

DILLON & NASH, LTD.

Attorneys at Law

David C. Dillon, M.B.A., J.D.

3100 Dundee Road

Suite 508

Northbrook, Illinois 60062

Telephone: (847) 498-3000

Fax: (847) 291-3415

July 2, 2019

248164

ENTERED

Office of Proceedings

July 10, 2019

Part of

Public Record

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

Re: Filing of Verified Notices of Exemption
Under 49 C.F.R. §1150.31 – Cando Rail
Services, Inc.
FD 36313

Dear Sir or Madam:

Our office represents Gateway Industrial Railroad, LLC. I have enclosed herewith Verified Notices of Exemption Under 49 C.F.R. §1150.31 (an original and ten copies). I have also enclosed a check in the amount of \$1,800.00 for the filing fee.

While I have filed this action as Verified Notice of Exemption that the railroad entity is a Class III rail, I want to confirm that the ***railroad revenue will be under Five Million Dollars (\$5,000,000).***

Further, the total track acquired and operated by Cando Rail Services, Inc. is 115,104 linear feet (21.8 miles).

If you have any questions please feel free to contact me. Thank you for your assistance in this matter.

Very truly yours,


David C. Dillon

Enclosures

FILED
July 10, 2019
SURFACE
TRANSPORTATION BOARD



FEE RECEIVED
July 10, 2019
SURFACE
TRANSPORTATION BOARD

Cando Rail Services, Inc.) FD 36313
)

By: David C. Dillon
Dillon & Nash, Ltd.
3100 Dundee Road, Suite 508
Northbrook, Illinois 60062
(847) 498-3000

*Attorney for Applicant
in FD 36313*

Cando Rail Services, Inc.

Applicant in FD 36313

-1-

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Cando Rail Services, Inc.

)
)

FD 36313

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1150.31**

Pursuant to 49 C.F.R. § 1150.31, *et. seq.* and 49 U.S.C. § 10502(a), Cando Rail Services, Inc. (CRS), hereby provides verified notice of exemption from 49 U.S.C. § 10901 for CRS's acquisition, by Switching Services Agreement from Georgia-Pacific Consumer Operations, LLC (GP), and operation pursuant to operating agreement between GP and CRS, of approximately 115,104 feet (21.8 miles) of existing railroad right-of-way and trackage and transloading facilities owned by Georgia Pacific, in Crossett, Arkansas ("Crossett Transload Facility trackage"). The Crossett Transload Facility trackage is more specifically described and depicted in Appendix 1-A (description) and Appendix 1-B (map/diagram) attached to this notice.

CANDO RAIL SERVICES, INC. IS A LINE OF RAILROAD THAT QUALIFIES FOR THE CLASS EXEMPTION FROM 49 U.S.C. § 10901, RATHER THAN TRACK EXCEPTED FROM BOARD ACQUISITION AND OPERATION AUTHORITY UNDER § 10906

Georgia Pacific owns the Crossett Transload Facility trackage. Cando Rail Services, Inc. will perform, by Switching Services Agreement, freight car switching services. The Crossett Transload Facility receives various types of timber and raw lumber which principally arrives by truck. The lumber is converted to various products, the largest being paper products. These products are then

shipped out of the facility via rail. CRS interchanges outbound cars with Kansas City Southern Railroad at a nearby yard.

There is currently 115,104 linear feet of track located on the Crossett Transload Facility.

In this circumstance, the Crossett Transload Facility trackage is properly considered to be a line of railroad under 49 U.S.C. § 10901 pursuant to the Board's tenant-use test, rather than spur, switching or side tracks excepted from Board authority over their acquisition and operation by virtue of 49 U.S.C. § 10906. The tenant-use test is described in the Board's decision denying reconsideration in *Effingham Railroad Company - Petition for Declaratory Order - Construction at Effingham, IL*, STB Docket No. 41986 and embraced proceedings, 1998 STB LEXIS 253, decision served September 18, 1998; *aff'd sub nom. United Transp. Union v. Surface Transportation Board*, 183 F.3d 606 (7th Cir. 1999).

In that case, as here pertinent, Agracel Corporation transloaded beer from rail to truck at a warehouse that it operated in an industrial park at Effingham, IL. Agracel owned approximately 206 feet of right-of-way and track that extended between its warehouse and trackage owned and operated by Conrail. Previously, Conrail had operated over the Agracel trackage to provide service to Agracel. It was proposed that Effingham Railroad Company (ERRC), a noncarrier, substitute for Conrail as provider of the rail service over the Agracel trackage. ERRC filed a notice of exemption under 49 C.F.R. § 1150.31 for its operation over that trackage. The United Transportation Union (UTU) contended that the Board lacked authority over the proposed operation because Agracel trackage is spur, switching or side track excepted from Board operation authority under 49 U.S.C. § 10906.

In finding that the Agracel trackage was a line of railroad under 49 U.S.C. § 10901, the Board said (1998 STB LEXIS 253, at 8-9 (emphasis in original)):

...(I)n those cases where a tenant railroad's intended use of a track segment is different from the use made by the railroad owning the track, we have determined that the tenant's use, rather than the character of the trackage itself, is controlling with regard to its own operations, subject to consideration of the purpose and effect of the construction under *Texas & Pacific* (citations omitted).

In the initial notice, even under its new approach, ERRC became the operator of a line of track connecting Conrail to the site of the industrial park. Conrail clearly had operated this short track segment as an exempt siding or spur. However, because it was ERRC's initial railroad operation, this track segment became ERRC's entire line of railroad and was not, as to ERRC, a siding or spur. This small piece of trackage initiated ERRC's service from a connection or interchange point with Conrail to a shipper's facility within the industrial park. Thus ERRC's becoming the operator was the proper subject of the initial notice of exemption and was not statutorily exempt under section 10906.

It is apparent from the Board's decision in that case that the tenant-use test also applies when a new rail carrier is using trackage pursuant to an operating agreement rather than a lease, and when the prior use of the track was by a third-party carrier rather than by the shipper-owner of the trackage. In upholding the Board's decision in that case, the reviewing court held that it was reasonable for the Board to classify the trackage by virtue of the tenant's use. *United Transp. Union vs. Surface Transportation Bd.*, *supra*. 193 F.3d at 614. *Accord: Crossett Rail Link LLC - Lease & Oper. - Union Pacific R.R. Co.*, 2 S.T.B. 534 (1997), *aff'd sub nom. United Transp. Union - Illinois v. Surface Transp.*, 169 F.3d 474 (7th Cir. 1999).

