its own cost and expense, to participate in the defense, compromise or settlement of the Claim, (ii) Buyer shall not, without Seller's written consent (such consent not to be unreasonably withheld, conditioned or delayed), settle or compromise any Claim or consent to entry of any judgment which does not include as an unconditional term thereof the giving by the claimant or the plaintiff to Seller a release from all liability in respect of such Claim in a form reasonably satisfactory to Seller, (iii) in the event that Buyer undertakes defense of any Claim, Seller, by counsel or other representative of its own choosing and at its sole cost and expense, shall have the right to consult with Buyer and its counsel or other representatives concerning such Claim, and Buyer and Seller and their respective counsel or other representatives shall reasonably cooperate with respect to such Claim, and (iv) in the event that Buyer undertakes defense of any

Claim, Buyer shall have an obligation to keep Seller informed of the status of the defense of such Claim and furnish Seller with all documents, instruments and information that Seller shall reasonably request in connection therewith. Notwithstanding the foregoing, in the event Buyer undertakes the defense of any Claim, Seller shall have the right to employ its own counsel at Buyer's expense if Seller shall have reasonably concluded and specifically notified Buyer that there may be one or more specific defenses available to it which are different from or additional to those available to Buyer or there otherwise exists a conflict of interest between Seller and Buyer.

13.04. Other Indemnity Matters. The indemnities contained in Section 13.02 shall be continuing (except that as to representations and warranties, the indemnity shall expire on the date the relevant representation and warranty ceases to survive pursuant to Section 13.01(a)); provided, however, that with respect to any claim for indemnification for which notice has been given to Buyer within the period that the relevant representation and warranty survives, the indemnification period shall be extended until the final resolution of such claim.

XIV. MISCELLANEOUS

14.01. Brokers. Each Party represents and warrants to the other Party that it has not incurred any liability to any broker, finder or agent for any brokerage fees or commissions or finders' fees or commissions with respect to the transactions contemplated by this Agreement that would be a direct or indirect obligation of the other Party.

14.02. Expenses.

(a) Buyer shall pay all costs associated with regulatory approvals, closing costs, including recording costs, deed taxes, sales taxes, title company costs and transfer taxes, together with fees incidental to the transfer of the Acquired Assets.

(b) Except as otherwise expressly provided herein, each Party shall pay its own expenses incident to this Agreement and the transactions contemplated hereunder, including all

legal and accounting fees and disbursements, regulatory filing fees and costs of obtaining necessary consents.

14.03. Waiver. No delay or failure on the part of any Party in exercising any right, power or privilege under this Agreement, or under any other agreements or instruments given in connection with or pursuant to this Agreement shall impair any such right, power or privilege or be construed as a waiver of default or any acquiescence therein.

14.04. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the respective successors and permitted assigns of the Parties.

14.05. Assignment. None of the Parties shall assign this Agreement, in whole or in part, whether by operation of law or otherwise, without the prior written consent of each Party, except that Buyer may assign this Agreement (but not its obligations), without Seller's consent but with written notice to Seller, solely to a qualified intermediary, as defined by Treasury Regulation Section 1.1031(k)-1(g)(4), to facilitate a tax-deferred exchange pursuant to Section 1031 of the Code; *provided that* in any such case Buyer takes title to all of the Acquired Assets at Closing. Seller agrees to reasonably cooperate with Buyer or CNOTP in performing such a tax-deferred exchange at the cost and expense of Buyer.

14.06. Notices. All notices, demands, requests, or other communications which may be or are required to be given, served, or sent by any Party or CNOTP to any other Party or CNOTP pursuant to this Agreement shall be in writing and shall be mailed by a recognized overnight courier service, by first-class, registered or certified mail, return receipt requested, postage prepaid, or transmitted by hand delivery or electronic communication addressed as follows:

(i) If to Seller:

Board of Trustees of the Cincinnati Southern Railway
c/o City of Cincinnati Law Department

801 Plum Street, Suite 214
Cincinnati, OH 45202
Attention: City Solicitor
Email: Emily.Woerner@cincinnati-oh.gov

with a copy to:

City of Cincinnati Law Department
801 Plum Street, Suite 214
Cincinnati, OH 45202
Attention: Kaitlyn Geiger
Email: Kaitlyn.Geiger@cincinnati-oh.gov

Stinson LLP
50 South Sixth Street, Suite 2600
Minneapolis, MN 55402
Attention: James Bertrand
Email: James.Bertrand@stinson.com

(ii) If to Buyer or CNOTP:

c/o Norfolk Southern Corporation
650 West Peachtree Street NW
Atlanta, GA 30308
Attention: Senior Vice President & Chief Strategy Officer
Email: Michael.McClellan@nscorp.com

Buyer, Seller or CNOTP may designate by notice in writing a new address to which any notice, demand, request or communication may thereafter be so given, served or sent. Each notice, demand, request or communication shall be deemed sufficiently given, served, sent and received for all purposes (a) at such time as it is delivered to the addressee (with the return receipt, the delivery receipt or the affidavit of messenger being deemed conclusive, but not exclusive, evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation, or (b) on the day transmitted by electronic mail (with written confirmation of transmission), if sent before 5:00 p.m. Eastern Time on a Business Day, otherwise on the next Business Day following transmission.

14.07. Press Releases. Buyer and Seller shall consult with one another with regard to all press releases issued or publicity at or prior to Closing concerning the transactions contemplated by this Agreement except as necessary as a result of public disclosure requirements under applicable laws or the applicable rules and regulations of any Governmental Authority or stock exchange. None of Buyer, CNOTP, or Seller or any of their respective Affiliates shall issue prior to Closing any such press releases or publicity without the prior written consent of the other Parties.

14.08. Entire Agreement. The Operative Documents and this Agreement, including the Exhibits hereto and other instruments and documents referred to herein or delivered pursuant hereto or in connection herewith represent the entire understanding of the Parties, supersede all prior oral or written memoranda and agreements and understandings between the Parties with respect to the subjects herein, and may not be supplemented or amended, except by a written instrument executed by and delivered to each of the Parties designating specifically the terms and provisions so supplemented and amended.

14.09. Headings. Article, section and subsection headings contained in this Agreement are inserted for convenience of reference only, shall not be deemed to be a part of this Agreement for any purpose, and shall not in any way define or affect the meaning, construction or scope of any of the provisions hereof.

14.10. Conflicting Terms. In the event that any of the terms or provisions of this Agreement violate, conflict with or are inconsistent with any of the terms or provisions of any of the other agreements, documents and instruments referred to herein or delivered pursuant hereto or in connection therewith, the terms and provisions of this Agreement shall govern and control for all purposes thereunder and hereunder.

14.11. Limitation on Benefits. Nothing herein is intended to be for the benefit of any Person other than the Parties and, where expressly set forth herein, the other Public Party. It is the explicit intention of the Parties that no Person other than the Parties is or shall be entitled to bring any action to enforce any provision of this Agreement against any of the Parties, and the assumptions, indemnities, covenants, undertakings and agreements set forth in this Agreement, and all other documents or instruments called for hereunder shall be solely for the benefit of, and shall be enforceable only by, the Parties or their respective successors, legal representatives and assigns as permitted hereunder.

14.12. Severability. If any clause or provision of this Agreement, or the performance of any action related thereto, at the time such fulfillment or performance shall be due, shall be deemed by a court of competent jurisdiction to be unlawful or otherwise invalid or unenforceable, or to exceed the limit of validity prescribed by law, then the obligation to be fulfilled or performed shall be reduced to the limit of such validity; and if any clause or provision contained in this Agreement operates or would operate prospectively to invalidate any agreement, in whole or in part, then such clause or provision only shall be held ineffective, as though not herein or therein contained, and the remainder of this Agreement shall remain operative and in full force and effect.

14.13. Execution. To facilitate execution, this Agreement may be executed in as many counterparts as may be required; and it shall not be necessary that the signatures of, or on behalf of, each Party, or the signatures of all Persons required to bind any Party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each Party, or the signatures of the Persons required to bind any Party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this Agreement to produce or account for any particular number of counterparts;

but rather any number of counterparts shall be sufficient so long as those counterparts contain the respective signatures of, or on behalf of, all of the Parties. This Agreement and any signed agreement or instrument entered into in connection with this Agreement, and any amendments hereto or thereto (in each case other than each Deed or any other documents that must be in recordable form), to the extent delivered by means of a facsimile, email or electronic .pdf transmission shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

14.14. Governing Law; Jurisdiction.

(a) This Agreement, and all claims or causes of action (whether in contract, tort or statute) that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be governed by, and enforced in accordance with, the internal laws of the State of Ohio, including its statutes of limitations, without regard to any borrowing statute that would result in the application of the statute of limitations of any other jurisdiction. **ALL ACTIONS AND PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE HEARD AND DETERMINED IN A STATE OR FEDERAL COURT IN THE STATE OF OHIO, AND THE PARTIES HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION OF SUCH COURTS IN ANY SUCH ACTION OR PROCEEDING AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING.**

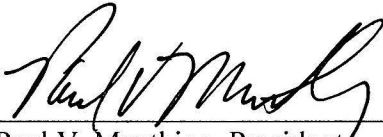
(b) Each of the Parties hereby waives to the fullest extent permitted by applicable law any right it may have to a trial by jury with respect to any litigation directly or indirectly arising out of, under or in connection with this Agreement or the transactions contemplated hereby. Each of the Parties (i) certifies that no representative, agent or attorney of any other Party has represented, expressly or otherwise, that such other Party would not, in the event of litigation, seek to enforce that foregoing waiver and (ii) acknowledges that it and the other Party have been induced to enter into this Agreement and the transactions contemplated hereby, as applicable, by, among other things, the mutual waivers and certifications in this Section 14.14.

14.15. Specific Performance. The Parties agree that irreparable damage would occur in the event that any provisions of this Agreement were not performed in accordance with their specific terms. It is accordingly agreed that the Parties shall be entitled to an injunction or injunctions to enforce specifically the performance of this Agreement in accordance with its terms. The foregoing is in addition to, and not in lieu of, any other rights a Party may have in respect of a breach of this Agreement, whether at law or in equity.

[Signatures on next pages.]

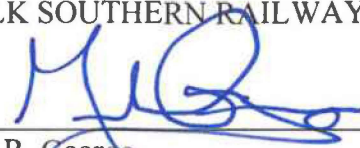
IN WITNESS WHEREOF, each of the Parties has executed this Agreement or has caused this Agreement to be duly executed on its behalf, as of the day and year first above written.

BOARD OF TRUSTEES OF THE CINCINNATI
SOUTHERN RAILWAY

By: 
Paul V. Muething, President

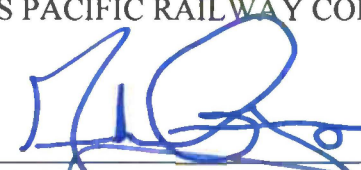
NORFOLK SOUTHERN RAILWAY COMPANY

By: _____


Mark R. George
Vice President & Chief Financial Officer

THE CINCINNATI, NEW ORLEANS AND
TEXAS PACIFIC RAILWAY COMPANY

By: _____


Mark R. George
Vice President

Schedule 2.01(ii)
Line Agreements

None.

Document	Exhibit Reference
Real Property Description	A
Map	A-1
Excluded Assets	B
Deeds	C
Form of Deed – Ohio	C-1
Form of Deed - Kentucky	C-2
Form of Deed - Tennessee	C-3
Form of Bill of Sale	D
Form of Assignment and Assumption Agreement	E
Form of Termination of Existing Lease	F
East Peavine Line	G
Seller Officer's Certificate	H
Buyer Officer's Certificate	I
Certificate of Incumbency	J

EXHIBIT A

Real Property Description

ALL RIGHT TITLE AND INTEREST IN RAILWAY LINE BEING COMMONLY KNOWN AS CINCINNATI SOUTHERN RAILWAY, LYING AND SITUATE IN COUNTIES OF HAMILTON, RHEA, ROANE, MORGAN, AND SCOTT, STATE OF TENNESSEE; COUNTIES OF McCREARY, PULASKI, LINCOLN, BOYLE, MERCER, JESSAMINE, FAYETTE, SCOTT, HARRISON, GRANT, KENTON, AND BOONE, STATE OF KENTUCKY; AND COUNTY OF HAMILTON, STATE OF OHIO, BEING COMPRISED OF LAND AND RIGHT-OF-WAY FOR MAIN TRACKS, BRANCH LINES, SIDINGS AND OTHER APPURTENEANT RAILROAD FACILITIES, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING IN CITY OF CINCINNATI, COUNTY OF HAMILTON, **STATE OF OHIO**, ON OR ABOUT RAILWAY MILE POST 0.00 +/-, AS DEPICTED ON RAILWAY VALUATION MAP V-1-Ohio/3, PARCEL 16, THENCE; CONTINUING ALONG RAILWAY CENTERLINE IN A GENERALLY SOUTHERLY DIRECTION WITH A STRIP OF LAND OF VARYING WIDTH ON EACH SIDE OF CENTERLINE OF TRACK A DISTANCE OF 338.2 MILES+/-, TO A POINT CONNECTING TO, ALABAMA GREAT SOUTHERN R. R. COMPANY, IN CITY OF CHATTANOOGA, COUNTY OF HAMILTON, **STATE OF TENNESSEE**.

TOGETHER WITH ALL OUTPARCELS VESTED WITH CINCINNATI SOUTHERN RAILWAY.

Excluding however any property described or agreed to pursuant to Exhibit B to the Asset Purchase and Sale Agreement.

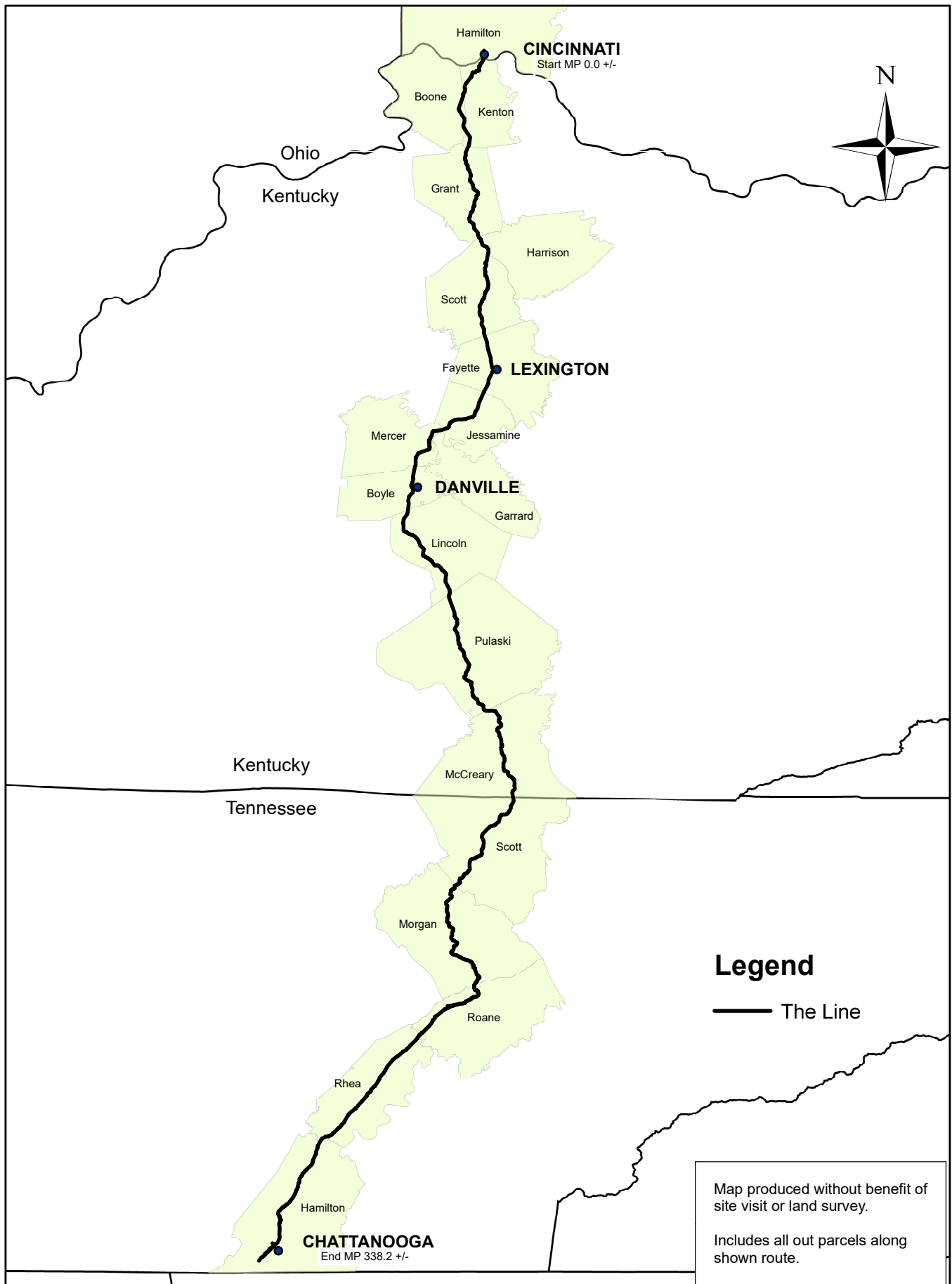


EXHIBIT B

Excluded Assets

(a) All documents, materials, instruments, agreements and the like in Seller's possession related to the Line and operations of the Line.

(b) Real Property in Cincinnati not used for railroad purposes identified by the below parcel numbers, *provided that* it being acknowledged that it is the intent of the Parties for Seller to retain all parcels in the City of Cincinnati that are not being used for railroad purposes and Seller and Buyer may mutually agree to add or remove parcels to this list in the process finalizing the applicable deeds and legal descriptions thereto:

- i. 187-12-6 (subject to Buyer and Seller and, with respect to clause (B), the City of Cincinnati reaching agreement on (A) subdivision of parcel so that Buyer receives only that portion reasonably necessary for rail operations and (B) closure of the grade crossing located near the intersection of 66th Street and Elmwood Ave).
- ii. 137-3-86;
- iii. 138-4-25;
- iv. 138-4-44;
- v. 138-4-66;
- vi. 138-4-88;
- vii. 138-4-114;
- viii. 138-4-271; and
- ix. 140-1-80.

(c) All cash, restricted cash, cash equivalents, deposits, refunds, Tax refunds, insurance recoveries and choses in action and accounts receivable and prepaid expenses of Seller.

(d) All employment contracts between Seller and its employees, and all employee benefit plans of Seller and assets in Seller's employee benefit plans.

(e) Insurance policies and contracts.

(f) Business records related to the Line, including all personnel and other records that Seller and its Affiliates are required by law to retain in its possession.

(g) Minute books and other corporate and Tax records of Seller and its Affiliates and all assets, books, records, documents, lists and written materials relating to any corporate or centralized services and functions, including management, finance, accounting, billing, accounts receivable, accounts payable, Tax, information services, computer services, engineering, marketing, operations, customer relations, purchasing, inventory management, construction, insurance, payroll, employee benefit, computer, call center and other administrative services and functions.

(h) Revenues related to Pipe and Wire Crossing Agreements and Property Services Agreements received prior to the Closing Date (no matter what period the revenues relate to) or due and payable for any period prior to the Closing Date if paid after the Closing Date shall be paid to or retained by Seller.

EXHIBIT C-1

FORM OF
QUITCLAIM DEED

_____, ("Grantor"), for valuable consideration paid, grants
to _____ ("Grantee") the following described property:

Situated in the State of Ohio, County of Hamilton and City of Cincinnati, and as
more particularly described at Exhibit "A", attached hereto and made a part hereof,

Being interests, in whole or in part, that were conveyed to Grantor by

Recorder's
Office, _____ County, Ohio

Prior Instrument Reference: _____, _____ County Recorder's Office

Auditor's Parcel Number:

To have and to hold the aforementioned property along with all servitudes, easements,
privileges and appurtenances belonging to Grantor and pertaining to said property, along with any
fixtures, structures, or other improvements of any type belonging to Grantor that are present on
the property, subject to agreements, covenants, and representations regarding the condition of
the real property as set forth in Exhibit "B" attached hereto.

Further, to ensure that Grantee is fully vested with all right, title and interest of Grantor, Grantor
hereby quitclaims and conveys to Grantee, and its successors and assigns, any and all of
Grantor's right, title and interest in and to any other real property owned by Grantor and located
within the aforementioned county and state, whether or not such property interest is expressly
described in this instrument, except for any Excluded Assets, as more particularly listed at
Exhibit "C" attached hereto and made a part hereof.

(Signature Page to Follow)

(Signature Page to Quitclaim Deed)

Executed this _ day of _____, 2022

State of Ohio

County of

The foregoing instrument was acknowledged before me this ____ day of _____, 2022 by _____, the _____ of _____, a _____ [corporation or other entity], on behalf of the [corporation or other entity].

Notary Public

This Instrument prepared by:

Exhibit "A" to Quitclaim Deed

[INSERT DESCRIPTION AND TAX MAP PARCELS AS APPLICABLE]

Exhibit "B" to Quitclaim Deed

PROPERTY CONDITION COVENANTS

Grantor and Grantee acknowledge and agree that Grantor, as Seller (as defined below), has conveyed the property described in this Quitclaim Deed (the "Real Property") to Grantee, as Buyer (as defined below) pursuant to that certain ASSET PURCHASE AND SALE AGREEMENT, dated as of November 21, 2022, between Board of Trustees of the Cincinnati Southern Railway, Norfolk Southern Railway Company and The Cincinnati, New Orleans and Texas Pacific Railway Company (the "Agreement"), the provisions of which Agreement shall survive the delivery of this Quitclaim Deed as prescribed in the Agreement, including specifically the conditions, covenants, and representations regarding the condition of the property in Section 5.05, Article VI, and Section 13.02 of the Agreement set out in this Exhibit "B", that shall constitute covenants running with the land that shall be binding on Grantee and all future owners, provided (a) Buyer's acknowledgement of property conditions as of the date of this Quitclaim Deed and Seller's disclaimer of liability for such conditions, and Buyer's waivers and releases of claims against Seller and the Seller Released Parties shall be binding and enforceable against Buyer and all future owners to the fullest extent allowed by law, and (b) Seller's affirmative duties and obligations in any way arising from, or resulting from, the aforementioned covenants, including obligations to indemnify and defend Seller shall be the sole responsibility and obligation of Buyer and any Successor Railroad (as defined below). In furtherance of the foregoing, this Exhibit "B," including attached Exhibits "B-1" and "B-2", as applicable to the identity of the transferee as otherwise set forth herein, shall be incorporated in every future deed or other instrument of conveyance of all or any portion of the Real Property.

Definitions

"Acquired Assets" - includes all right, title and interest of Seller in all real property held by Seller in conjunction with Seller's oversight and management of the Cincinnati Southern Railway, including the Real Property that is the subject of this Deed.

"Affiliates" - as defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended, and, solely as it pertains to Seller, the Public Parties.

"Assumed Obligations" - defined in Section 2.04(d) of the Agreement as follows:

(d) Assumed Obligations. As additional consideration for the Acquired Assets, Buyer shall assume the following obligations and liabilities of Seller (the "Assumed Obligations"):

(i) obligations and liabilities of Seller (if any) arising before (except to the extent such obligations are imposed on Seller under the Existing Lease) or after the Closing Date under Real Property Interests and Contracts assigned to Buyer pursuant to the provisions hereof or under Line Agreements, as provided in Section 2.08(b);

(ii) except for any income tax liability Seller may incur from Seller selling the Acquired Assets to Buyer, all obligations, commitments and liabilities of the Public Parties, of whatever nature, whether known or unknown, asserted or unasserted, fixed, absolute or contingent, matured or unmatured, accrued or unaccrued, liquidated or unliquidated or due or to become due, which relate to the condition of the Real Property and the other Acquired Assets arising before or after the Closing Date, or which relate exclusively to the ownership, condition or operation of the Acquired Assets arising before or after the Closing Date, including those arising under statutes, rules, regulations and effective or pending orders of Governmental Authorities;

(iii) all Environmental Liabilities of the Public Parties arising before or after the Closing Date which arise out of or are related in any way to the condition, ownership or use of the Real Property or the Line Agreements or any other Acquired Assets, including without limitation (A) any environmental contamination or other condition, or the presence of Hazardous Substances, on the Real Property or other Acquired Assets, whether such contamination or Hazardous Substances are located on or under the Real Property or other Acquired Assets or have migrated or will migrate from or to the Real Property or other Acquired Assets, and (B) the handling, use, treatment, removal, storage, decontamination, cleanup, transport (except for transportation as a common carrier) or disposal of, or exposure to, Hazardous Substances, whether such conditions and/or Environmental Liabilities are known or unknown, suspected or unsuspected, contemplated or un contemplated, and whether or not such conditions were caused by Seller or predecessors or Affiliates of Seller.

"Buyer" - Norfolk Southern Railway Company, a Virginia corporation ("Grantee" under this Quitclaim Deed) and its successors and assigns.

"Closing" - the closing of the purchase of the Acquired Assets.

"CNTOP" - The Cincinnati, New Orleans and Texas Pacific Railway Company, an Ohio corporation

"Deeds" - the quit-claim deeds by which Seller will transfer the Real Property to Buyer, including this Quitclaim Deed.

"East Peavine Line" -- The real property and other assets comprised of approximately twenty (20) miles of the CT segment located West/Northwest of Vera Junction.

"Environmental Law" - Any federal, state, local or common law, rule, regulation, ordinance, code, order, decree, judgment, permit requirement, or other requirement of any Governmental Authority, in effect as of the date of this Agreement or at any time thereafter, relating to (i) the pollution or protection of the environment (including air, land, soil, soil vapor, surface waters, ground waters, stream and river sediments, and biota); or (ii) the use, generation, storage, treatment, disposal, processing, transportation (except for transportation as a common carrier), handling, release, emission or remediation of, or

exposure to, Hazardous Substances, including the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601 et seq., the Resource Conservation and Recovery Act ("Solid Waste Disposal Act" or "RCRA"), 42 U.S.C. §§ 6901 et seq., the Clean Air Act, 42 U.S.C. §§ 7401 et seq., the Safe Drinking Water Act, 42 U.S.C. §§ 330f et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101 et seq., and the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2601 et seq.

"Environmental Liabilities" – Claims, judgments, damages (including consequential and punitive damages), losses, penalties, fines, obligations, commitments, liabilities, Encumbrances, violations, costs and expenses (including attorneys', consultants' and engineering fees) arising under any Environmental Laws (whether at law or in equity) or in any way relating to (i) the environment (including air, land, soil, soil vapor, surface waters, ground waters, stream and river sediments, and biota); (ii) the presence, use, generation, storage, treatment, disposal, processing, transportation (except for transportation as a common carrier), handling, release, emission or remediation of, or exposure to, Hazardous Substances; or (iii) impacts on human health and safety resulting from the foregoing, including, without limitation, investigation, remediation, clean-up, corrective action, monitoring, or defense of any matter arising under any Environmental Laws, of whatever kind or nature, whether known or unknown, asserted or unasserted, fixed, absolute or contingent, matured or unmatured, accrued or unaccrued, liquidated or unliquidated or due or to become due, whether or not resulting from the actual or alleged violation of or noncompliance with any Environmental Laws.

"Existing Lease" – That certain Lease between Seller and CNOTP, dated as of October 11, 1881, as amended and supplemented, including without limitation by the 1987 Supplementary Agreement.

"Hazardous Substances" – All hazardous or toxic materials or substances, wastes, pollutants, contaminants, or terms of similar meaning, and all other materials or substances that are subject to regulation, defined, or may give rise to any responsibilities or liabilities under any Environmental Law.

"Line" - the railroad starting at approximately Milepost 0.5 in Cincinnati, Ohio, extending through Kentucky, and ending at approximately Milepost 337.4 in Chattanooga, Tennessee.

"Public Parties" – collectively, Seller and the City of Cincinnati.

"Real Property" - certain real property associated with the Line; real property interests acquired by Seller in conjunction with its ownership of the Line; real property underlying the Line; real property adjacent to or detached from the Line; and all associated rights, interests, privileges, fixtures, improvements, and appurtenances otherwise associated therewith, including the real property that is the subject of this Quitclaim Deed.

"Seller" - The Board of Trustees of the Cincinnati Southern Railway, a board of trustees organized under the State of Ohio ("Grantor" under this Quitclaim Deed).

"Third Party Claims" - any claim or other assertion of liability by third parties.

5.05. Condition of Property.

(a) Buyer acknowledges and agrees, through CNOTP's operation of the Line under the Existing Lease and otherwise, that it has had an adequate opportunity to inspect the Real Property and other Acquired Assets and Seller's records to evaluate the condition of the Real Property and other Acquired Assets and, if the Closing occurs, Buyer shall conclusively be deemed to have accepted the Real Property and other Acquired Assets in their present condition (including condition of title and environmental condition), and such property shall be conveyed at Closing to Buyer "AS IS, WHERE IS, WITH ALL FAULTS", as more fully set forth in Article VI. The Public Parties do not make any representation or warranty, express or implied, with respect to the condition of the Real Property or other Acquired Assets, including with respect to surface and subsurface environmental conditions, whether latent or patent, the nonexistence of any Hazardous Substances, compliance by the Real Property or Seller with any Environmental Law, the existence of any Environmental Liabilities, or habitability or tenantability of the Real Property. Buyer recognizes that certain of the materials contained in certain assets comprising the Acquired Assets may be or contain Hazardous Substances, including batteries, creosote in railroad ties, asbestos in building materials, lubricating stations, and lead in paint used on bridges and other assets.

(b) Buyer's acceptance of title to the Real Property and other Acquired Assets shall represent Buyer's acknowledgment and agreement that: (i) the Public Parties have not made nor has Buyer relied on any written or oral representation or warranty made by the Public Parties, their agents or employees with respect to the condition or value of the Real Property or other Acquired Assets; (ii) Buyer has had an adequate opportunity to inspect the condition of the Real Property and other Acquired Assets, through CNOTP's operation of the Line under the Existing Lease and otherwise, including environmental conditions, and to inspect documents applicable thereto, and Buyer is relying on such inspection; (iii) the Real Property has been developed and operated as a railroad and for other industrial uses for many years, and the Real Property may be contaminated with Hazardous Substances as a result; (iv) some products and materials that were used in operating facilities on the Line will be left on the Real Property at Closing and, if intended to be discarded and not used, may need to be managed and disposed of in accordance with applicable Environmental Laws; (v) the Real Property may include underground storage tanks (and certain underground storage tanks which may have been removed without investigation), piping (above ground and underground piping), drainage mechanisms, and the like; and (vi) Buyer has read and understands Seller's disclaimer in Article VI and such disclaimer is in full force and effect and legally binding on Buyer.

(c) Effective upon the Closing, and without further act, deed or instrument, Buyer, on behalf of itself and its Affiliates, successors, successors-in-interest, and assigns, hereby releases the Public Parties, and their successors and assigns and their respective trustees, officials, officers, directors, shareholders, employees, agents and representatives ("Seller Released Parties"), from any and all obligations and liabilities with respect to any existing or future Claims at any time (including any liability Buyer may incur

as a result of Third Party Claims) arising out of or in any way relating to (i) the condition of the Real Property and other Acquired Assets, (ii) non-compliance with Environmental Law related to the Real Property and other Acquired Assets, (iii) Environmental Liabilities related to the Real Property and other Acquired Assets, including any environmental contamination, or presence of Hazardous Substances on the Real Property or other Acquired Assets, whether such contamination or Hazardous Substances are located on or under the Real Property or other Acquired Assets or have migrated or will migrate from or to the Real Property or other Acquired Assets, and the handling, use, treatment, removal, storage, decontamination, cleanup, transport, or disposal of, or exposure to, Hazardous Substances from the Real Property or other Acquired Assets, and (iv) the East Peavine Line, and Buyer hereby waives any cause of action (including any right of contribution) Buyer and its Affiliates had, has or may in the future have against Seller Released Parties with respect to the foregoing, whether arising under common law, or federal, state or local statute, rule or regulation (all such obligations and liabilities being hereby assumed by Buyer and constituting Assumed Obligations). The foregoing shall apply to any condition or noncompliance with Environmental Law, including any environmental condition, known or unknown, suspected or unsuspected, contemplated or unanticipated or any liability Buyer may incur as a result of Third Party Claims.