Inasmuch as the subject transaction will be CRS's initial railroad acquisition, and the Crossett Transload Facility trackage will constitute the entire line of railroad of CRS, it follows that the Crossett Transload Facility trackage is a line of railroad under 49 U.S.C. § 10901, rather than spur, switching or side tracks excepted from Board acquisition and operation authority by virtue of 49 U.S.C. § 10906.

INFORMATION REQUIRED BY 49 C.F.R. § 1150.33

(a) The full name and address of the applicant;

The full name and address of the applicant in FD 36313 is Cando Rail Services, Inc., 108 East 1st Avenue, Crossett, Arkansas, 71635.

(b) The name, address, and telephone number of the representative of the applicant who should receive correspondence;

CRS representative is David C. Dillon, Dillon & Nash, Ltd., 3100 Dundee Road, Suite 508, Northbrook, Illinois, 60062.

(c) A statement that an agreement has been reached or details when an agreement will be reached;

A Switching Services Agreement between GP and CRS concerning the Crossett Transload Facility trackage has been entered into as of March 28, 2019, with an effective date of July 1, 2019. A copy of executed Switching Services Agreement is provided herewith.

(d) The operator of the property;

CRS will be the operator of the property.

(e) A brief summary of the proposed transaction, including:

(1) The name and address of the railroad transferring the subject property,

The entity transferring the subject property is GP, a non-railroad entity, 100 Mill Supply Road, Crossett, Arkansas, 71635.

(2) The proposed time schedule for consummation of the transaction,

CRS and GP have entered into a Switching Services Agreement on March 28, 2019, with an effective date of July 1, 2019.

(3) *The mile-posts of the subject property, including any branch lines, and*

The Crossett Transload Facility trackage is not described by milepost numbers. The trackage is described and depicted in Appendices 1-A and 1-B attached to this Notice.

(4) *The total route miles being acquired;*

A total of approximately 115,104 feet/21.8 miles of trackage is to be operated by CRS.

(f) *A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and States;*

The required map is attached to this Notice as Appendix 1-B.

(g) *A certificate that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier.*

The required certificate is attached to this Notice as Appendix 2.

CAPTION SUMMARY

A caption summary required by 49 C.F.R. § 1150.34 for Finance Docket Number 36313 is attached to this Notice as Appendix 3.

ENVIRONMENTAL AND HISTORIC REPORT

The proposed acquisition and operation do not require environmental and historic reporting. See 49 C.F.R. § 1105.6(c)(2)(i) and 49 C.F.R. § 1105.8(b)(1).

LABOR PROTECTION

Pursuant to 49 U.S.C. § 10901(c), labor protection requirements do not apply to this transaction.

VERIFICATION

The verification is attached to this Notice as Appendix 4.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, within 30 days of the filing of this Notice, the Director of the Board's Office of Proceedings should publish notices in the Federal Register of the filing of notices of exemption in FD 336313. See 49 C.F.R. § 1150.32(b).

Respectfully submitted,

By: David C. Dillon
Dillon & Nash, Ltd.
3100 Dundee Road, Suite 508
Northbrook, Illinois 60062
(847) 498-3000

Cando Rail Services, Inc.