Before Buyer or any future owner conveys the Real Estate or any portion thereof to a third party that will (i) assume the common carrier obligations (in whole or in part) of the Line and (ii) is a Class I, Class II, or Class III railroad company or otherwise intends to utilize the Line for railroad operations ("Successor Railroad"), the Successor Railroad shall acknowledge and affirm of record its release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability, and its assumption Buyer's obligations (which shall be joint and several with Buyer) to release, indemnify and defend the Seller Released Parties as provided in this Quitclaim Deed, which acknowledgement shall be in the form set forth in Exhibit B-1 of this Quitclaim Deed. All other transferees, including without limitation departments of transportation, those purchasing non-operating property, those operating property for non-railroad related purposes, or those operating property that is, or has been abandoned for railroad operations, shall acknowledge and affirm of record its release and waiver of claims (but only to the extent that applicable state law may permit the applicable transferee entity to accomplish such release or waiver, and without waiver or modification of any principles of sovereign immunity that may be applicable to certain transferee entities) against Seller Released Parties and Seller's disclaimers of liability, which acknowledgement shall be in the form set forth in Exhibit B-2 of this Quitclaim Deed.

The portion of Article VI of the Agreement relevant to the definition of "As-Is" provides as follows:

6.02. Disclaimer.

EXCEPT AS SET FORTH IN THIS ARTICLE VI, THE SALE AND PURCHASE AND THE OTHER TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT SHALL BE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND BY SELLER; SELLER DISCLAIMS ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF

MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE ACQUIRED ASSETS; BUYER AND SELLER AGREE THAT THE REAL PROPERTY AND THE ACQUIRED ASSETS ARE BEING CONVEYED "AS IS, WHERE IS, WITH ALL FAULTS"; SELLER MAKES NO REPRESENTATION OR WARRANTY AS TO WHETHER, UPON CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED HEREUNDER, THE ACQUIRED ASSETS WILL BE SUFFICIENT FOR BUYER'S PURPOSES; AND SELLER DOES NOT MAKE, AND EXPRESSLY DISCLAIMS, ANY REPRESENTATION OR WARRANTY REGARDING CONDITION OF TITLE, THE ENVIRONMENTAL CONDITION OF THE REAL PROPERTY, THE PHYSICAL CONDITION OR MAINTENANCE HISTORY OF THE LINE, THE REAL PROPERTY, AND THE ACQUIRED ASSETS.

13.02. Indemnification by Buyer. Subject to the limitations, conditions and provisions of this Article XIII and the Operative Documents, Buyer and CNOTP shall jointly and severally indemnify, defend and hold harmless Seller, its Affiliates and their respective officials, directors, officers, employees and agents from, against and with respect to all Claims asserted against, imposed upon or incurred directly or indirectly by Seller, by reason of, or resulting from, or in connection with (a) any breach of any representation or warranty of Buyer or CNOTP contained in this Agreement or the Operative Documents; (b) any noncompliance by Buyer or CNOTP with any covenants, agreements or undertakings of Buyer or CNOTP contained in this Agreement; (c) the ownership, use and operation of the Acquired Assets by Buyer after Closing; (d) use of the East Peavine Line for purposes other than railroad purposes; (e) the donation of the Peavine Line to, or use of the Peavine Line by, the State of Ohio; and (f) the Assumed Obligations.

Exhibit "B-1"

ACKNOWLEDGEMENT of SUCCESSOR RAILROAD

[LEAVE BLANK FOR TRANSFEREES OTHER THAN SUCCESSOR RAILROADS]

The undersigned, being the Grantee identified in the deed to which this Acknowledgement is attached (the "current Deed"), and a Successor Railroad as defined in Exhibit B of the current Deed, acknowledges and affirms (i) the sum and substance of Section 5.05 and (ii) Grantee's release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability and (iii) Grantee's obligations as successor in interest to Norfolk Southern Railway Company and its successors and assigns (other than Grantee) as Buyer under Section 13.02 incorporated in Exhibit "B" to indemnify, defend and hold harmless the Seller Released Parties with respect to the obligations and liabilities assumed by Buyer under said Section 5.05, which obligations shall be joint and several with the obligations of Norfolk Southern Railway Company and its successors and assigns.

Prior to further conveying the property conveyed by the current Deed or any portion thereof to a Successor Railroad, the undersigned shall incorporate Exhibit "B," including this Exhibit "B-1," in the deed or other instrument of conveyance and require that Successor Railroad to acknowledge and affirm of record such transferee's obligations (which shall be joint and several with Buyer) to release, indemnify and defend the Seller Released Parties as provided in the current Deed, which acknowledgement shall be in the form of this Acknowledgement.

Prior to a Successor Railroad further conveying the property conveyed by the current Deed or any portion thereof to a transferee other than Successor Railroad, such transferee shall acknowledge and affirm of record its release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability, which acknowledgement shall be in the form set forth in Exhibit B-2 of the Quitclaim Deed.

Grantee

By _____

Its _____

State of _____

County of _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2022 by _____, the _____ of _____, a _____ [corporation or other entity], on behalf of the [corporation or other entity].

Notary Public

This Instrument prepared by:

Exhibit "B-2"

ACKNOWLEDGEMENT of TRANSFEREE

[LEAVE BLANK IF TRANSFEREE IS A SUCCESSOR RAILROAD]

The undersigned, being the Grantee identified in the deed to which this Acknowledgement is attached (the "current Deed"), (i) acknowledges and affirms the sum and substance of Section 5.05 as it may affect a portion, or all of, any Real Property conveyed to a transferee, and (ii) Grantee's release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability (but only to the extent that applicable state law may permit the applicable transferee entity to accomplish such release or waiver, and without waiver or modification of any principles of sovereign immunity that may be applicable to certain transferee entities), and (iii) the obligations of Norfolk Southern Railway Company and its successors and assigns (other than Grantee) as Buyer under Section 13.02 incorporated in Exhibit "B" to indemnify, defend and hold harmless the Seller Released Parties with respect to the obligations and liabilities assumed by Buyer under said Section 5.05. Further, for the sake of clarity, any indemnification obligations in subsection (iii) shall be discharged by Norfolk Southern Railway Company, or any Successor Railroad as applicable, but shall not be binding upon, or assumed by, and this acknowledge shall not operate to transfer the same, to any other third party transferee. No provision of this Exhibit "B" is intended to operate as a waiver, release, modification of principles of sovereign immunity, or applicable state law that may be applicable to any transferee entity, and to the extent any such provision is deemed to accomplish such waiver, release, or modification by a court with appropriate jurisdiction, then that provision deemed to create such waiver, release or modification shall be deemed severable from the remainder of this Exhibit "B" with all other rights, duties, and obligations remaining fully effective as to Norfolk Southern Railway Company, or any other Successor Railroad.

Prior to further conveying the property conveyed by the current Deed or any portion thereof to a transferee, such transfer shall acknowledge and affirm of record its release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability, which acknowledgement shall be in the form set forth in Exhibit B-2 of the Quitclaim Deed.

Grantee

By _____

Its _____

State of _____

County of _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2022 by _____, the _____ of _____, a _____ [corporation or other entity], on behalf of the [corporation or other entity].

Notary Public

This Instrument prepared by:

Exhibit "C" to Quitclaim Deed

[LIST EXCLUDED ASSETS]

EXHIBIT C-2
FORM OF
QUIT-CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, that _____
_____ ("Grantor"), whose mailing address is:
_____,
for valuable consideration paid, grants to: _____
_____ ("Grantee"), whose mailing address is:
_____,
and whose tax in-care-of address is _____
_____, the following real property:

PROPERTY ADDRESS: _____

LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT A

Being the same property conveyed to Grantor by Deed dated _____, and
recorded _____, in Deed Book _____, Page _____, County Clerk's
Records, _____ County, Kentucky.

To have and to hold the aforementioned property along with all servitudes, easements, privileges
and appurtenances belonging to Grantor and pertaining to said property, along with any fixtures,
structures, or other improvements of any type belonging to Grantor that are present on the
property.

Further, to ensure that Grantee is fully vested with all right, title and interest of Grantor, Grantor
hereby quitclaims and conveys to Grantee, and its successors and assigns, any and all of
Grantor's right, title and interest in and to any other real property owned by Grantor and located
within the aforementioned county and state, whether or not such property interest is expressly
described in this instrument.

This conveyance is:

Subject to easements, conditions, covenants, restrictions and reservations of record, zoning
ordinances, building, use and occupancy restrictions, and all existing public streets and legal
highways and any such state of facts as an examination of the Premises and/or an accurate
survey would disclose and the lien of real estate taxes and assessments not yet due and payable.

Subject to agreements, covenants, and representations regarding the condition of the real
property as set forth in Exhibit "B" attached hereto.

The grantee joins this deed for the sole purpose of certifying the consideration pursuant to KRS
382.135.

NO TITLE EXAMINATION BY PREPARER

CONSIDERATION CERTIFICATE

We, the undersigned, do hereby certify, pursuant to KRS Chapter 382, that the consideration reflected herein is the actual consideration paid for the property. We further certify our understanding that falsification of the stated consideration paid for the property is a Class D Felony, subject to one to five years imprisonment and fines up to \$10,000.00.

Consideration: \$_____

(SIGNATURE PAGES TO FOLLOW)

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Notary Public
My Commission Expires: _____

Attorney-At-Law

EXHIBIT "A" TO QUITCLAIM DEED

[INSERT DESCRIPTION]

EXHIBIT "B" TO QUITCLAIM DEED

PROPERTY CONDITION COVENANTS

Grantor and Grantee acknowledge and agree that Grantor, as Seller (as defined below), has conveyed the property described in this Quitclaim Deed (the "Real Property") to Grantee, as Buyer (as defined below) pursuant to that certain ASSET PURCHASE AND SALE AGREEMENT, dated as of November 21, 2022, between Board of Trustees of the Cincinnati Southern Railway, Norfolk Southern Railway Company and The Cincinnati, New Orleans and Texas Pacific Railway Company (the "Agreement"), the provisions of which Agreement shall survive the delivery of this Quitclaim Deed as prescribed in the Agreement, including specifically the conditions, covenants, and representations regarding the condition of the property in Section 5.05, Article VI, and Section 13.02 of the Agreement set out in this Exhibit "B", that shall constitute covenants running with the land that shall be binding on Grantee and all future owners, provided (a) Buyer's acknowledgement of property conditions as of the date of this Quitclaim Deed and Seller's disclaimer of liability for such conditions, and Buyer's waivers and releases of claims against Seller and the Seller Released Parties shall be binding and enforceable against Buyer and all future owners to the fullest extent allowed by law, and (b) Seller's affirmative duties and obligations in any way arising from, or resulting from, the aforementioned covenants, including obligations to indemnify and defend Seller shall be the sole responsibility and obligation of Buyer and any Successor Railroad (as defined below). In furtherance of the foregoing, this Exhibit "B," including attached Exhibits "B-1" and "B-2", as applicable to the identity of the transferee as otherwise set forth herein, shall be incorporated in every future deed or other instrument of conveyance of all or any portion of the Real Property.

Definitions

"Acquired Assets" - includes all right, title and interest of Seller in all real property held by Seller in conjunction with Seller's oversight and management of the Cincinnati Southern Railway, including the Real Property that is the subject of this Deed.

"Affiliates" - as defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended, and, solely as it pertains to Seller, the Public Parties.

"Assumed Obligations" - defined in Section 2.04(d) of the Agreement as follows:

(d) Assumed Obligations. As additional consideration for the Acquired Assets, Buyer shall assume the following obligations and liabilities of Seller (the "Assumed Obligations"):

(i) obligations and liabilities of Seller (if any) arising before (except to the extent such obligations are imposed on Seller under the Existing Lease) or after the Closing Date under Real Property Interests and Contracts assigned to Buyer pursuant to the provisions hereof or under Line Agreements, as provided in Section 2.08(b);

(ii) except for any income tax liability Seller may incur from Seller selling the Acquired Assets to Buyer, all obligations, commitments and liabilities of the Public Parties, of whatever nature, whether known or unknown, asserted or unasserted, fixed, absolute or contingent, matured or unmatured, accrued or unaccrued, liquidated or unliquidated or due or to become due, which relate to the condition of the Real Property and the other Acquired Assets arising before or after the Closing Date, or which relate exclusively to the ownership, condition or operation of the Acquired Assets arising before or after the Closing Date, including those arising under statutes, rules, regulations and effective or pending orders of Governmental Authorities;

(iii) all Environmental Liabilities of the Public Parties arising before or after the Closing Date which arise out of or are related in any way to the condition, ownership or use of the Real Property or the Line Agreements or any other Acquired Assets, including without limitation (A) any environmental contamination or other condition, or the presence of Hazardous Substances, on the Real Property or other Acquired Assets, whether such contamination or Hazardous Substances are located on or under the Real Property or other Acquired Assets or have migrated or will migrate from or to the Real Property or other Acquired Assets, and (B) the handling, use, treatment, removal, storage, decontamination, cleanup, transport (except for transportation as a common carrier) or disposal of, or exposure to, Hazardous Substances, whether such conditions and/or Environmental Liabilities are known or unknown, suspected or unsuspected, contemplated or un contemplated, and whether or not such conditions were caused by Seller or predecessors or Affiliates of Seller.

"Buyer" - Norfolk Southern Railway Company, a Virginia corporation ("Grantee" under this Quitclaim Deed) and its successors and assigns.

"Closing" - the closing of the purchase of the Acquired Assets.

"CNTOP" - The Cincinnati, New Orleans and Texas Pacific Railway Company, an Ohio corporation

"Deeds" - the quit-claim deeds by which Seller will transfer the Real Property to Buyer, including this Quitclaim Deed.

"East Peavine Line" -- The real property and other assets comprised of approximately twenty (20) miles of the CT segment located West/Northwest of Vera Junction.

"Environmental Law" - Any federal, state, local or common law, rule, regulation, ordinance, code, order, decree, judgment, permit requirement, or other requirement of any Governmental Authority, in effect as of the date of this Agreement or at any time thereafter, relating to (i) the pollution or protection of the environment (including air, land, soil, soil vapor, surface waters, ground waters, stream and river sediments, and biota); or (ii) the use, generation, storage, treatment, disposal, processing, transportation (except for transportation as a common carrier), handling, release, emission or remediation of, or

exposure to, Hazardous Substances, including the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601 et seq., the Resource Conservation and Recovery Act ("Solid Waste Disposal Act" or "RCRA"), 42 U.S.C. §§ 6901 et seq., the Clean Air Act, 42 U.S.C. §§ 7401 et seq., the Safe Drinking Water Act, 42 U.S.C. §§ 330f et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101 et seq., and the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2601 et seq.