*Attorney for Applicant
in FD 36313*

Applicant in Finance Docket No. FD 36313

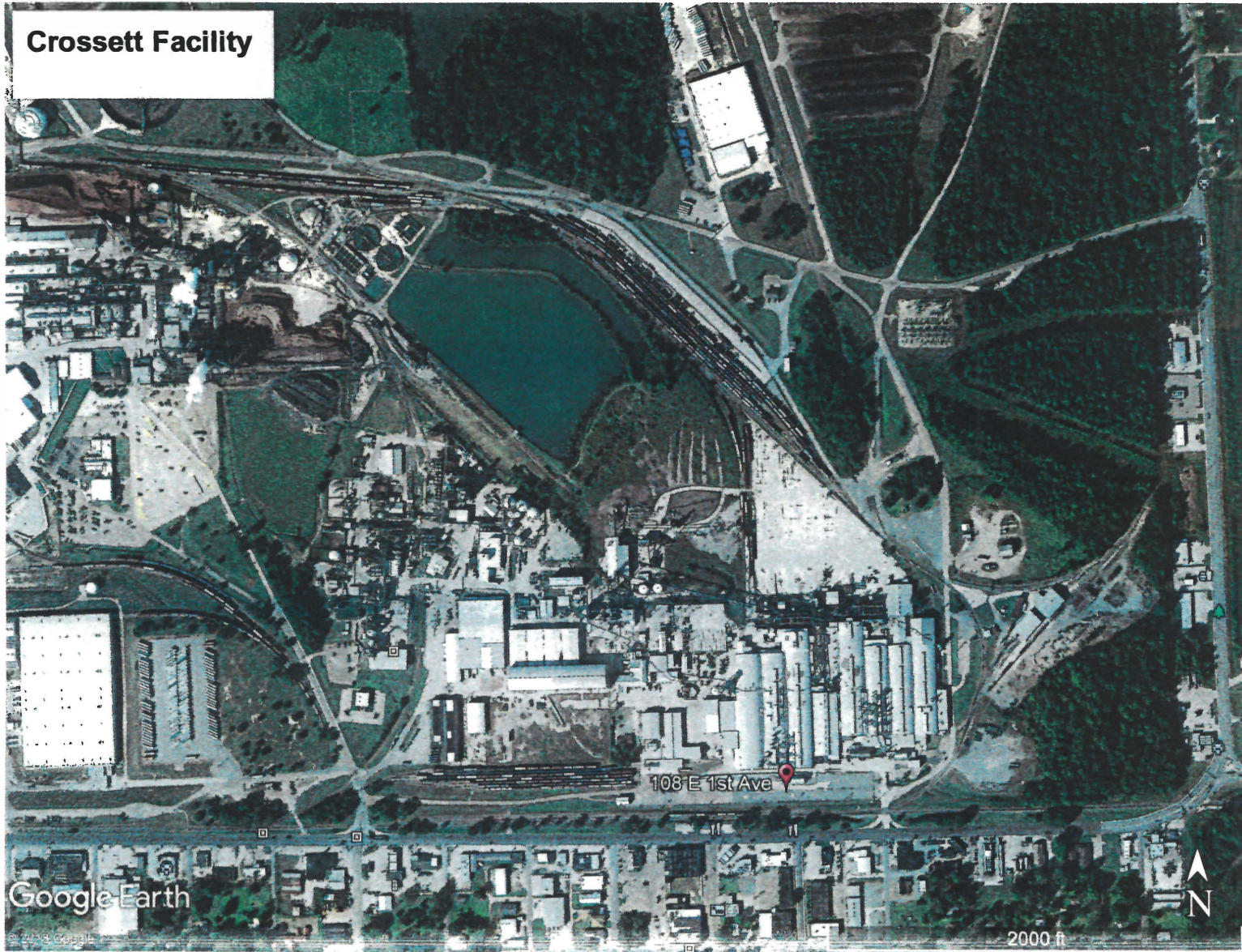
DATE FILED: July 1, 2019

FD 36313

Appendix 1-A

LENGTH OF CANDO RAIL SERVICES, INC.
CROSSETT TRANSLOAD FACILITY

Total Track: 115,104 linear feet = 21.8 miles of track



CROSSETT COMPLEX TRACK MAINTENANCE PROFILE

1/4" = 1' (SEE NOTE 1)

LEGEND:

- BLUE - C. P. & P. ASPHALT
- MAGENTA - CHROME
- BLACK - PAPER
- RED - OUTSIDE
- CYAN - PLYWOOD

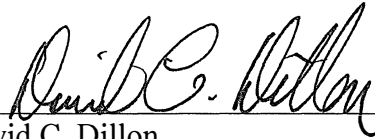
SCALE: 0 100 FEET

GP

08-01-02

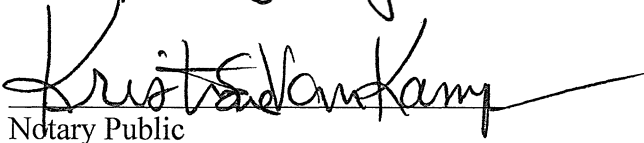
CERTIFICATION UNDER 49 C.F.R. § 1150.33(g)

Cando Rail Services, Inc. hereby certifies under 49 C.F.R. § 1150.33(g), that the projected revenues from the acquisition and operation proposed in this matter do not exceed those that would qualify it as a Class III rail carrier, and will not exceed Five Million Dollars (\$5,000,000).



David C. Dillon
*Authorized Representative of
Cando Rail Services, Inc.*

SUBSCRIBED AND SWORN TO before
me this 15 of July, 2019.


Notary Public

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FINANCE DOCKET NO. FD 36313

CANDO RAIL SERVICES, INC.
- ACQUISITION EXEMPTION -
RAIL LINE OF GEORGIA PACIFIC CONSUMER OPERATIONS, LLC
AT CROSSETT TRANSLOAD FACILITY, CROSSETT, ARKANSAS

Cando Rail Services, Inc. (CRS), has filed a Notice of Exemption to acquire and operate from Georgia Pacific Consumer Operations, LLC, a non-carrier, approximately 115,104 feet (21.8 miles) of right-of-way and trackage at Georgia Pacific Consumer Operations, LLC's Crossett Transload Facility in Crossett, Arkansas. Comments must be filed with the Board and be served on CRS's representative, David C. Dillon, Dillon & Nash, Ltd., 3100 Dundee Road, Suite 508, Northbrook, Illinois, 60062, (847) 498-3000.

This Notice is filed under 49 C.F.R. § 1150.31. If the Notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. §10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

By the Board

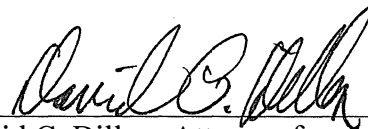
(Seal)

Chief, Section of Administration
Office of Proceedings
Surface Transportation Board

VERIFICATION

STATE OF ILLINOIS)
)
COUNTY OF COOK)

David C. Dillon, being duly sworn, states that he is an attorney for Cando Rail Services, Inc.;
that he is familiar with the factual allegations made in the foregoing Notice of Exemption on behalf
of CRS and that such allegations are true as stated.



David C. Dillon, Attorney for
Cando Rail Services, Inc.

SUBSCRIBED AND SWORN to before
me this 1st day of July, 2019.


Notary Public

PUBLIC

Georgia-Pacific Consumer Operations LLC
Switching Services Agreement
with Cando Rail Services, Ltd. Inc.

Effective Date: 07/01/2019; Agreement No.: CRO CANDO 20190701

This Agreement made and entered into this 26th day of March, 2019, by and between Georgia-Pacific Consumer Operations LLC, with an office at 100 Mill Supply Road, Crossett, AR 71635 (hereinafter referred to as "GP"), and (Cando Rail Services, ~~Inc.~~ ^{Inc.}), with an office at Unit 400, 740 Rosser Avenue, Brandon, MB R7A 0K9 (hereinafter referred to as "Contractor").

SB
3/28/19

HA
3-28-19

1. **ENGAGEMENT OF CONTRACTOR.** GP hereby engages Contractor to provide certain services (hereinafter referred to as the "Services") to GP on a non-exclusive basis, and Contractor hereby accepts such engagement, on the terms and conditions hereinafter set forth. The parties intend that this Agreement includes everything necessary for the proper execution of the Services. It is understood that GP is relying on Contractor's skill and judgment to accomplish the Services in a manner satisfactory to GP. Nothing contained herein shall be construed to constitute Contractor as an employee, agent, or representative of GP for any purpose. Contractor is an independent contractor and has no authority to bind GP by a representation, statement, agreement or in any manner whatsoever, without the prior written consent of GP.
2. **SCOPE OF SERVICES; ACCEPTANCE.** The Services shall consist of work as described in Exhibit B attached hereto and made a part hereof. If Contractor cannot furnish the Services required, GP specifically reserves the right to contract with others for performance of all the Services or any portion thereof which Contractor cannot furnish.
3. **CHANGES IN THE SERVICES.** The parties may, from time to time, extend or expand the Services by written agreement or delete Services previously ordered, and the provisions of this Agreement shall apply to all such additions and deletions. All additions and deletions shall become effective upon amendment to Exhibit B hereto approved by the parties. Any additional charges shall be in accordance with Section 4 below.
4. **CHARGES FOR SERVICES.** GP shall pay to Contractor the charges set forth in the rate schedule contained in Exhibit C attached hereto and made a part hereof. The charges set forth therein shall remain effective for the entire term of this Agreement unless changed pursuant to an amendment to Exhibit C hereto signed by both parties.
5. **PAYMENT.** Contractor shall, within ten (10) days after the end of each calendar month during which Services are performed hereunder, invoice GP for the charges for Services performed during the immediately preceding month. Within thirty (30) days of receipt of such invoice, GP shall pay to Contractor the amount due thereon. All invoices shall include or be accompanied by such

supporting evidence of their correctness and be in such detail as may be reasonably required by GP.

6. **TERM.** The term of this Agreement shall commence on the date hereof and continue for a period of three (3) years, and thereafter, for successive terms of one (1) year each, until terminated at the end of the initial term or subsequent term, by either GP or Contractor, upon one hundred twenty (120) days prior written notice.
7. **TERMINATION.** This Agreement may be terminated by either party at any time, with cause, upon ninety (90) calendar days written notice to the other party. In the event of termination, Contractor shall be paid its compensation for Services performed up to the termination date.
8. **COMPLIANCE WITH LAW.** This Agreement is made expressly subject to, and Contractor in the performance hereof expressly agrees to comply with and abide by all applicable laws, ordinances, codes and regulations, insofar as the same may be applicable to the performance of the terms and conditions of this Agreement, including all rules and regulations now existing or that may be promulgated under and in accordance with any such law or laws.
9. **SUBCONTRACTORS.** Contractor shall not subcontract any portion of the Services without GP's prior written consent as to the identity of each subcontractor and the extent of work each is to perform. Contractor shall provide GP with information and documentation reasonably necessary to assure GP of each subcontractor's suitability and qualifications, and to assure GP of each subcontractor's conformity to GP's rules, regulations and policies relating to safety, security and legal compliance throughout the course of the Work. Contractor shall assure that each subcontractor shall agree with Contractor to be bound to Contractor by the terms of this Agreement relevant to the portion of the Services to be performed by such subcontractor and to assume toward Contractor such obligations and responsibilities that will insure that no arrangement or agreement with any subcontractor is inconsistent with this Agreement or adversely affects GP's exercise of its rights hereunder. Contractor agrees that it is fully responsible to GP for the acts and omissions of its subcontractors and of persons directly or indirectly employed by them. Nothing contained herein shall create any contractual relations between GP and any subcontractor or alter such subcontractor's status as an independent contractor.
10. **INSURANCE AND PROTECTION OF THE PROPERTY.**
 - A. Contractor shall maintain during the entire term of the Agreement insurance policies within minimum limits as set forth below:
 - (i) Worker's Compensation Insurance, as prescribed by applicable law and Employers Liability Insurance with minimum limits of \$500,000 each accident, disease-each employee, and disease-policy limit.

(ii) Railroad Liability Insurance, with minimum limits of \$10,000,000 for bodily injury and property damage, per occurrence and \$20,000,000 in the aggregate.

(iii) Automobile Liability Insurance, with a minimum combined single limit of \$5,000,000 for bodily injury and property damage.

(iv) ~~Railroad Protective Liability Insurance with limits not less than \$5,000,000 per occurrence and \$10,000,000 in aggregate.~~ SB 3/28/19 11/3.28.19

All such coverage shall further conform to the requirements of Exhibit A. Such insurance shall list GP as an additional insured in accordance with the requirements of Exhibit A and provide coverage on an "occurrence" policy form acceptable to GP with respect to liability arising out of Contractor's work performed for GP.

- B. The insurance may be subject to commercially reasonable self-insured retentions ("SIRs") or deductibles if approved in advance by GP, which approval shall not be unreasonably withheld. Contractor acknowledges that in no event will GP's insurance including but not limited to any SIR or deductible be considered other insurance under the terms of Contractor's policies. Contractor shall be responsible for payment of any and all deductibles or SIRs from insured claims under its policies.
- C. All such policies of insurance shall provide that the same shall not be canceled nor the coverage modified, nor the limits changed without first giving thirty (30) days' prior written notice thereof to GP. No such cancellation, modification or change shall affect Contractor's obligation to maintain the insurance coverages required by this Agreement.
- D. Contractor shall, before commencing work, provide GP with a certificate of insurance and additional insured endorsement satisfactory to GP evidencing the insurance coverages set forth above.
- E. Contractor shall protect the Work from damage or loss and shall exert all reasonable efforts to protect GP's property from damage or loss arising in connection with the Work. As between the parties, Contractor shall bear the full risk of, and shall make good, such damages or losses and shall deliver the Work complete and in accordance with this Agreement.

11. CONFIDENTIALITY AND INTELLECTUAL PROPERTY. See the Confidential Disclosure Agreement dated 26 March 2019, between Contractor and GP attached hereto as Exhibit D.

12. **SOFTWARE.** To the extent the Work includes the sale, delivery, modification or creation of any software, Contractor hereby grants to GP an irrevocable, nonexclusive, worldwide, fully paid up, royalty-free license and/or sublicense to use, execute, maintain, reproduce, modify, display, and perform copies of such software. Notwithstanding the Term specified in the Agreement, the software license(s) granted herein shall remain in effect perpetually for the full useful life of the portion of the Work or the equipment containing the software.

- A. GP may copy the software as necessary to efficiently utilize such software. Without limiting the generality of the foregoing, such rights shall include copying rights granted to "Owners of copies" under federal copyright laws of the United States, plus copying: (i) for backup, archive or emergency restart purposes; (ii) for disaster recovery and disaster recovery testing purposes; (iii) to migrate the software for use on other computers and/or hardware; and (v) to store the software at any off premise location which GP uses for storage purposes.
- B. Except as expressly permitted by this Agreement, GP agrees that it will not: (i) lease, loan, resell, sublicense, or otherwise distribute the software to parties who are not GP Affiliates; (ii) permit third-party access to, or use of, the software, except as permitted in this Agreement; (iii) create derivative works based on the software; (v) reverse engineer, disassemble, or decompile the software; (vi) remove any identification or notices contained on the software. GP will notify Contractor if GP becomes aware of any unauthorized third-party access to, or use of, the software.
- C. Contractor shall pass through to GP the applicable licenses for any third-party software provided hereunder.
- D. Any license or sublicense for software arising out of this Agreement shall be freely assignable, at GP's discretion, to any bona fide purchaser for value of the affected facility, the Work, or the equipment containing the software.