"Environmental Liabilities" – Claims, judgments, damages (including consequential and punitive damages), losses, penalties, fines, obligations, commitments, liabilities, Encumbrances, violations, costs and expenses (including attorneys', consultants' and engineering fees) arising under any Environmental Laws (whether at law or in equity) or in any way relating to (i) the environment (including air, land, soil, soil vapor, surface waters, ground waters, stream and river sediments, and biota); (ii) the presence, use, generation, storage, treatment, disposal, processing, transportation (except for transportation as a common carrier), handling, release, emission or remediation of, or exposure to, Hazardous Substances; or (iii) impacts on human health and safety resulting from the foregoing, including, without limitation, investigation, remediation, clean-up, corrective action, monitoring, or defense of any matter arising under any Environmental Laws, of whatever kind or nature, whether known or unknown, asserted or unasserted, fixed, absolute or contingent, matured or unmatured, accrued or unaccrued, liquidated or unliquidated or due or to become due, whether or not resulting from the actual or alleged violation of or noncompliance with any Environmental Laws.

"Existing Lease" – That certain Lease between Seller and CNOTP, dated as of October 11, 1881, as amended and supplemented, including without limitation by the 1987 Supplementary Agreement.

"Hazardous Substances" – All hazardous or toxic materials or substances, wastes, pollutants, contaminants, or terms of similar meaning, and all other materials or substances that are subject to regulation, defined, or may give rise to any responsibilities or liabilities under any Environmental Law.

"Line" - the railroad starting at approximately Milepost 0.5 in Cincinnati, Ohio, extending through Kentucky, and ending at approximately Milepost 337.4 in Chattanooga, Tennessee.

"Public Parties" – collectively, Seller and the City of Cincinnati.

"Real Property" - certain real property associated with the Line; real property interests acquired by Seller in conjunction with its ownership of the Line; real property underlying the Line; real property adjacent to or detached from the Line; and all associated rights, interests, privileges, fixtures, improvements, and appurtenances otherwise associated therewith, including the real property that is the subject of this Quitclaim Deed.

"Seller" - The Board of Trustees of the Cincinnati Southern Railway, a board of trustees organized under the State of Ohio ("Grantor" under this Quitclaim Deed).

"Third Party Claims" - any claim or other assertion of liability by third parties.

5.05. Condition of Property.

(a) Buyer acknowledges and agrees, through CNOTP's operation of the Line under the Existing Lease and otherwise, that it has had an adequate opportunity to inspect the Real Property and other Acquired Assets and Seller's records to evaluate the condition of the Real Property and other Acquired Assets and, if the Closing occurs, Buyer shall conclusively be deemed to have accepted the Real Property and other Acquired Assets in their present condition (including condition of title and environmental condition), and such property shall be conveyed at Closing to Buyer "AS IS, WHERE IS, WITH ALL FAULTS", as more fully set forth in Article VI. The Public Parties do not make any representation or warranty, express or implied, with respect to the condition of the Real Property or other Acquired Assets, including with respect to surface and subsurface environmental conditions, whether latent or patent, the nonexistence of any Hazardous Substances, compliance by the Real Property or Seller with any Environmental Law, the existence of any Environmental Liabilities, or habitability or tenantability of the Real Property. Buyer recognizes that certain of the materials contained in certain assets comprising the Acquired Assets may be or contain Hazardous Substances, including batteries, creosote in railroad ties, asbestos in building materials, lubricating stations, and lead in paint used on bridges and other assets.

(b) Buyer's acceptance of title to the Real Property and other Acquired Assets shall represent Buyer's acknowledgment and agreement that: (i) the Public Parties have not made nor has Buyer relied on any written or oral representation or warranty made by the Public Parties, their agents or employees with respect to the condition or value of the Real Property or other Acquired Assets; (ii) Buyer has had an adequate opportunity to inspect the condition of the Real Property and other Acquired Assets, through CNOTP's operation of the Line under the Existing Lease and otherwise, including environmental conditions, and to inspect documents applicable thereto, and Buyer is relying on such inspection; (iii) the Real Property has been developed and operated as a railroad and for other industrial uses for many years, and the Real Property may be contaminated with Hazardous Substances as a result; (iv) some products and materials that were used in operating facilities on the Line will be left on the Real Property at Closing and, if intended to be discarded and not used, may need to be managed and disposed of in accordance with applicable Environmental Laws; (v) the Real Property may include underground storage tanks (and certain underground storage tanks which may have been removed without investigation), piping (above ground and underground piping), drainage mechanisms, and the like; and (vi) Buyer has read and understands Seller's disclaimer in Article VI and such disclaimer is in full force and effect and legally binding on Buyer.

(c) Effective upon the Closing, and without further act, deed or instrument, Buyer, on behalf of itself and its Affiliates, successors, successors-in-interest, and assigns, hereby releases the Public Parties, and their successors and assigns and their respective trustees, officials, officers, directors, shareholders, employees, agents and representatives ("Seller Released Parties"), from any and all obligations and liabilities with respect to any existing or future Claims at any time (including any liability Buyer may incur

as a result of Third Party Claims) arising out of or in any way relating to (i) the condition of the Real Property and other Acquired Assets, (ii) non-compliance with Environmental Law related to the Real Property and other Acquired Assets, (iii) Environmental Liabilities related to the Real Property and other Acquired Assets, including any environmental contamination, or presence of Hazardous Substances on the Real Property or other Acquired Assets, whether such contamination or Hazardous Substances are located on or under the Real Property or other Acquired Assets or have migrated or will migrate from or to the Real Property or other Acquired Assets, and the handling, use, treatment, removal, storage, decontamination, cleanup, transport, or disposal of, or exposure to, Hazardous Substances from the Real Property or other Acquired Assets, and (iv) the East Peavine Line, and Buyer hereby waives any cause of action (including any right of contribution) Buyer and its Affiliates had, has or may in the future have against Seller Released Parties with respect to the foregoing, whether arising under common law, or federal, state or local statute, rule or regulation (all such obligations and liabilities being hereby assumed by Buyer and constituting Assumed Obligations). The foregoing shall apply to any condition or noncompliance with Environmental Law, including any environmental condition, known or unknown, suspected or unsuspected, contemplated or un contemplated or any liability Buyer may incur as a result of Third Party Claims.

Before Buyer or any future owner conveys the Real Estate or any portion thereof to a third party that will (i) assume the common carrier obligations (in whole or in part) of the Line and (ii) is a Class I, Class II, or Class III railroad company or otherwise intends to utilize the Line for railroad operations ("Successor Railroad"), the Successor Railroad shall acknowledge and affirm of record its release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability, and its assumption Buyer's obligations (which shall be joint and several with Buyer) to release, indemnify and defend the Seller Released Parties as provided in this Quitclaim Deed, which acknowledgement shall be in the form set forth in Exhibit B-1 of this Quitclaim Deed. All other transferees, including without limitation departments of transportation, those purchasing non-operating property, those operating property for non-railroad related purposes, or those operating property that is, or has been abandoned for railroad operations, shall acknowledge and affirm of record its release and waiver of claims (but only to the extent that applicable state law may permit the applicable transferee entity to accomplish such release or waiver, and without waiver or modification of any principles of sovereign immunity that may be applicable to certain transferee entities) against Seller Released Parties and Seller's disclaimers of liability, which acknowledgement shall be in the form set forth in Exhibit B-2 of this Quitclaim Deed.

The portion of Article VI of the Agreement relevant to the definition of "As-Is" provides as follows:

6.02. Disclaimer.

EXCEPT AS SET FORTH IN THIS ARTICLE VI, THE SALE AND PURCHASE AND THE OTHER TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT SHALL BE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND BY SELLER; SELLER DISCLAIMS ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF

MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE ACQUIRED ASSETS; BUYER AND SELLER AGREE THAT THE REAL PROPERTY AND THE ACQUIRED ASSETS ARE BEING CONVEYED "AS IS, WHERE IS, WITH ALL FAULTS"; SELLER MAKES NO REPRESENTATION OR WARRANTY AS TO WHETHER, UPON CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED HEREUNDER, THE ACQUIRED ASSETS WILL BE SUFFICIENT FOR BUYER'S PURPOSES; AND SELLER DOES NOT MAKE, AND EXPRESSLY DISCLAIMS, ANY REPRESENTATION OR WARRANTY REGARDING CONDITION OF TITLE, THE ENVIRONMENTAL CONDITION OF THE REAL PROPERTY, THE PHYSICAL CONDITION OR MAINTENANCE HISTORY OF THE LINE, THE REAL PROPERTY, AND THE ACQUIRED ASSETS.

13.02. Indemnification by Buyer. Subject to the limitations, conditions and provisions of this Article XIII and the Operative Documents, Buyer and CNOTP shall jointly and severally indemnify, defend and hold harmless Seller, its Affiliates and their respective officials, directors, officers, employees and agents from, against and with respect to all Claims asserted against, imposed upon or incurred directly or indirectly by Seller, by reason of, or resulting from, or in connection with (a) any breach of any representation or warranty of Buyer or CNOTP contained in this Agreement or the Operative Documents; (b) any noncompliance by Buyer or CNOTP with any covenants, agreements or undertakings of Buyer or CNOTP contained in this Agreement; (c) the ownership, use and operation of the Acquired Assets by Buyer after Closing; (d) use of the East Peavine Line for purposes other than railroad purposes; (e) the donation of the Peavine Line to, or use of the Peavine Line by, the State of Ohio; and (f) the Assumed Obligations.

Exhibit "B-1"

ACKNOWLEDGEMENT of SUCCESSOR RAILROAD

[LEAVE BLANK FOR TRANSFEREES OTHER THAN SUCCESSOR RAILROADS]

The undersigned, being the Grantee identified in the deed to which this Acknowledgement is attached (the "current Deed"), and a Successor Railroad as defined in Exhibit B of the current Deed, acknowledges and affirms (i) the sum and substance of Section 5.05 and (ii) Grantee's release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability and (iii) Grantee's obligations as successor in interest to Norfolk Southern Railway Company and its successors and assigns (other than Grantee) as Buyer under Section 13.02 incorporated in Exhibit "B" to indemnify, defend and hold harmless the Seller Released Parties with respect to the obligations and liabilities assumed by Buyer under said Section 5.05, which obligations shall be joint and several with the obligations of Norfolk Southern Railway Company and its successors and assigns.

Prior to further conveying the property conveyed by the current Deed or any portion thereof to a Successor Railroad, the undersigned shall incorporate Exhibit "B," including this Exhibit "B-1," in the deed or other instrument of conveyance and require that Successor Railroad to acknowledge and affirm of record such transferee's obligations (which shall be joint and several with Buyer) to release, indemnify and defend the Seller Released Parties as provided in the current Deed, which acknowledgement shall be in the form of this Acknowledgement.

Prior to a Successor Railroad further conveying the property conveyed by the current Deed or any portion thereof to a transferee other than Successor Railroad, such transferee shall acknowledge and affirm of record its release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability, which acknowledgement shall be in the form set forth in Exhibit B-2 of the Quitclaim Deed.

Grantee

By _____

Its _____

State of _____

County of _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2022 by _____, the _____ of _____, a _____ [corporation or other entity], on behalf of the [corporation or other entity].

Notary Public

This Instrument prepared by:

Exhibit "B-2"

ACKNOWLEDGEMENT of TRANSFEREE

[LEAVE BLANK IF TRANSFEREE IS A SUCCESSOR RAILROAD]

The undersigned, being the Grantee identified in the deed to which this Acknowledgement is attached (the "current Deed"), (i) acknowledges and affirms the sum and substance of Section 5.05 as it may affect a portion, or all of, any Real Property conveyed to a transferee, and (ii) Grantee's release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability (but only to the extent that applicable state law may permit the applicable transferee entity to accomplish such release or waiver, and without waiver or modification of any principles of sovereign immunity that may be applicable to certain transferee entities), and (iii) the obligations of Norfolk Southern Railway Company and its successors and assigns (other than Grantee) as Buyer under Section 13.02 incorporated in Exhibit "B" to indemnify, defend and hold harmless the Seller Released Parties with respect to the obligations and liabilities assumed by Buyer under said Section 5.05. Further, for the sake of clarity, any indemnification obligations in subsection (iii) shall be discharged by Norfolk Southern Railway Company, or any Successor Railroad as applicable, but shall not be binding upon, or assumed by, and this acknowledge shall not operate to transfer the same, to any other third party transferee. No provision of this Exhibit "B" is intended to operate as a waiver, release, modification of principles of sovereign immunity, or applicable state law that may be applicable to any transferee entity, and to the extent any such provision is deemed to accomplish such waiver, release, or modification by a court with appropriate jurisdiction, then that provision deemed to create such waiver, release or modification shall be deemed severable from the remainder of this Exhibit "B" with all other rights, duties, and obligations remaining fully effective as to Norfolk Southern Railway Company, or any other Successor Railroad.

Prior to further conveying the property conveyed by the current Deed or any portion thereof to a transferee, such transfer shall acknowledge and affirm of record its release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability, which acknowledgement shall be in the form set forth in Exhibit B-2 of the Quitclaim Deed.

Grantee

By _____

Its _____

State of _____

County of _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2022 by _____, the _____ of _____, a _____ [corporation or other entity], on behalf of the [corporation or other entity].

Notary Public

This Instrument prepared by:

EXHIBIT C-3
FORM OF QUITCLAIM DEED

THIS INSTRUMENT PREPARED BY:

QUITCLAIM DEED

ADDRESS NEW OWNER(s) AS FOLLOWS:	SEND TAX BILLS TO:		MAP PARCEL NUMBERS
(NAME)	(NAME)		
(STREET ADDRESS OR ROUTE NUMBER)	(STREET ADDRESS)		
(CITY) (STATE) (ZIP)	(CITY) (STATE) (ZIP)		

FOR AND IN CONSIDERATION of the sum of One (\$1.00), cash in hand paid, the receipt of which is hereby acknowledged, _____ (“Grantor”), by these presents does hereby quitclaim and convey unto (“Grantee”), successors and assigns, all of Grantor’s right, title and interest in and to the following described tract of land:

SEE EXHIBIT “A”, ATTACHED HERETO AND MADE A PART HEREOF

*This is improved property known as*_____.

To have and to hold the aforementioned property along with all servitudes, easements, privileges and appurtenances belonging to Grantor and pertaining to said property, along with any fixtures, structures, or other improvements of any type belonging to Grantor that are present on the property, subject to agreements, covenants, and representations regarding the condition of the real property as set forth in Exhibit "B" attached hereto.

Further, to ensure that Grantee is fully vested with all right, title and interest of Grantor, Grantor hereby quitclaims and conveys to Grantee, and its successors and assigns, any and all of Grantor’s right, title and interest in and of any other real property owned by Grantor and located within the aforementioned county and state, whether or not such property interest is expressly described in this instrument.

STATE OF _____ COUNTY OF _____	The actual consideration for this transfer is \$ _____
<i>Affiant</i> _____ <i>[Grantee]</i> _____	
Subscribed and sworn to before me this the ____ day of _____, 200__.	
(Affix Seal)	Notary Public _____
My commission expires: _____	

--

QUITCLAIM DEED

Signature page

Witness our hand this _____ day of _____, 20____, the corporate party, if any, having caused its name to be signed hereto by its duly authorized officers on said day and date.

STATE OF
COUNTY OF

Before me, _____, a Notary Public of the State and County aforesaid, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged _____ self to be _____ of the _____, the within named bargainor, a corporation, and that _____ as such _____ being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by _____ self as _____.

Witness my hand and official seal, at office in _____, this day of _____, 20____.