13. **WARRANTY.** Contractor warrants that at the Services performed hereunder will be performed in a good, workmanlike manner, free from faults and defects in design, material and workmanship, and will be in accordance with industry standards and generally accepted professional standards and practices.

14. **INDEMNIFICATION.**

A. CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD GP AND ITS OFFICERS, AGENTS, EMPLOYEES AND RELATED COMPANIES (COLLECTIVELY, "INDEMNITEES") HARMLESS FROM ANY LOSSES, COSTS, CLAIMS (INCLUDING CLAIMS OF CONTRACTOR'S EMPLOYEES), EXPENSES (INCLUDING ATTORNEYS' FEES AND COURT COSTS), SUITS, ACTIONS, JUDGMENTS, FINES, PENALTIES OR DAMAGES OF EVERY NATURE AND DESCRIPTION (COLLECTIVELY, "LOSSES") ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OR NON-PERFORMANCE BY CONTRACTOR OF THIS AGREEMENT, EXCEPT TO THE EXTENT SUCH LOSSES ARE CONTRIBUTED TO BY THE NEGLIGENCE OR OTHER LEGAL FAULT OF INDEMNITIES.

B. CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD INDEMNITEES HARMLESS FROM ALL COSTS, EXPENSES AND DAMAGES ARISING FROM ANY INFRINGEMENT, MISAPPROPRIATION OR CLAIM OF INFRINGEMENT OR MISAPPROPRIATION OF ANY PROCESS, PRODUCT, APPARATUS, PATENT OR OTHER INTELLECTUAL PROPERTY, RESULTING FROM USE OF THE WORK OR ANY OTHER INFORMATION FURNISHED BY CONTRACTOR OR INCORPORATED INTO THE WORK.

C. CONTRACTOR'S OBLIGATION TO INDEMNIFY ANY INDEMNITEES SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

15. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties and the terms and conditions hereof were negotiated between the parties on an arms-length basis and no obligation or covenant of good faith or fair dealing shall be implied or interpreted as conferring upon either party any right, duty, obligation or benefit other than expressly set forth herein, notwithstanding the fact that certain of the terms and conditions hereof may give either party discretion in the manner of performance under this Agreement.

16. **NON-ASSIGNABILITY.** Contractor shall not assign or transfer this Agreement in whole or in part or any right or obligation hereunder without the prior written consent of GP, except to the extent said assignment or transfer is made to an affiliated company, and any attempted or purported assignment or transfer without such prior written consent shall be void and shall confer no rights on the assignee or transferee. Except as provided above, this Agreement shall inure to and be binding upon the assignees and successors in interest of the parties.

17. **NOTICE.** Any required notices shall be sent in writing, by certified mail (return receipt requested), reputable overnight courier or hand delivery, to the applicable party at the respective address below, and shall be deemed effective on the date received. Either party may change its notice address by giving advance notice of such change to the other party in accordance with this Paragraph 17.

To GP: Georgia-Pacific Consumer Operations LLC (GP)
100 Mill Supply Road
Crossett, AR 71635
Attn: Purchasing Manager

With a copy to: Georgia-Pacific LLC
133 Peachtree Street, N.E.
Atlanta, GA 30303
Attn: Corporate Counsel—Contracts, Law Department

To Contractor: Cando Rail Services, Ltd. (Contractor) *Inc. \$ 3/28/19*
Unit 400, 740 Rosser Avenue *14*
Brandon, MB R7A 0K9 *3-28-19*
Attn: Steve Bromley- VP, Commercial & Service Delivery North America

18. **CONTROLLING LAW.** This Agreement shall be construed and interpreted under, and all respective rights and duties of the parties shall be governed by the laws of the state of Delaware without regard to its conflict of laws provisions.
19. **REMEDIES AND NON-WAIVER.** The remedies specified herein shall be cumulative, nonexclusive and in addition to any other remedies available at law or in equity. No waiver of a breach of any provision of this Agreement shall constitute a waiver of any other breach of such provision or any other provision of this Agreement.
20. **GP POLICIES.** Contractor shall comply with all safety rules, regulations and policies of GP which apply to the performance of this Agreement. Contractor also acknowledges that GP has informed Contractor of its policy that being under the influence of, bringing in, possessing, providing, manufacturing or other production of, buying, selling or using alcoholic beverages, unauthorized drugs or controlled substances on GP's property or in GP's vehicles, is strictly prohibited. Contractor understands and agrees to follow this policy during the performance of this Agreement. Without limiting the generality of the foregoing, Contractor acknowledges that it has reviewed GP's "Supplier Sustainability Guidelines" available on GP's website at www.gp.com/aboutus/sustainability/pdfs/Supplier_guidelines.pdf, as may be modified or updated by GP from time to time (the "GP Supplier Guidelines"). Contractor is and will remain in full compliance with the GP Supplier Guidelines during the Term. GP reserves the right to modify the GP Supplier Guidelines at any time without prior notice and the current version shall supersede all

prior versions. Contractor will review the GP Supplier Guidelines no less frequently than on March 1 and September 1 of each year or partial year during the Term and on the date of Contractor's acceptance of each Purchase Order, and will notify GP any time it has any objections to the GP Supplier Guidelines, provided that such notice shall not be deemed to waive or modify Contractor's obligations under this section.

21. **SEVERABILITY OF PROVISIONS.** Each and every provision of this Agreement is completely severable, and the invalidity of any one or more of such provisions shall not in any way affect the validity of this Agreement or of any of the other provisions thereof.
22. **AMENDMENT.** This Agreement may not be modified or amended except by written instrument, signed by duly authorized representatives of the parties hereto.

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

Inc. & 3/28/19
Cando Rail Services, Ltd. - Contractor

Georgia-Pacific Consumer Operations LLC - GP

By: *Steve Bromley*

Name: Steve Bromley

Title: VP, Commercial & Service Delivery, NA

By: *Michael Hohnadel*

Name: Michael Hohnadel

Title: VP-Manufacturing

**EXHIBIT A
INSURANCE REQUIREMENTS (SERVICES)**

1. During the term of this Agreement, Contractor shall maintain, at its own expense, the following minimum insurance coverages and limits:
 - a. Worker's Compensation, as prescribed by applicable law, and Employer's Liability Insurance with limits not less than \$800,000. Contractor shall require its insurer or insurance agent to provide, as requested by GP, Contractor's Experience Modification Rating (EMR).
 - b. Railroad Liability Insurance with limits not less than \$10,000,000 per occurrence and \$20,000,000 in aggregate. This insurance must include the following features:
 - Contractual Liability coverage.
 - Products and Completed Operations continuing in full force and effect for three (3) years following completion, expiration or termination of this Agreement.
 - Foreign rolling stock and bills of lading
 - Sudden and accidental pollution liability as a result of a railroad accident
 - List GP as an additional insured with respect to work performed for GP, with such additional insured endorsement providing coverage for GP with respect to liability arising out of Contractor's work performed for GP (including, but not limited to, liability caused or contributed to by the negligence of Contractor, its subcontractors, GP, or the agents, employees, or officers of any of them).
 - c. Automobile Liability Insurance, covering all owned, non-owned, hired and leased vehicles with a \$5,000,000 combined single limit. This insurance must include contractual liability coverage and name GP as additional insured.
 - d. ~~Railroad Protective Liability Insurance with limits not less than \$5,000,000 per occurrence and \$10,000,000 in the aggregate.~~ *SP 9/28/19 MA 3-28-19*
2. Contractor, on behalf of its insurers, waives any right of subrogation that such insurers may have against GP arising out of the Agreement, except for Workers' Compensation policy. The insurance specified above shall contain a waiver of the right of subrogation against GP and an assignment of statutory lien, if applicable, except for Workers' Compensation policy. Any physical damage insurance carried by Contractor on construction equipment, tools, temporary structures and supplies owned or used by Contractor shall provide a waiver of the right of subrogation against GP.
3. The coverage afforded under any insurance policy maintained by Contractor pursuant to this Agreement shall be primary and non-contributory to any other insurance available to GP.
4. The minimum limits of coverage required by this Agreement may be satisfied by a combination of primary and excess or umbrella insurance policies.
5. The obligation to carry insurance required by this Exhibit shall not limit or modify in any way any other obligations assumed by the Contractor under the Agreement. Contractor shall be held accountable for all insurance coverages, including those of sub-contractors. GP shall not be under any duty to advise Contractor in the event that Contractor's insurance is not in compliance with the Agreement. **ACCEPTANCE OF ANY INSURANCE CERTIFICATE SHALL NOT CONSTITUTE ACCEPTANCE OF THE ADEQUACY OF COVERAGE, COMPLIANCE WITH THE REQUIREMENTS OF THE AGREEMENT, OR AN AMENDMENT TO THE AGREEMENT.**

EXHIBIT B

DESCRIPTION OF SERVICES; ACCEPTANCE

SERVICE LOCATION: Georgia-Pacific Consumer Operations LLC
100 Mill Supply Road
Crossett, AR 71635

CONTRACTOR RESPONSIBILITIES.

1. Contractor shall be a Railroad as defined by the US DOT FRA, meet all FRA qualification and requirements including, but not limited to, hours of service, incident recordings, drug testing, 49 CFR Parts 212, 214, 240, and 242 programs.
2. Contractor to provide three (3) four (4) axle clean, efficient, well maintained, and blue carded locomotives with minimum 1500 HP each.
3. Contractor to provide each locomotive equipped with cameras capable of continuous audio and video of front, rear, and inside the cab recordings, and equipped with GPS functions that can record, locate, calculate speed, impacts, send alerts, and other measures as determined and agreed upon by both parties.
4. Contractor to expedite replacement and/or repairs of locomotives to maintain efficient operations at GP.
5. Contractor to maintain locomotives and dispose of used engine oil in a safe and environmentally friendly manner.
6. Contractor will advise GP and address any leaks or excessive emissions on locomotives immediately.
7. Contractor will maintain locomotive engine spark arrestors and will advise GP of areas where issues with spark arrestors could be a fire hazard. (i.e. tall dry brush along right-of-way).
8. Contractor to have a minimum staff head count of nineteen (19) qualified switching crew members, four (4) agents, and one (1) qualified and skilled site manager. Additional staff head count may be necessary for training and backup purposes.
9. Contractor will provide minimum three (3) man switching crew, four (4) switching crews daily, seven (7) days per week. The four (4) switching crew daily shifts shall be from 5am to 1pm, 8am to 4pm, 4pm to midnight, midnight to 8am with some shifts overlapping. Shift hours and crew manning are subject to change based on GP requirements and upon mutual agreement of both parties.
10. Contractor will provide a working manager that possesses all qualifications and abilities to manage entire process and fill in for absent crew members if needed.
11. Contractor to perform clerical duties with an agent twenty-four (24) hours per day seven (7) days per week. Agent shall have capabilities of answering phones and emails, directing timely and clear communications to the switching crews, customers, GP, and manager. Agent shall have qualifications necessary to make updates to GP's rail yard system, keeping it current, and have capability to provide timely and various reports as needed.
12. Contractor will provide two (2) way radios for crew communication in accordance with FCC regulations.
13. Contractor is responsible for long distance phone service charges.
14. Contractor will supply crew vehicle(s). Contractor will obtain a vehicle identification decal for GP security for said vehicles. Contract will be responsible for fuel, service, and insurance and licensing of these vehicles.
15. Contractor will register with and participate in ISNET and maintain the minimum GP requirements of "B" or better.
16. Contractor will drug test its employees, pre-employment, random and for cause. For cause means any infraction, property damage or personal injury.
17. Contractor will perform background checks of all its employees to comply with GP requirements, no felonies for drug or violence related crimes in last 7 years.
18. Contractor will provide to GP certificates of insurance as requested.
19. Contractor will perform all required duties in a manner to provide safe rail operations at GP.
20. Contractor will participate in GP contractor safety meetings. OSHA ten (10) hour safety training required.