Notary Public

My Commission Expires:

EXHIBIT "A" TO QUITCLAIM DEED

[INSERT DESCRIPTION]

PROPERTY CONDITION COVENANTS

Grantor and Grantee acknowledge and agree that Grantor, as Seller (as defined below), has conveyed the property described in this Quitclaim Deed (the "Real Property") to Grantee, as Buyer (as defined below) pursuant to that certain ASSET PURCHASE AND SALE AGREEMENT, dated as of November 21, 2022, between Board of Trustees of the Cincinnati Southern Railway, Norfolk Southern Railway Company and The Cincinnati, New Orleans and Texas Pacific Railway Company (the "Agreement"), the provisions of which Agreement shall survive the delivery of this Quitclaim Deed as prescribed in the Agreement, including specifically the conditions, covenants, and representations regarding the condition of the property in Section 5.05, Article VI, and Section 13.02 of the Agreement set out in this Exhibit "B", that shall constitute covenants running with the land that shall be binding on Grantee and all future owners, provided (a) Buyer's acknowledgement of property conditions as of the date of this Quitclaim Deed and Seller's disclaimer of liability for such conditions, and Buyer's waivers and releases of claims against Seller and the Seller Released Parties shall be binding and enforceable against Buyer and all future owners to the fullest extent allowed by law, and (b) Seller's affirmative duties and obligations in any way arising from, or resulting from, the aforementioned covenants, including obligations to indemnify and defend Seller shall be the sole responsibility and obligation of Buyer and any Successor Railroad (as defined below). In furtherance of the foregoing, this Exhibit "B," including attached Exhibits "B-1" and "B-2", as applicable to the identity of the transferee as otherwise set forth herein, shall be incorporated in every future deed or other instrument of conveyance of all or any portion of the Real Property.

Definitions

"Acquired Assets" - includes all right, title and interest of Seller in all real property held by Seller in conjunction with Seller's oversight and management of the Cincinnati Southern Railway, including the Real Property that is the subject of this Deed.

"Affiliates" - as defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended, and, solely as it pertains to Seller, the Public Parties.

"Assumed Obligations" - defined in Section 2.04(d) of the Agreement as follows:

(d) Assumed Obligations. As additional consideration for the Acquired Assets, Buyer shall assume the following obligations and liabilities of Seller (the "Assumed Obligations"):

(i) obligations and liabilities of Seller (if any) arising before (except to the extent such obligations are imposed on Seller under the Existing Lease) or after the Closing Date under Real Property Interests and Contracts assigned to Buyer pursuant to the provisions hereof or under Line Agreements, as provided in Section 2.08(b);

(ii) except for any income tax liability Seller may incur from Seller selling the Acquired Assets to Buyer, all obligations, commitments and liabilities of the Public Parties, of whatever nature, whether known or unknown, asserted or unasserted, fixed, absolute or contingent, matured or unmatured, accrued or unaccrued, liquidated or unliquidated or due or to become due, which relate to the condition of the Real Property and the other Acquired Assets arising before or after the Closing Date, or which relate exclusively to the ownership, condition or operation of the Acquired Assets arising before or after the Closing Date, including those arising under statutes, rules, regulations and effective or pending orders of Governmental Authorities;

(iii) all Environmental Liabilities of the Public Parties arising before or after the Closing Date which arise out of or are related in any way to the condition, ownership or use of the Real Property or the Line Agreements or any other Acquired Assets, including without limitation (A) any environmental contamination or other condition, or the presence of Hazardous Substances, on the Real Property or other Acquired Assets, whether such contamination or Hazardous Substances are located on or under the Real Property or other Acquired Assets or have migrated or will migrate from or to the Real Property or other Acquired Assets, and (B) the handling, use, treatment, removal, storage, decontamination, cleanup, transport (except for transportation as a common carrier) or disposal of, or exposure to, Hazardous Substances, whether such conditions and/or Environmental Liabilities are known or unknown, suspected or unsuspected, contemplated or un contemplated, and whether or not such conditions were caused by Seller or predecessors or Affiliates of Seller.

"Buyer" - Norfolk Southern Railway Company, a Virginia corporation ("Grantee" under this Quitclaim Deed) and its successors and assigns.

"Closing" - the closing of the purchase of the Acquired Assets.

"CNTOP" - The Cincinnati, New Orleans and Texas Pacific Railway Company, an Ohio corporation

"Deeds" - the quit-claim deeds by which Seller will transfer the Real Property to Buyer, including this Quitclaim Deed.

"East Peavine Line" -- The real property and other assets comprised of approximately twenty (20) miles of the CT segment located West/Northwest of Vera Junction.

"Environmental Law" - Any federal, state, local or common law, rule, regulation, ordinance, code, order, decree, judgment, permit requirement, or other requirement of any Governmental Authority, in effect as of the date of this Agreement or at any time thereafter, relating to (i) the pollution or protection of the environment (including air, land, soil, soil vapor, surface waters, ground waters, stream and river sediments, and biota); or (ii) the use, generation, storage, treatment, disposal, processing, transportation (except for transportation as a common carrier), handling, release, emission or remediation of, or exposure to, Hazardous Substances, including the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601 et seq., the Resource Conservation and Recovery Act ("Solid Waste Disposal Act" or "RCRA"), 42 U.S.C. §§ 6901 et seq., the Clean Air Act, 42 U.S.C. §§ 7401 et seq., the Safe Drinking Water Act, 42 U.S.C. §§ 330f et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101 et seq., and the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2601 et seq.

"Environmental Liabilities" – Claims, judgments, damages (including consequential and punitive damages), losses, penalties, fines, obligations, commitments, liabilities, Encumbrances, violations, costs and expenses (including attorneys', consultants' and engineering fees) arising under any Environmental Laws (whether at law or in equity) or in any way relating to (i) the environment (including air, land, soil, soil vapor, surface waters, ground waters, stream and river sediments, and biota); (ii) the presence, use, generation, storage, treatment, disposal, processing, transportation (except for transportation as a common carrier), handling, release, emission or remediation of, or exposure to, Hazardous Substances; or (iii) impacts on human health and safety resulting from the foregoing, including, without limitation, investigation, remediation, clean-up, corrective action, monitoring, or defense of any matter arising under any Environmental Laws, of whatever kind or nature,

whether known or unknown, asserted or unasserted, fixed, absolute or contingent, matured or unmatured, accrued or unaccrued, liquidated or unliquidated or due or to become due, whether or not resulting from the actual or alleged violation of or noncompliance with any Environmental Laws.

"Existing Lease" – That certain Lease between Seller and CNOTP, dated as of October 11, 1881, as amended and supplemented, including without limitation by the 1987 Supplementary Agreement.

"Hazardous Substances" – All hazardous or toxic materials or substances, wastes, pollutants, contaminants, or terms of similar meaning, and all other materials or substances that are subject to regulation, defined, or may give rise to any responsibilities or liabilities under any Environmental Law.

"Line" - the railroad starting at approximately Milepost 0.5 in Cincinnati, Ohio, extending through Kentucky, and ending at approximately Milepost 337.4 in Chattanooga, Tennessee.

"Public Parties" – collectively, Seller and the City of Cincinnati.

"Real Property" - certain real property associated with the Line; real property interests acquired by Seller in conjunction with its ownership of the Line; real property underlying the Line; real property adjacent to or detached from the Line; and all associated rights, interests, privileges, fixtures, improvements, and appurtenances otherwise associated therewith, including the real property that is the subject of this Quitclaim Deed.

"Seller" - The Board of Trustees of the Cincinnati Southern Railway, a board of trustees organized under the State of Ohio ("Grantor" under this Quitclaim Deed).

"Third Party Claims" - any claim or other assertion of liability by third parties.

5.05. Condition of Property.

(a) Buyer acknowledges and agrees, through CNOTP's operation of the Line under the Existing Lease and otherwise, that it has had an adequate opportunity to inspect the Real Property and other Acquired Assets and Seller's records to evaluate the condition of the Real Property and other Acquired Assets and, if the Closing occurs, Buyer shall conclusively be deemed to have accepted the Real Property and other Acquired Assets in their present condition (including condition of title and environmental condition), and such property shall be conveyed at Closing to Buyer "AS IS, WHERE IS, WITH ALL FAULTS", as more fully set forth in Article VI. The Public Parties do not make any representation or warranty, express or implied, with respect to the condition of the Real Property or other Acquired Assets, including with respect to surface and subsurface environmental conditions, whether latent or patent, the nonexistence of any Hazardous Substances, compliance by the Real Property or Seller with any Environmental Law, the existence of any Environmental Liabilities, or habitability or tenantability of the Real Property. Buyer recognizes that certain of the materials contained in certain assets comprising the Acquired Assets may be or contain Hazardous Substances, including batteries, creosote in railroad ties, asbestos in building materials, lubricating stations, and lead in paint used on bridges and other assets.

(b) Buyer's acceptance of title to the Real Property and other Acquired Assets shall represent Buyer's acknowledgment and agreement that: (i) the Public Parties have not made nor has Buyer relied on any written or oral representation or warranty made by the Public Parties, their agents or employees with respect to the condition or value of the Real Property or other Acquired Assets; (ii) Buyer has had an adequate opportunity to inspect the condition of the Real Property and other Acquired Assets, through CNOTP's operation of the Line under

the Existing Lease and otherwise, including environmental conditions, and to inspect documents applicable thereto, and Buyer is relying on such inspection; (iii) the Real Property has been developed and operated as a railroad and for other industrial uses for many years, and the Real Property may be contaminated with Hazardous Substances as a result; (iv) some products and materials that were used in operating facilities on the Line will be left on the Real Property at Closing and, if intended to be discarded and not used, may need to be managed and disposed of in accordance with applicable Environmental Laws; (v) the Real Property may include underground storage tanks (and certain underground storage tanks which may have been removed without investigation), piping (above ground and underground piping), drainage mechanisms, and the like; and (vi) Buyer has read and understands Seller's disclaimer in Article VI and such disclaimer is in full force and effect and legally binding on Buyer.

(c) Effective upon the Closing, and without further act, deed or instrument, Buyer, on behalf of itself and its Affiliates, successors, successors-in-interest, and assigns, hereby releases the Public Parties, and their successors and assigns and their respective trustees, officials, officers, directors, shareholders, employees, agents and representatives ("Seller Released Parties"), from any and all obligations and liabilities with respect to any existing or future Claims at any time (including any liability Buyer may incur as a result of Third Party Claims) arising out of or in any way relating to (i) the condition of the Real Property and other Acquired Assets, (ii) non-compliance with Environmental Law related to the Real Property and other Acquired Assets, (iii) Environmental Liabilities related to the Real Property and other Acquired Assets, including any environmental contamination, or presence of Hazardous Substances on the Real Property or other Acquired Assets, whether such contamination or Hazardous Substances are located on or under the Real Property or other Acquired Assets or have migrated or will migrate from or to the Real Property or other Acquired Assets, and the handling, use, treatment, removal, storage, decontamination, cleanup, transport, or disposal of, or exposure to, Hazardous Substances from the Real Property or other Acquired Assets, and (iv) the East Peavine Line, and Buyer hereby waives any cause of action (including any right of contribution) Buyer and its Affiliates had, has or may in the future have against Seller Released Parties with respect to the foregoing, whether arising under common law, or federal, state or local statute, rule or regulation (all such obligations and liabilities being hereby assumed by Buyer and constituting Assumed Obligations). The foregoing shall apply to any condition or noncompliance with Environmental Law, including any environmental condition, known or unknown, suspected or unsuspected, contemplated or un contemplated or any liability Buyer may incur as a result of Third Party Claims.

Before Buyer or any future owner conveys the Real Estate or any portion thereof to a third party that will (i) assume the common carrier obligations (in whole or in part) of the Line and (ii) is a Class I, Class II, or Class III railroad company or otherwise intends to utilize the Line for railroad operations ("Successor Railroad"), the Successor Railroad shall acknowledge and affirm of record its release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability, and its assumption Buyer's obligations (which shall be joint and several with Buyer) to release, indemnify and defend the Seller Released Parties as provided in this Quitclaim Deed, which acknowledgement shall be in the form set forth in Exhibit B-1 of this Quitclaim Deed. All other transferees, including without limitation departments of transportation, those purchasing non-operating property, those operating property for non-railroad related purposes, or those operating property that is, or has been abandoned for railroad operations, shall acknowledge and affirm of record its release and waiver of claims (but only to the extent that applicable state law may permit the applicable transferee entity to accomplish such release or waiver, and without waiver or modification of any principles of sovereign immunity that may be applicable to certain transferee entities) against Seller Released Parties and Seller's disclaimers of liability, which acknowledgement shall be in the form set forth in Exhibit B-2 of this Quitclaim Deed.

The portion of Article VI of the Agreement relevant to the definition of "As-Is" provides as follows:

6.02. Disclaimer.

EXCEPT AS SET FORTH IN THIS ARTICLE VI, THE SALE AND PURCHASE AND THE OTHER TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT SHALL BE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND BY SELLER; SELLER DISCLAIMS ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE ACQUIRED ASSETS; BUYER AND SELLER AGREE THAT THE REAL PROPERTY AND THE ACQUIRED ASSETS ARE BEING CONVEYED "AS IS, WHERE IS, WITH ALL FAULTS"; SELLER MAKES NO REPRESENTATION OR WARRANTY AS TO WHETHER, UPON CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED HEREUNDER, THE ACQUIRED ASSETS WILL BE SUFFICIENT FOR BUYER'S PURPOSES; AND SELLER DOES NOT MAKE, AND EXPRESSLY DISCLAIMS, ANY REPRESENTATION OR WARRANTY REGARDING CONDITION OF TITLE, THE ENVIRONMENTAL CONDITION OF THE REAL PROPERTY, THE PHYSICAL CONDITION OR MAINTENANCE HISTORY OF THE LINE, THE REAL PROPERTY, AND THE ACQUIRED ASSETS.

13.02. Indemnification by Buyer. Subject to the limitations, conditions and provisions of this Article XIII and the Operative Documents, Buyer and CNOTP shall jointly and severally indemnify, defend and hold harmless Seller, its Affiliates and their respective officials, directors, officers, employees and agents from, against and with respect to all Claims asserted against, imposed upon or incurred directly or indirectly by Seller, by reason of, or resulting from, or in connection with (a) any breach of any representation or warranty of Buyer or CNOTP contained in this Agreement or the Operative Documents; (b) any noncompliance by Buyer or CNOTP with any covenants, agreements or undertakings of Buyer or CNOTP contained in this Agreement; (c) the ownership, use and operation of the Acquired Assets by Buyer after Closing; (d) use of the East Peavine Line for purposes other than railroad purposes; (e) the donation of the Peavine Line to, or use of the Peavine Line by, the State of Ohio; and (f) the Assumed Obligations.

Exhibit "B-1"

ACKNOWLEDGEMENT of SUCCESSOR RAILROAD

[LEAVE BLANK FOR TRANSFEREES OTHER THAN SUCCESSOR RAILROADS]

The undersigned, being the Grantee identified in the deed to which this Acknowledgement is attached (the "current Deed"), and a Successor Railroad as defined in Exhibit B of the current Deed, acknowledges and affirms (i) the sum and substance of Section 5.05 and (ii) Grantee's release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability and (iii) Grantee's obligations as successor in interest to Norfolk Southern Railway Company and its successors and assigns (other than Grantee) as Buyer under Section 13.02 incorporated in Exhibit "B" to indemnify, defend and hold harmless the Seller Released Parties with respect to the obligations and liabilities assumed by Buyer under said Section 5.05, which obligations shall be joint and several with the obligations of Norfolk Southern Railway Company and its successors and assigns.

Prior to further conveying the property conveyed by the current Deed or any portion thereof to a Successor Railroad, the undersigned shall incorporate Exhibit "B," including this Exhibit "B-1," in the deed or other instrument of conveyance and require that Successor Railroad to acknowledge and affirm of record such transferee's obligations (which shall be joint and several with Buyer) to release, indemnify and defend the Seller Released Parties as provided in the current Deed, which acknowledgement shall be in the form of this Acknowledgement.

Prior to a Successor Railroad further conveying the property conveyed by the current Deed or any portion thereof to a transferee other than Successor Railroad, such transferee shall acknowledge and affirm of record its release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability, which acknowledgement shall be in the form set forth in Exhibit B-2 of the Quitclaim Deed.

Grantee

By _____

Its _____

State of _____

County of _____

The foregoing instrument was acknowledged before me this ____ day of _____,
2022 by _____, the _____ of _____, a
_____ [corporation or other entity], on behalf of the [corporation or other
entity].