21. Contractor will train its crews in safety, DOT Hazmat, and any other training required for safe rail operation. This will include FRA Training/Certification for all employees with the exception of the agents. Copies of employees training records will be available to GP or FRA upon request.
22. Contractor to provide GP a daily rail track observation and inspection report performed during switching operations under loaded conditions to help identify areas with track condition concerns. Contractor to help direct and prioritize rail switching around track maintenance work and around the areas identified as needing improvements. Contractor shall provide coordination, careful railcar movements, and clear communication to GP and to track maintenance crews.
23. Contractor will perform (1) pulling of inbound cars from the tracks of ALM in a timely manner as to not incur demurrage charges (2) blocking of outbound cars based on cars outbound route (3) pull all woodchips and wood across the railcar scales prior to spotting at wood yard (4) Weigh other cars upon request (5) Communicate with various GP departments on switch status (6) other associated switching of railcars to provide efficient operation at GP.
24. Contractor will exercise extreme caution when crossing any road, near warehouse and loading areas, near chemical spotting locations and any congested area. Contractor will work with GP to establish restricted switch times for mill road entrances, during shift changes, etc....
25. Contractor will blow horn at all road crossings, use minimum one (1) man to block at crossings prior to moving through, maintain maximum speed limit of 5 MPH on the GP complex, provide ample lighting (ditch lights, etc.) for moving during the night hours and any time where visibility is an issue.
26. Contractor will provide reports, i.e. Yard lists, outbound reports, etc. upon request. The Outbound train and report should be in place and information made available to GP by no later than 11:00 am each weekday morning (Monday to Friday).
27. Contractor is to report damaged switches to GP within 24 hours of damage taking place. Any switches that are damaged due to Contractor negligence (i.e., running backwards through switch) will be replaced and repaired at the expense of Contractor.
28. Contractor shall keep all tracks clean of trash such as water bottles, Gatorade bottles, food wrappers, etc. Littering will not be tolerated.
29. Contractor will, in event of derailment, re-rail cars to the extent that the crews are capable. Should a derailment be beyond the capabilities of the crews, additional re-rail resources will be contracted by GP.

GP RESPONSIBILITIES.

1. GP to provide Locomotive fuel as needed.
2. GP to provide Contractor with at least one computer with access to GP yard management system (GE's RMI Shipper Connect Yard) and other systems / programs as may be required.
3. GP to provide Contractor space on-site for an office. GP will provide utilities for contractor offices (electric, water, etc.).

EXHIBIT C
RATE SCHEDULE

BASE RATE

Contractor will be paid by GP a monthly base rate as follows:

Unless terminated, the Contractor will be paid by GP according to Compensation Adjustment section below.

OVERTIME RATE.

GP to compensate Contractor for GP approved overtime based on:

Callout – Minimum Two (2) Hours for three (3) man switching crew.

COMPENSATION ADJUSTMENTS.

The Contractor may adjust the annual base rate then in effect in direct proportion to changes for the prior Contract Year in the Consumer Price Index ("CPI") – Commodities, All Commodities (Series ID: CUUR0000SA0), Not Seasonally Adjusted, as published by the Bureau of Labor Statistics, provided that in no instance shall the annual escalation for any Contract Year be greater than 2.5% of the annual base rate applicable during the prior Contract Year. The CPI will be measured annually during the month of October prior to the renewal of the Contract Year. If said index ceases to be available as presently constituted, the parties shall substitute a suitable and reasonably comparable index.

EXHIBIT D



CONFIDENTIAL DISCLOSURE AGREEMENT

THIS CONFIDENTIAL DISCLOSURE AGREEMENT (this "Agreement") is effective as of March 26, 2019 ("Effective Date") and is made by and among Georgia-Pacific Consumer Operations LLC, having a place of business at 133 Peachtree Street NE, Atlanta, GA 30303 (collectively, "GP"), and Cando Rail Services, Inc. Ltd., having a place of business at (Unit 400, 740 Rosser Avenue, Brandon, MB R7A 0K9) ("COMPANY").

3/28/19 4/4 3.28.19

WITNESSETH:

WHEREAS, GP desires to protect certain Confidential Information (as that term is hereinafter defined) with respect to which it claims a proprietary interest; and

WHEREAS, each of the parties hereto desires to accomplish the Objective (as that term is hereinafter defined); and

WHEREAS, it is understood and agreed by the parties hereto that in order to accomplish the Objective it is necessary and desirable that GP discloses Confidential Information to COMPANY; and

WHEREAS, each disclosure of said Confidential Information must be handled in a confidential manner so as to maintain and protect GP's desire for secrecy;

NOW THEREFORE, for and in consideration of GP's disclosure of Confidential Information to COMPANY, the mutual covenants set forth herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1 – DEFINITIONS

- 1.1 "Objective" means COMPANY's analysis, evaluation, production, creation, development or modification of information, reports, data, designs, drawings, products, models, samples, prototypes, tooling, machinery, equipment or intellectual property pursuant to GP instruction regarding the provisions of railroad switching services at the GP Mill in Crossett, AR.
- 1.2 "Confidential Information" means GP's proprietary information of a business and/or technical nature (including, without limitation: product applications information; formulae; future business plans; finance information; market information; manufacturing information; applications; sales information; chemical composition data; technical information; trade secrets; process information; product samples; know-how and other information proprietary to GP as it relates to the Objective), that is disclosed by GP during the Disclosure Period. Confidential Information may be contained in, among other things, designs, drawings, prints, specifications, test results, reports, supporting notes, drafts, or electronic recordings; and disclosed in any manner, whether written, orally, demonstratively, or tangibly.
- 1.3 "Employees" means either party's employees, directors, officers, agents, attorneys, accountants, auditors and consultants.

- 1.4 **"Disclosure Period"** means the period of time commencing on the Effective Date and terminating one (1) year thereafter. Either party may terminate the Disclosure Period earlier in accordance with Section 5.1 hereof.
- 1.5 **"Invention"** means any invention, improvement, or discovery based upon or utilizing Confidential Information.
- 1.6 **"Copyright Act"** means Title 17 of the United States Code, as amended.
- 1.7 **"Work of Authorship"** means a work of authorship, including, but not limited to, mask works, photographic, graphic and artistic works, governed by the Copyright Act and produced by or for COMPANY as a result of or during accomplishment of the Objective or performance of services for GP.