Notary Public

This Instrument prepared by:

Exhibit "B-2"

ACKNOWLEDGEMENT of TRANSFEREE

[LEAVE BLANK IF TRANSFEREE IS A SUCCESSOR RAILROAD]

The undersigned, being the Grantee identified in the deed to which this Acknowledgement is attached (the "current Deed"), (i) acknowledges and affirms the sum and substance of Section 5.05 as it may affect a portion, or all of, any Real Property conveyed to a transferee, and (ii) Grantee's release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability (but only to the extent that applicable state law may permit the applicable transferee entity to accomplish such release or waiver, and without waiver or modification of any principles of sovereign immunity that may be applicable to certain transferee entities), and (iii) the obligations of Norfolk Southern Railway Company and its successors and assigns (other than Grantee) as Buyer under Section 13.02 incorporated in Exhibit "B" to indemnify, defend and hold harmless the Seller Released Parties with respect to the obligations and liabilities assumed by Buyer under said Section 5.05. Further, for the sake of clarity, any indemnification obligations in subsection (iii) shall be discharged by Norfolk Southern Railway Company, or any Successor Railroad as applicable, but shall not be binding upon, or assumed by, and this acknowledge shall not operate to transfer the same, to any other third party transferee. No provision of this Exhibit "B" is intended to operate as a waiver, release, modification of principles of sovereign immunity, or applicable state law that may be applicable to any transferee entity, and to the extent any such provision is deemed to accomplish such waiver, release, or modification by a court with appropriate jurisdiction, then that provision deemed to create such waiver, release or modification shall be deemed severable from the remainder of this Exhibit "B" with all other rights, duties, and obligations remaining fully effective as to Norfolk Southern Railway Company, or any other Successor Railroad.

Prior to further conveying the property conveyed by the current Deed or any portion thereof to a transferee, such transfer shall acknowledge and affirm of record its release and waiver of claims against Seller Released Parties and Seller's disclaimers of liability, which acknowledgement shall be in the form set forth in Exhibit B-2 of the Quitclaim Deed.

Grantee

By _____

Its _____

State of _____

County of _____

The foregoing instrument was acknowledged before me this ____ day of _____,
2022 by _____, the _____ of _____, a
_____ [corporation or other entity], on behalf of the [corporation or other
entity].

Notary Public

This Instrument prepared by:

EXHIBIT D
FORM OF
QUITCLAIM BILL OF SALE

THIS QUITCLAIM BILL OF SALE is made this [●] day of [●], 202_, by and between the Board of Trustees of the Cincinnati Southern Railway, a board of trustees organized under the Laws of the State of Ohio (“Seller”) and Norfolk Southern Railway Company, a Virginia corporation (“Buyer”, and, collectively with Seller, the “Parties”).

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller does hereby remise and quitclaim to Buyer, its successors and assigns, all of Seller’s right, title, and interest in and to the Personal Property and all other associated rights, interests, privileges, licenses, agreements, and appurtenances otherwise associated therewith upon the Line and the Real Property as described in Exhibit A attached hereto and made a part hereof, but excluding the Excluded Assets as set forth in Exhibit B attached hereto and made a part hereof (with all interests conveyed by this instrument deemed the “Property”)

This Quitclaim Bill of Sale is being delivered pursuant to Sections 3.02(ii) and 3.03(ii) of that certain Asset Purchase and Sale Agreement, dated as of November 21, 2022 (the “Purchase Agreement”), by and among Seller, Buyer and The Cincinnati, New Orleans and Texas Pacific Railway Company, an Ohio corporation, and the applicable terms of such Purchase Agreement are hereby incorporated by this reference.

It is the Parties’ intention that Seller quitclaim to Buyer all of Seller’s right, title and interest in and to the Property, and Seller agrees to execute, acknowledge and deliver to Buyer all further instruments reasonably requested by Buyer, and undertake all further actions that may be necessary, in order to effectuate the quitclaim of the Property to Buyer all at the expense of Buyer. Except as expressly provided in this Agreement and the Purchase Agreement, the Property is sold, conveyed and transferred to the Buyer, and the Buyer accepts the Property, “as is” and “with all faults,” and without any representations or warranties of any kind as to its condition, merchantability, or fitness for any particular purpose.

Nothing contained in this Quitclaim Bill of Sale will be construed as a waiver of or limitation upon any of the rights or remedies of the Parties as set forth in, or arising in connection with, the Purchase Agreement, or any instrument or document delivered by the Parties pursuant to the Purchase Agreement. This Quitclaim Bill of Sale is not intended to create any obligations of the Parties other than those contemplated in the Purchase Agreement, and in the event of any ambiguity or conflict between the terms hereof and the Purchase Agreement, the terms of the Purchase Agreement will govern and control. Neither this Quitclaim Bill of Sale nor any term hereof may be changed, waived, discharged or terminated other than by an instrument in writing signed by the Parties. This Quitclaim Bill of Sale is subject to all of the representations, warranties, covenants, exclusions and indemnities set forth in the Purchase Agreement, all of which are incorporated herein by reference.

The provisions of the last paragraph of Section 1.01 (Other Definitional Provisions), Section 14.08 (Entire Agreement), Section 14.11 (Limitation on Benefits), Section 14.12 (Severability) and Section 14.14 (Governing Law) of the Purchase Agreement shall apply *mutatis mutandis* to this Quitclaim Bill of Sale.

This Quitclaim Bill of Sale may be executed in as many counterparts as may be required; and it shall not be necessary that the signatures of, or on behalf of, each Party, or the signatures of all Persons required to bind any Party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each Party, or the signatures of the Persons required to bind any Party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this Agreement to produce or account for any particular number of counterparts; but rather any number of counterparts shall be sufficient so long as those counterparts contain the respective signatures of, or on behalf of, all of the Parties. This Quitclaim Bill of Sale, to the extent delivered by means of a facsimile, email or electronic .pdf transmission shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Purchase Agreement.

[Remainder of Page Blank]

IN WITNESS WHEREOF, Seller and Buyer have executed and delivered this Quitclaim Bill of Sale on the date first above written.

SELLER:

The Board of Trustees of the
Cincinnati Southern Railway,
a board of trustees organized under the Laws of the State
of Ohio

By: _____
Name: _____
Title: _____

BUYER:

Norfolk Southern Railway Company,
a Virginia corporation

By: _____
Name: _____
Title: _____

EXHIBIT A

Insert Legal Description

EXHIBIT B

Excluded Assets

EXHIBIT E

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (this “Agreement”) is made as of [●], 202_, by and between Norfolk Southern Railway Company, a Virginia corporation (“Buyer”), and the Board of Trustees of the Cincinnati Southern Railway, a board of trustees organized under the laws of the State of Ohio (“Seller”). Seller and Buyer may be referred to herein individually as a “Party” and, collectively, as the “Parties.” Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Purchase Agreement (as defined below).

RECITALS

WHEREAS, reference is made to that certain Asset Purchase and Sale Agreement dated as of November 21, 2022, by and among Buyer, Seller and The Cincinnati, New Orleans and Texas Pacific Railway Company (the “Purchase Agreement”), whereby Seller agreed to sell and assign to Buyer, and Buyer agreed to purchase from Seller, all of Seller’s right, title and interest in or to the Acquired Assets, in accordance with the terms of the Purchase Agreement; and

WHEREAS, this Agreement is being delivered pursuant to Sections 3.02(i) and 3.03(iii) of the Purchase Agreement.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein and in the Purchase Agreement (the receipt and sufficiency of which are hereby acknowledged and agreed), the Parties, intending to be legally bound, hereby agree as follows:

AGREEMENT

1. Effective as of the Closing, Seller hereby irrevocably assigns, transfers, conveys and delivers to Buyer all of Seller’s right, title and interest in, to and under the Acquired Assets that are not otherwise transferred and conveyed by the Deeds or the Bill of Sale other than the Excluded Assets. Effective as of Closing, Buyer hereby accepts such assignment and assumes all of Seller’s duties and obligations under the Acquired Assets. The Parties will take, or cause to be taken, such actions, or execute and deliver, or cause to be executed and delivered such other documents, agreements or instruments, in each case as the other Parties may request, in order to further evidence the assignment to and assumption by Buyer of the Acquired Assets at the expense of the requesting Party. Except as expressly provided in this Agreement and the Purchase Agreement, the Acquired Assets are sold, conveyed and transferred to Buyer, and Buyer accepts the Acquired Assets, “as is” and “with all faults,” and without any representations or warranties of any kind as to its condition, merchantability, or fitness for any particular purpose.

2. Buyer does hereby assume and agrees to promptly pay, perform and discharge all of the Assumed Obligations to the extent set forth in the Purchase Agreement.

3. Nothing contained in this Agreement will be construed as a waiver of or limitation upon any of the rights or remedies of the Parties as set forth in, or arising in connection with, the Purchase Agreement, or any instrument or document delivered by the Parties pursuant to the Purchase Agreement. This Agreement is not intended to create any obligations of the Parties other

than those contemplated in the Purchase Agreement, and in the event of any ambiguity or conflict between the terms hereof and the Purchase Agreement, the terms of the Purchase Agreement will govern and control. Neither this Agreement nor any term hereof may be changed, waived, discharged or terminated other than by an instrument in writing signed by the Parties. This Agreement is subject to all of the representations, warranties, covenants, exclusions and indemnities set forth in the Purchase Agreement, all of which are incorporated herein by reference.

4. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

5. The provisions of the last paragraph of Section 1.01 (Other Definitional Provisions), Section 14.08 (Entire Agreement), Section 14.11 (Limitation on Benefits), Section 14.12 (Severability) and Section 14.14 (Governing Law) of the Purchase Agreement shall apply *mutatis mutandis* to this Agreement.

6. This Agreement may be executed in as many counterparts as may be required; and it shall not be necessary that the signatures of, or on behalf of, each Party, or the signatures of all Persons required to bind any Party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each Party, or the signatures of the Persons required to bind any Party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this Agreement to produce or account for any particular number of counterparts; but rather any number of counterparts shall be sufficient so long as those counterparts contain the respective signatures of, or on behalf of, all of the Parties. This Agreement, to the extent delivered by means of a facsimile, email or electronic .pdf transmission shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

[Remainder of Page Intentionally Left Blank]

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

**NORFOLK SOUTHERN RAILWAY
COMPANY**

By: _____
Name:
Title:

**THE BOARD OF TRUSTEES OF THE
CINCINNATI SOUTHERN RAILWAY**

By: _____
Name:
Title:

EXHIBIT F
FORM OF
TERMINATION OF EXISTING LEASE

This TERMINATION OF EXISTING LEASE (this “Termination”) is entered into as of _____, 202_, among the Trustees of the Cincinnati Southern Railway (the “Trustees”), The Cincinnati, New Orleans and Texas Pacific Railway Company (“CNOTP”), Norfolk Southern Railway Company (“NSR”), and Norfolk Southern Corporation (“NSC”).

RECITALS AND DEFINITIONS

A. The Trustees have leased to CNOTP a line of railway known as the Cincinnati Southern Railway, starting at approximately Milepost 0.5 in Cincinnati, Hamilton County, Ohio, extending through Kentucky, and ending at approximately Milepost 337.4 in Chattanooga, Hamilton County, Tennessee (the “Line”), and certain real property held by Seller in conjunction with Seller’s oversight and management of the Line (together with the Line, the “Leased Premises”) pursuant to a Lease dated as of October 11, 1881 (the “Lease”).

B. The Lease has been extended, modified, and supplemented, including through a Supplementary Agreement (the “Supplementary Agreement”), entered into as of January 1, 1987, by the Trustees and CNOTP. The Lease, as extended, modified, and supplemented, is referred to herein as the “Existing Lease.”

C. NSR and NSC guaranteed CNOTP’s performance under the Existing Lease.

D. The current term of the Existing Lease expires on December 31, 2026. The Supplementary Agreement provides a process under which CNOTP may be permitted to extend the Existing Lease for the period from January 1, 2027 to December 31, 2051 (the “Extension Period”).

E. On December 20, 2021, a representative of the Trustees received CNOTP’s notice of intent to extend the Existing Lease for the Extension Period.

F. On November 21, 2022, the Trustees, CNOTP, and NSR entered into an Asset Purchase and Sale Agreement (the “APSA”) under which NSR agreed to purchase and the Trustees agreed to sell the Leased Premises (the “Transaction”), in accordance with the terms of the APSA.

G. Capitalized terms used below that have not been defined in these Recitals shall have the meaning assigned to them in the APSA.

THEREFORE, the parties agree as follows:

AGREEMENTS

1. Immediately before Closing of the Transaction, the Existing Lease shall terminate, and the parties shall have no further rights or obligations under the Existing Lease, provided that the following obligations of the Existing Lease shall survive the Closing:

- a) any obligations of the parties that, under the Existing Lease, expressly survive beyond its current term;
- b) the obligations of CNOTP, under Section 4 of the Supplementary Agreement, to pay and save harmless the Trustees from the payment of any costs, expenses, claims, liabilities, damages and demands whatsoever arising out of the CNOTP's possession, control, management and operation of the Line or any part of the Leased Premises during the term of the Existing Lease; and
- c) the obligation of the parties, under Sections 8 and 15 of the Supplementary Agreement, to arbitrate any disagreement, dispute, controversy or difference concerning the construction of the Existing Lease, the rights of the parties thereunder, or the guaranty by NSR and NSC and the obligations of NSR and NSC, under Section 15 of the Supplementary Agreement, to guaranty that CNOTP would fully perform all of its obligations under the Existing Lease and to make the Trustees whole for any loss suffered by it as a result of the failure of CNOTP to so perform.

Nothing contained in this Termination shall be construed to limit the rights of a party to enforce any obligation that, prior to the Closing, arose under the Existing Lease and had not been fulfilled.

2. In addition, upon Closing:

- a) CNOTP shall not be required to grant to the Trustees non-exclusive joint use of those rail facilities, as provided in Section 3(g) of the Supplementary Agreement;
- b) The Trustees' claims to ownership of the Leased Premises under the terms of the Existing Lease shall be fully and finally released; and
- c) The Trustees shall take any reasonable action requested by CNOTP to assist in the cancelation of the surety bond deposited by CNOTP with the Trustees pursuant to Section 7 of the Supplementary Agreement.

3. Effective as of the Closing, each of Buyer and CNOTP, on behalf of themselves and each of their Affiliates and each of their respective successors and assigns, hereby irrevocably and unconditionally releases and forever discharges Seller and its Affiliates and former, current and future equity holders, controlling persons, directors, officers, employees, agents, representatives, members, managers, general or limited partners, or assignees (or any former, current or future equity holder, controlling person, director, officer, employee, agent, representative, member, manager, general or limited partner, or assignee of any of the foregoing) from any and all actions, causes of action, suits, proceedings, executions, judgments, duties, debts, dues, accounts, bonds, contracts and covenants (whether express or implied), liabilities, claims and demands whatsoever whether in law or in equity, arising out of, or relating to, or accruing from the Existing Lease, in each case relating to any matter, occurrence, action or activity on or prior to the Closing Date; provided that nothing contained in this Termination shall release, waive, discharge, relinquish or otherwise affect the rights or obligations of any Person with respect to liabilities and obligations that (a) survive the Closing as set forth in Paragraph 1 of this Termination, or (b) are undertaken in the APSA or any other agreement or document executed or delivered pursuant to or in connection with the APSA.

4. Effective as of the Closing, Seller, on behalf of itself and each of its Affiliates and each of their respective successors and assigns, hereby irrevocably and unconditionally releases and forever discharges Buyer, CNOTP and their respective Affiliates and each of their respective former, current and future equity holders, controlling persons, directors, officers, employees, agents, representatives, members, managers, general or limited partners, or assignees (or any former, current or future equity holder, controlling person, director, officer, employee, agent, representative, member, manager, general or limited partner, or assignee of any of the foregoing) from any and all actions, causes of action, suits, proceedings, executions, judgments, duties, debts, dues, accounts, bonds, contracts and covenants (whether express or implied), liabilities, claims and demands whatsoever whether in law or in equity, arising out of, or relating to, or accruing from the Existing Lease, in each case relating to any matter, occurrence, action or activity on or prior to the Closing Date; provided that nothing contained in this Termination shall release, waive, discharge, relinquish or otherwise affect the rights or obligations of any Person with respect to liabilities and obligations that (a) survive the Closing as set forth in Paragraph 1 of this Termination, or (b) are undertaken in the APSA or any other agreement or document executed or delivered pursuant to or in connection with the APSA.

5. To facilitate execution, this Termination may be executed in as many counterparts as may be required; and it shall not be necessary that the signatures of, or on behalf of, each party, or the signatures of all persons required to bind any party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each party, or the signatures of the persons required to bind any party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement.

6. This Termination shall be governed by, and enforced in accordance with, the internal laws of the State of Ohio, including its statutes of limitations, without regard to any borrowing statute that would result in the application of the statute of limitations of any other jurisdiction.

IN WITNESS WHEREOF, each of the parties has executed this Termination or has caused this Termination to be duly executed on its behalf, as of the day and year first above written.

TRUSTEES OF THE CINCINNATI SOUTHERN RAILWAY

By: _____

Title

Date

THE CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY

By: _____

Title

Date

NORFOLK SOUTHERN RAILWAY COMPANY

By: _____

Title

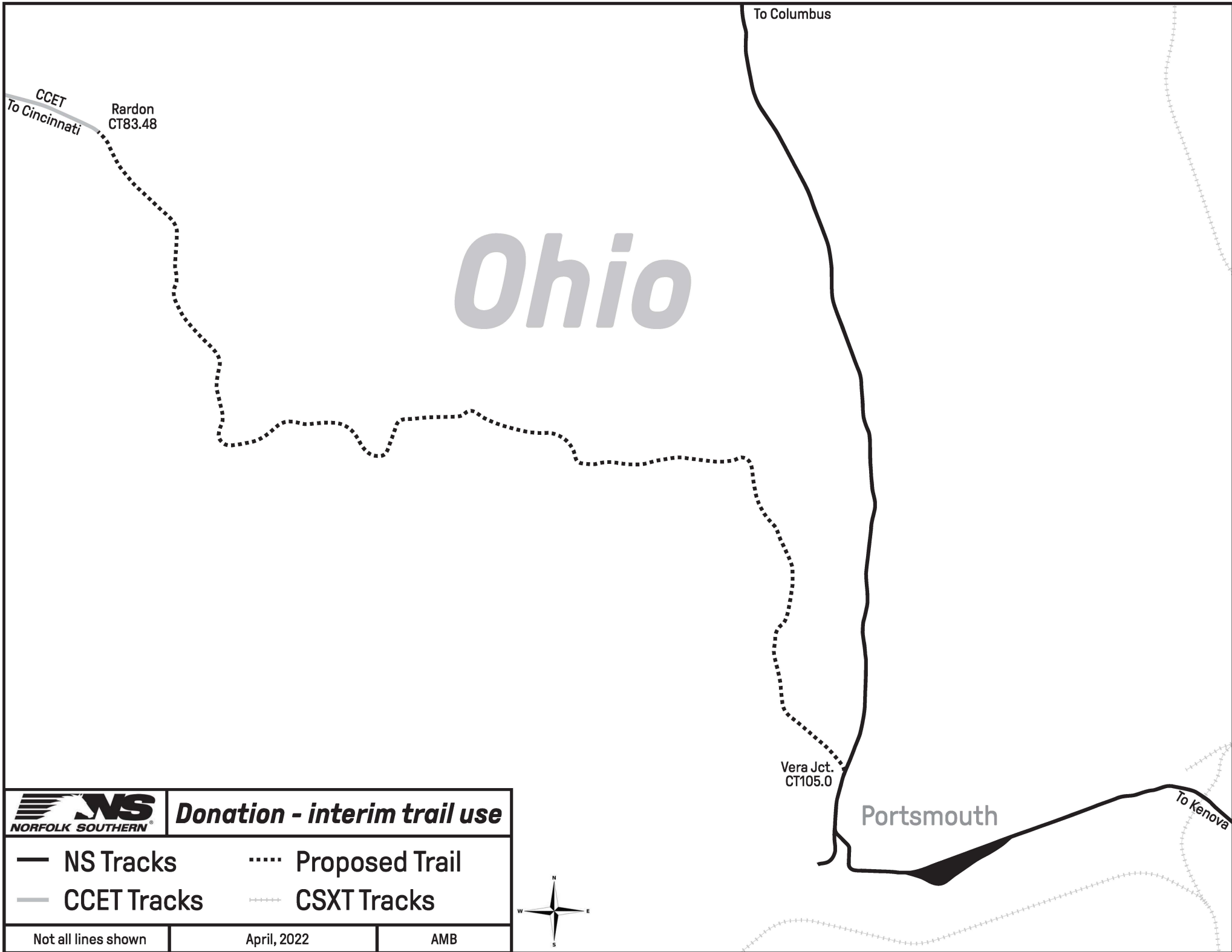
Date

NORFOLK SOUTHERN CORPORATION

By: _____

Title

Date



Donation - interim trail use

— NS Tracks

..... Proposed Trail

— CCET Tracks

+ + + + CSXT Tracks

Not all lines shown

April, 2022

AMB



EXHIBIT H
FORM OF
OFFICERS' CERTIFICATE
OF
BOARD OF TRUSTEES OF THE CINCINNATI RAILWAY
[Closing Date]

This Certificate is being delivered pursuant to Section 3.02(v) of that certain Asset Purchase and Sale Agreement dated as of November 21, 2022 (the "Purchase Agreement"), by and among Norfolk Southern Railway Company, a Virginia corporation ("Buyer"), The Cincinnati, New Orleans and Texas Pacific Railway Company, an Ohio corporation ("CNOTP"), and the Board of Trustees of the Cincinnati Southern Railway, a board of trustees organized under the laws of the State of Ohio ("Seller"). Capitalized terms not otherwise defined herein have the meanings given to such terms in the Purchase Agreement.

The undersigned does hereby certify that he or she has authority to execute and deliver this Certificate on behalf of Seller and does hereby further certify on behalf of Seller and not in an individual capacity and without personal liability, that:

- (i) attached hereto as Exhibit A is a true, complete and correct copy of the Bylaws of Seller, which such Bylaws are in full force and effect and have not been amended since the date of their adoption reflected on the attached;
- (ii) attached hereto as Exhibit B is a true, complete and correct copy of an extract of the resolutions of the Board of Trustees of Seller, authorizing the execution, delivery and performance by Seller of the Purchase Agreement, and such resolutions are in full force and effect and have not been amended since the date of their adoption reflected on the attached;
- (iii) The representations and warranties of Seller made in the Purchase Agreement and in any agreement, instrument or document executed pursuant to the Purchase Agreement were true and correct as of the date of the Purchase Agreement or as of the date of such other agreement, instrument or document, as the case may be (except for such representations and warranties that speak as of an earlier date, which representations and warranties were true and correct as of such earlier date), and are true and correct in all respects (where such representations or warranties contain materiality qualifiers) or in all material respects (where such representations or warranties do not contain materiality qualifiers), as the case may be, on the date hereof as though such representations and warranties were made on and as of the date hereof (except for such representations and warranties that speak as of an earlier date, which representations and warranties shall be true and correct in all respects or in all material respects, as the case may be, as of such earlier date); and

- (iv) Seller has performed and complied in all material respects with all covenants and agreements required by the Purchase Agreement to be performed or complied with by Seller on or prior to the Closing.

[Signatures on next page.]

This Certificate is given solely in the capacities as officers of Seller, and no personal liability is assumed by the undersigned in connection herewith.

IN WITNESS WHEREOF, this Certificate has been executed as of the day and year first written above.

BOARD OF TRUSTEES OF THE
CINCINNATI SOUTHERN RAILWAY

By: _____
Paul V. Muething, President

EXHIBIT A

BY-LAWS

EXHIBIT B
RESOLUTIONS

EXHIBIT I
FORM OF
OFFICER'S CERTIFICATE

NORFOLK SOUTHERN RAILWAY COMPANY

[●], 2022

This Certificate is being delivered pursuant to Section 3.03(v) of that certain Asset Purchase and Sale Agreement dated as of November 21, 2022 (the "Purchase Agreement"), by and among Norfolk Southern Railway Company, a Virginia corporation ("Buyer"), The Cincinnati, New Orleans and Texas Pacific Railway Company, an Ohio corporation ("CNOTP"), and the Board of Trustees of the Cincinnati Southern Railway, a board of trustees organized under the laws of the State of Ohio ("Seller"). Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Purchase Agreement.

The undersigned does hereby certify that he or she has authority to execute and deliver this Certificate on behalf of Buyer and does hereby further certify on behalf of Buyer and not in an individual capacity and without personal liability, that:

- (i) attached hereto as Exhibit A is a true, complete and correct copy of the Articles of Incorporation of Buyer and CNOTP, which such Articles of Incorporation are in full force and effect and have not been amended since the date of their adoption reflected on the attached;
- (ii) attached hereto as Exhibit B is a true, complete and correct copy of the Bylaws of Buyer and CNOTP, which such Bylaws are in full force and effect and have not been amended since the date of their adoption reflected on the attached;
- (iii) attached hereto as Exhibit C is a true, complete and correct copy of an extract of the resolutions of the Board of the Buyer and CNOTP, authorizing the execution, delivery and performance by Buyer and CNOTP of the Purchase Agreement, and such resolutions are in full force and effect and have not been amended since the date of their adoption reflected on the attached;
- (iv) the representations and warranties of Buyer and CNOTP made in Article VII and Article VIII, respectively, of the Purchase Agreement and in any agreement, instrument or document executed pursuant to the Purchase Agreement were true and correct as of the date of the Purchase Agreement or as of the date of such other agreement, instrument or document, as the case may be (except for such representations and warranties that speak as of an earlier date, which representations and warranties were true and correct as of such earlier date), and are true and correct in all respects (where such representations or warranties contain materiality qualifiers) or in all material respects (where such representations or warranties do not contain materiality qualifiers), as the case may be, on the date hereof as though such representations and warranties were made on and as of the

date hereof (except for such representations and warranties that speak as of an earlier date, which representations and warranties shall be true and correct in all respects or in all material respects, as the case may be, as of such earlier date); and

- (v) Buyer and CNOTP have performed and complied in all material respects with all covenants and agreements required by the Purchase Agreement to be performed or complied with by Buyer and CNOTP on or prior to the Closing.

[Remainder of page intentionally blank]

This Certificate is given solely in the capacities as officers of Buyer, and no personal liability is assumed by the undersigned in connection herewith.

IN WITNESS WHEREOF, this Certificate has been executed as of the day and year first written above.

**NORFOLK SOUTHERN RAILWAY
COMPANY**

By: _____
Name:
Title:

EXHIBIT A
ARTICLES OF INCORPORATION

EXHIBIT B

BY-LAWS

EXHIBIT C
RESOLUTIONS

EXHIBIT J
FORM OF CERTIFICATE OF INCUMBENCY

[NORFOLK SOUTHERN RAILWAY COMPANY]
[THE CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY]

CERTIFICATE OF
INCUMBENCY

The undersigned certifies that [he/she] is a duly elected officer of [Norfolk Southern Railway Company, a Virginia corporation] [The Cincinnati, New Orleans and Texas Pacific Railway Company, an Ohio corporation] (the "Company"), and as such is authorized to execute this Certificate. [He/she] further certifies that the following individuals are qualified and are now acting on behalf of the Company in the respective capacity or capacities indicated below, and that the signatures set forth opposite the names of the officers are their true and genuine signatures.

[He/she] hereby further certifies that the following individuals are, as of the date of delivery, authorized to execute and deliver that certain Asset Purchase and Sale Agreement, dated as of the date hereof, by and among the Company, [The Cincinnati, New Orleans and Texas Pacific Railway Company, an Ohio corporation][Norfolk Southern Railway Company, a Virginia corporation] and the Board of Trustees of the Cincinnati Southern Railway, a board of trustees organized under the State of Ohio (the "Purchase Agreement") and any other documents delivered in connection with the transactions contemplated by the Purchase Agreement.

Name

Title

Signature

[]

[]

[]

[]

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Certificate of Incumbency as of the date first written above.

By: _____

Name:

Title:

EXHIBIT 15

OPERATING PLAN—MINOR

Pursuant to the Board’s regulations at 49 C.F.R. § 1180.8(c), operating plans for minor transactions should “[d]iscuss any significant changes in patterns or types of service as reflected by the operating plan expected to be used after consummation of the transaction.” Applicants do not intend to use a different operating plan as a result of the Transaction. Details regarding current operations on the CSR Line are set forth below.

Overview

Applicants do not anticipate any change in the operations that are currently conducted on the CSR Line. The Transaction will not result in an increase or decrease of rail traffic on the CSR Line.

Additionally, pursuant to 49 C.F.R. § 1180.8(c)(1)–(4), Applicants provide the following information:

- There are no lines involved in the proposed transaction that will be used in joint operations with other carriers as a result of the Transaction, nor will the Transaction result in any change in traffic level density on the CSR Line.
- There are no passenger or commuter operations on the CSR Line, nor does the Transaction contemplate the introduction of passenger or commuter operations on the CSR Line. Therefore, there will be no impacts on commuter or other passenger service.
- Applicants do not expect any material operating economies as a result of the Transaction because there will be no changes in current operations as a result

of the Transaction. Converting the leasehold interest to ownership may generate savings as assets amortized under the lease become depreciable assets. To the extent that NSR utilizes its credit facilities to finance the purchase price, the Transaction will result in related interest expense.

- Rail service will not be discontinued or abandoned on any portion of the CSR Line as a result of the Transaction.³⁴

Train Service

Upon consummation of the Transaction, NSR will acquire title to the CSR Line, and its wholly owned subsidiary, CNOTP, will continue to operate the CSR Line. Applicants will provide the same train service, maintain the same interchanges with other carriers, and follow the same operating plan as today.

Table 1 below provides information on the trains that operated on the CSR Line between December 20, 2022, and January 25, 2023. Table 1 accurately reflects the train service plan that Applicants will continue to perform following consummation of the Transaction. Table 1 includes train count by type, average trains per day by type, and average trains per week by type.

³⁴ As noted in the Application, Applicants have agreed to engage in good faith negotiations with the State of Ohio to donate NSR's East Peavine Line to the state as interim trail manager pursuant to 16 U.S.C. §§ 1241–51, on customary terms and subject to obtaining any required STB approval or exemption. The East Peavine Line is not a part of, nor does it connect with, the CSR Line.

Table 1. Trains on the CSR Line between December 20, 2022, and January 25, 2023

Type	Train Count	Average/Day	Average/Week
Coal - Empty	22	<1	3.6
Coal - Loaded	19	<1	3.1
Empty Grain Trains	62	1.4	10.1
General Merchandise	697	16.2	113.5
Intermodal	360	8.4	58.6
Loaded Grain Trains	65	1.5	10.6
Local - Alabama Division	109	2.5	17.7
Local - Georgia Division	2	<1	0.3
Local - Harrisburg Division	1	<1	0.2
Local - Lake Division	169	3.9	27.5
Local - Piedmont Division	1	<1	0.2
Multilevel	12	<1	2.0
Pusher	28	<1	4.6
Special Trains	1	<1	0.2
Unit Train - Bulk	22	<1	3.6
Unit Train - Empty Fuel	5	<1	0.8
Unit Train - Loaded Fuel	8	<1	1.3
Work Trains	5	<1	0.8
Yard Jobs	233	5.4	37.9
Other	21	<1	3.4

Grand Total 1,842

Line Maintenance

Table 2 below identifies the FRA track class on the CSR Line, by milepost, based on the current timetable.³⁵ Where double main track exists, its FRA track class is shown in the column “Main 2.”

Table 2. FRA Track Class

Midwest Division

MP Start	MP End	Main 1	Main 2
0.00	2.45	Yard Trk./Class 2	
2.45	8.00	Class 2	Class 2
8.00	12.51	Class 4	Class 4
12.51	22.03	Class 4	n/a
22.03	31.99	Class 4	Class 4
31.99	42.90	Class 4	n/a
42.90	50.40	Class 4	Class 4
50.40	60.93	Class 4	n/a
60.93	72.18	Class 4	Class 4
72.18	77.35	Class 4	n/a
77.35	85.60	Class 4	Class 4
85.60	95.68	Class 4	n/a
95.68	103.00	Class 4	Class 4
103.00	103.40	Class 3	Class 3
103.40	105.05	Class 4	Class 4
105.05	110.68	Class 4	n/a
110.68	116.40	Class 4	Class 4
116.40	118.30	Class 3	Class 3
118.30	123.36	Class 4	Class 4
123.36	130.10	Class 4	n/a
130.10	134.87	Class 4	Class 4
134.87	139.10	Class 4	n/a
139.10	176.80	Class 4	Class 4

Gulf Division

MP Start	MP End	Main 1	Main 2
176.80	181.53	Class 4	Class 4
181.53	190.47	Class 4	n/a
190.47	215.38	Class 4	Class 4
215.38	217.70	Class 4	n/a
217.70	218.00	Class 3	n/a
218.00	221.88	Class 4	n/a
221.88	241.50	Class 4	Class 4
241.50	244.24	Class 2	Class 3
244.24	244.30	Class 2	n/a
244.30	248.90	Class 4	n/a
248.90	254.59	Class 4	Class 4
254.59	255.48	Class 4	n/a
255.48	261.45	Class 4	Class 4
261.45	321.00	Class 4	n/a
321.00	325.10	Class 4	Class 3
325.10	328.67	Class 4	n/a
328.67	331.20	Class 4	Class 4
331.20	333.30	Class 3	Class 3
333.30	334.55	Class 3	n/a
334.55	338.20	Class 3	Class 3

³⁵ Some track may be maintained at a higher class than listed on Table 2. For example, a segment of Class 3 track that is bordered by Class 4 track be may maintained at Class 4 levels.

Applicants expect that maintenance (including capitalized maintenance) will remain consistent post-Transaction. Any year-over-year variances would be due to the cyclical nature of planned work.

Yards

Applicants operate 14 yards on the CSR Line: Gest Street in Cincinnati, Ohio; Ludlow; Erlanger; Georgetown IMF; Georgetown; North Lexington; Lexington; Danville; Somerset; Stearns; Oneida; Oakdale; Emory Gap; and DeButts in Chattanooga, Tennessee.

No material changes in rail yard activity are anticipated as a result of the Transaction.

Labor Impact

Applicants do not plan to make any changes to the number of employees working on the CSR Line as a result of the Transaction. Accordingly, no NSR or CNOTP employees will be dismissed or displaced in connection with the Transaction.

Appendix A

Opinion of Counsel

As counsel for Norfolk Southern Railway Company ("NSR"), on behalf of itself and its wholly owned subsidiary, The Cincinnati, New Orleans and Texas Pacific Railway Company ("CNOTP"), applicants herein, I have reviewed the foregoing Application and am generally familiar with the transaction proposed therein. It is my opinion that the proposed transaction meets the requirements of the law, is within the corporate powers of NSR, and will be legally authorized and valid, if approved by the Surface Transportation Board.

A handwritten signature in dark ink, appearing to read 'Nabanita C. Nag', written over a horizontal line.

Nabanita C. Nag

Executive Vice President & Chief Legal
Officer

APPENDIX B

VERIFIED STATEMENT OF MICHAEL R. MCCLELLAN

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 36699

**NORFOLK SOUTHERN RAILWAY COMPANY AND THE CINCINNATI,
NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY
—ACQUISITION—
TRUSTEES OF THE CINCINNATI SOUTHERN RAILWAY**

**VERIFIED STATEMENT OF
MICHAEL R. MCCLELLAN**

My name is Michael R. McClellan. I am Senior Vice President and Chief Strategy Officer at Norfolk Southern Corporation (“NS”). My business address is 650 West Peachtree Street NW, Atlanta, Georgia 30308.

I have 35 years of experience in the freight rail industry. I began my career at Conrail in 1986, where I held various commercial and planning positions. In 1996, I went to work for the Transportation Practice of Ernst & Young. In 1998, I returned to the rail industry as Assistant Vice President of Planning in the Intermodal group at NS. In 2000, I was promoted to Vice President-Intermodal, where I ran, among other things, NS’s intermodal and trucking business for almost 14 years until mid-2013. In 2013, I became Vice President-Industrial Products and, in 2018, I assumed responsibility for NS’s Strategic Planning group. In my role as Chief Strategy Officer, I am responsible for oversight of NS’s strategic planning initiatives, including strategic acquisitions and divestitures. I hold a Bachelor’s Degree in Foreign Affairs and Economics from the University of Virginia and a Master of Business Administration Degree from the University of Cincinnati.

This Verified Statement is being submitted in support of the Application filed by Norfolk Southern Railway Company (“NSR”) and The Cincinnati, New Orleans and Texas Pacific Railway Company (“CNOTP”) (collectively, “Applicants”) in Docket No. FD 36699. NSR’s subsidiary, CNOTP, operates on the approximately 338.2-mile rail line between Cincinnati, OH and Chattanooga, TN (the “CSR Line”) under lease with the Trustees of the Cincinnati Southern Railway (“Trustees”). The purpose of this Verified Statement is to explain the business rationale underlying NSR’s decision to purchase the CSR Line currently owned by the Trustees. My testimony will also describe the benefits that the proposed transaction will generate for Applicants, the City of Cincinnati, and the public.

The CSR Line was constructed by the City of Cincinnati in the late 19th century to promote commerce. The line was leased to CNOTP pursuant to a lease agreement dated October 11, 1881, as amended (the “CSR Lease”), and CNOTP has operated continuously on the CSR Line since that time.¹ Today, the CSR Line is a critical north-south artery in the NSR network, connecting our east-west lines between St. Louis, MO and Danville, KY, and between Memphis and Chattanooga, TN, to other parts of the NSR system. On average, 40 trains per day operate on all or a portion of the CSR Line.

¹ CNOTP was acquired by Southern Railway Company in 1899. In 1982, Southern Railway Company and Norfolk & Western Railway Company came under the common control of NS. Southern Railway Company was renamed Norfolk Southern Railway Company in 1990.

The terms of the CSR Lease have been subject to renegotiation periodically, with the most recent lease modification in 1987 providing for renegotiation after 25 years. Over time, those negotiations have become increasingly complicated and time-consuming, creating uncertainty regarding the cost of operating in this important north-south corridor. The most recent lease negotiations commenced in 2020, and, pursuant to a letter agreement dated June 24, 2022, were formally held in abeyance while the parties negotiated a potential sale of the CSR Line to NSR. On November 21, 2022, the Trustees, CNOTP, and NSR entered into an Asset Purchase and Sale Agreement setting forth terms for the sale of the CSR Line to NSR.²

The proposed sale transaction represents a once-in-a generation opportunity for Applicants and the City of Cincinnati:

For Applicants, NSR's acquisition of the CSR Line will eliminate the time, expense, and financial unpredictability associated with the need to renegotiate the terms for operating under a lease.³ The most recent lease negotiations (which ultimately were supplanted by purchase and sale negotiations) emphasized the lack of clarity regarding the future cost of providing rail service over the CSR Line. The proposed transaction will secure NSR's long-term control over the CSR Line at a known cost that will not be subject to change over time. Owning this asset will also cement our strategic investment decisions on the CSR Line. Indeed, the \$1.6 billion

² A copy of the Asset Purchase and Sale Agreement is being submitted as Exhibit 2 to the Application.

³ Although the lease between CNOTP and the Trustees will be terminated as part of NSR's acquisition of the CSR Line, CNOTP will continue to operate the CSR Line for the foreseeable future.

purchase price for the CSR Line is a major investment by NSR in its future service capabilities.⁴

The proposed sale of the CSR Line likewise presents an important opportunity for the City of Cincinnati. Pursuant to legislation recently enacted by the State of Ohio (and subject to a positive vote by the citizens of Cincinnati to approve the transaction), the proceeds of the sale will be deposited into a trust fund administered by the Trustees. The City will be the sole beneficiary of the trust, with the Trustees making annual distributions to the City for the dedicated purpose of rehabilitating, modernizing or replacing City infrastructure, including streets, bridges, parks, recreational facilities and other public infrastructure.

This arrangement will benefit the City and its citizens in several ways.⁵ It will provide an ongoing source of income to fund investments in the City's infrastructure that is markedly different from the current leasing regime. By converting its ownership of a single asset (the CSR Line) to beneficial ownership in a trust fund with a principal balance of \$1.6 billion, the City (through the Trustees) can diversify its investment portfolio and take advantage of market opportunities to earn returns that exceed the income generated by CNOTP's lease payments. Finally, a sale of the

⁴ In addition to a base purchase price of \$1.6 billion, the City will receive (i) an Accelerated Transaction Fee of \$4,500,000 and (ii) under certain circumstances set forth in the Asset Purchase and Sale Agreement, a Deferred Transaction Fee of \$20,000,000. The purchase price and the Deferred Transaction Fee are subject to possible increases based on the timing of closing and changes in the implicit price deflator through gross national product as published by the Bureau of Economic Analysis.

⁵ The proposed sale transaction will be presented to the voters of Cincinnati pursuant to a ballot measure in an upcoming election on a date to be determined.

CSR Line will enable the City to avoid the time, expense and financial uncertainty involved in renegotiating the CSR Lease.

These benefits of the proposed sale can be achieved in a manner consistent with the City’s original objective in building the CSR Line and entering into the CSR Lease—*i.e.*, to assure the availability of reliable freight rail service without the need to assume the burdens associated with operating a rail line. Indeed, replacing the current lease arrangement with a sale of the CSR Line will eliminate the City’s reliance upon an income stream that is subject to the financial wherewithal of a rent-paying tenant. As the City’s Mayor stated in announcing the transaction, selling the CSR Line to NSR offers “an historic opportunity to deliver great value to citizens of Cincinnati and realize a substantial return on the investment and foresight of our predecessors.”⁶

Finally, the proposed transaction will benefit both local customers on the CSR Line and those customers whose freight traverses the CSR Line in overhead service. Applicants will continue to provide local and overhead rail service via the CSR Line, as has been done for more than a century. Simply converting CNOTP’s leasehold interest to outright ownership by CNOTP’s parent company, NSR, will not reduce the competitive options available to any shipper, nor will it result in any diminution of service—indeed, operation of the CSR Line will not change as a result of the

⁶ See Press Release, City of Cincinnati, Mayor Aftab Announces Proposed Sale of Cincinnati Southern Railway to Norfolk Southern for \$1.6 Billion (Nov. 21, 2022), <https://www.cincinnati-oh.gov/cityofcincinnati/news/proposed-sale-of-cincinnati-southern-railway/>.

transaction. As the Operating Plan set forth in Exhibit 15 to the Application indicates, Applicants do not anticipate any change in the operations that are currently conducted on the CSR Line. Moreover, the enhanced incentive to invest in the CSR Line after it is acquired will promote our long-term ability to provide safe and reliable service to shippers.

In short, the proposed sale of the CSR Line offers a “win-win-win” for Applicants, the City of Cincinnati, and the shipping public.

VERIFICATION

I, Michael R. McClellan, declare under penalty of perjury that I am Senior Vice President and Chief Strategy Officer at Norfolk Southern Corporation, and that the statements set forth in this Verified Statement are true and correct to the best of my knowledge and belief.



Michael R. McClellan

Executed on: April 26, 2023

APPENDIX C

SUPPORT STATEMENT OF MAYOR AFTAB PUREVAL



AFTAB PUREVAL
City of Cincinnati, Office of the Mayor

04/28/2023

Hon. Martin J. Oberman, Chairman

Hon. Patrick J. Fuchs

Hon. Michelle A. Schultz

Hon. Robert E. Primus

Hon. Karen J. Hedlund

Surface Transportation Board

395 E Street, SW

Washington, DC 20423-0001

Re: Finance Docket No. 36699, Norfolk Southern Railway Company and The Cincinnati, New Orleans and Texas Pacific Railway Company—Acquisition—Trustees of the Cincinnati Southern Railway

Dear Chairman Oberman and Board Members:

I write to urge the Surface Transportation Board (“STB”) to approve the application of Norfolk Southern Railway Company (“NSR”) and The Cincinnati, New Orleans and Texas Pacific Railway Company (“CNOTP”) to purchase a rail line known as the Cincinnati Southern Railway (the “CSR Line”). The proposed sale will generate substantial financial and other public benefits for the citizens of Cincinnati.

The CSR Line was built by the City of Cincinnati in the late 19th century to support the city’s role as a gateway to points in the South. Prior to the Civil War, Cincinnati was a major port for freight moving by steamboat. When the Louisville & Nashville railroad was constructed after the war, shipments that previously moved through Cincinnati shifted to rail service via Louisville. Cincinnati’s civic leaders responded by undertaking the daunting task of constructing a 337-mile rail link between Cincinnati and Chattanooga. The Board of Trustees appointed to manage the CSR Line selected CNOTP to operate the line. Pursuant to a lease dated October 11, 1881 (and amended from time to time), CNOTP has operated the CSR Line continuously for nearly 142 years.

The CSR Line lease has been extended, and its terms modified, several times since 1881. The process of negotiating changes to the lease has become increasingly complicated and time-consuming for both the City and CNOTP. During the most recent lease negotiations, the parties agreed to consider instead a sale of the CSR Line to NSR. Those negotiations were successful and, on November 21, 2022, the CSR Trustees, CNOTP and NSR entered into an Asset Purchase and Sale Agreement (the “CSR Sale Agreement”) for the sale of the CSR Line to NSR. The CSR Sale Agreement provides for a base purchase price of \$1.6 billion, an Accelerated Transaction

Fee of \$4,500,000 (which the CSR received upon execution of the Agreement) and, under certain circumstances set forth in the CSR Sale Agreement, a Deferred Transaction Fee of \$20,000,000.

The proposed sale of the CSR Line to NSR will benefit the City in several ways:

First, selling the CSR Line will permanently relieve the City of the burdens associated with administering an ongoing lease arrangement (or, potentially, finding another operator or operating the CSR Line itself in the future).

Second, the proposed sale will eliminate the need for the CSR Trustees and NSR to engage in expensive and time-consuming negotiations regarding the future terms of the CSR Line lease.

Third, the terms of the CSR Sale Agreement create an attractive opportunity for the City to monetize its investment in the CSR Line in a manner that can generate greater returns than the CSR Line lease. NSR will pay \$1.6 billion to acquire the CSR Line. Pursuant to legislation recently enacted by the State of Ohio, the sale proceeds will be deposited into a trust fund. The trust fund will be administered by the CSR Trustees, with the City its sole beneficiary. The legislation authorizes the CSR Trustees to make annual distributions from the trust fund to the City, which the City is required to spend for the dedicated purpose of rehabilitating, modernizing or replacing existing City infrastructure, including streets, bridges, parks, recreational facilities and other public infrastructure.

By converting its ownership of the CSR Line to \$1.6 billion in cash, the City (through the CSR Trustees) can pursue investment opportunities that will, in all likelihood, provide greater returns than the income stream that the City currently receives or would stand to receive under the CSR Line lease. For example, under the existing lease arrangement, the city would receive approximately \$25.5 million in lease payments in 2024. By contrast, a conservative return on the trust fund's \$1.6 billion principal would yield \$56 million, more than double the income under the current CSR Line lease. It is quite possible that the trust fund would generate even higher annual returns, which would be available to fund needed existing infrastructure improvements that benefit both current and future generations of Cincinnatians.

For these reasons, I enthusiastically endorse the sale of the CSR Line to NSR. I likewise urge the STB to approve NSR's application for authority to acquire and operate the CSR Line.



Aftab Pureval
Mayor, The City of Cincinnati