ARTICLE 2 -- USE AND DISCLOSURE RESTRICTIONS

- 2.1 **Prohibited Use and Disclosure.** COMPANY shall take reasonable steps to protect the confidential nature of Confidential Information. "Reasonable steps" means at least those steps that COMPANY uses to protect its own confidential information, but in no event shall such steps involve less than a reasonable standard of care. "Reasonable steps" shall also include, without limiting the generality of the preceding sentence, (i) not using or disclosing Confidential Information, either directly or indirectly, except to accomplish the Objective, (ii) not disclosing GP's interest in the Objective or the fact that the parties are working together toward the Objective and (iii) complying with the other obligations in this Article 2.
- 2.2 **Authorized Disclosure.** COMPANY may disclose Confidential Information to a third party only in accordance with written direction or approval from or of GP.
- 2.3 **Limited Disclosure to Employees.** COMPANY shall limit disclosure of Confidential Information to those of its Employees, contractors and subcontractors (in each case subject to Article 2.2) who have a need to know related to the Objective. COMPANY shall instruct such Employees, contractors and subcontractors that Confidential Information is proprietary to GP and to be held in confidence by said Employees, contractors and subcontractors. COMPANY shall ensure that all Employees, contractors and subcontractors to whom the Confidential Information is disclosed take reasonable precautions in conformity with this Agreement to safeguard the confidential status of the Confidential Information.
- 2.4 **Unauthorized Personnel.** COMPANY shall take necessary precautions to exclude unauthorized personnel and visitors from areas on its premises where Confidential Information is available.
- 2.5 **Samples.** With respect to products or samples supplied by GP to COMPANY in furtherance of the Objective or pursuant to this Agreement, COMPANY shall not do the following without GP's prior written consent:
- (i) conduct, have conducted or allow to be conducted any analyses, testing or other reverse engineering of the product or samples; or
 - (ii) allow product or samples to be transferred to any other person or entity.

In addition, COMPANY shall return any unused portions of products and samples to GP or dispose of same in accordance with GP's written instructions.

- 2.6 **Exceptions.** The provisions of Articles 2.1 through 2.4 above shall not apply to information that:
- (i) COMPANY can demonstrate was rightfully in its possession prior to the date of initial disclosure to it by GP and not otherwise subject to an obligation of confidentiality;

- (ii) at the time of disclosure or later, is published or becomes part of the public domain through no act or failure to act on the part of COMPANY in violation of this Agreement;
- (iii) COMPANY can demonstrate came into its possession from a third party who had a bona fide right to make such Information available; or
- (iv) COMPANY can demonstrate it independently developed without use of or resort to the Confidential Information.

Specific information shall not be considered within the above exceptions merely because embraced by more general information within such exceptions; nor shall a combination of information be considered within such exceptions merely because the individual components of such information are within such exceptions, unless the combination itself and the value and principle of operation thereof are themselves clearly and expressly set forth in such exceptions.

- 2.7 **Compelled Disclosure.** COMPANY may disclose Confidential Information upon an order of a court of competent jurisdiction; provided, however, that COMPANY shall give written notice of the order to GP at least fifteen (15) days prior to the date of compliance with such order (unless COMPANY has less than fifteen (15) days' notice itself, in which case COMPANY shall give GP as much notice as is practical under the circumstances); and provided further, that when COMPANY has notice of the pendency of any action that may result in a court order to produce Confidential Information, COMPANY shall notify GP of the facts pertaining to such action as soon as practical under the circumstances to allow GP to protect its interests.
- 2.8 **Related Agreements.** From time to time hereafter, the parties may execute purchase orders, task orders, work assignments, project instructions, or other agreements pursuant to which GP obtains goods and/or services from COMPANY to accomplish the Objective. The terms and conditions contained herein shall apply to Confidential Information disclosed by GP during COMPANY's provision of such goods and/or performance of such services and shall supersede any contrary terms or conditions in said orders or other agreements unless this Agreement is expressly and specifically excluded or superseded thereby or otherwise expressly and specifically amended in writing.

ARTICLE 3 – RETURN OF MATERIALS

When and as directed by GP, COMPANY shall: (i) promptly return to GP the originals and any copies of Confidential Information provided to COMPANY in COMPANY's possession or control; (ii) return or destroy all products, documents, models, prototypes, tooling, computer software (and copies of same), and other materials produced by COMPANY that contain, embody or relate to the Confidential Information; and (iii) certify in writing to GP that it has complied fully with the provisions of this Article 3.

ARTICLE 4 – INTELLECTUAL PROPERTY

- 4.1 **No License.** Except as expressly set forth in this Agreement, nothing in this Agreement shall be construed as a grant of any right or license or an offer to grant any right or license by GP to COMPANY with respect to the Confidential Information.
- 4.2 **GP's Rights In General.** To the extent that an invention, patent, technology, trade secret, know-how, development, idea, trademark, service mark, logo, trade dress, copyright or other intellectual property is conceived, discovered, invented, created, developed and/or reduced to practice either (a) exclusively by GP or (b) by COMPANY for GP, upon GP's request (collectively, "Intellectual Property"), such Intellectual Property will be owned exclusively by GP. COMPANY agrees to transfer to GP, and GP shall have sole and exclusive right, title, and interest in and to any and all Intellectual Property.

- 4.3 **Copyrights – Works Made for Hire.** COMPANY agrees that all Works of Authorship that meet the definition of "works made for hire" under the Copyright Act are hereby expressly considered and agreed to be "works made for hire." GP is and shall be the author and owner of such Works of Authorship.
- 4.4 **Copyrights – Assignment.** In the event any Work of Authorship does not meet the definition of "works made for hire," then COMPANY agrees to assign, and hereby does assign, to GP all right, title and interest in and to any and all rights therein, including, but not limited to: (i) the right to sue for infringement of the Work of Authorship; (ii) all profits, benefits and advantages that may arise by or from printing, publishing or vending the Work of Authorship; (iii) all rights in and to or arising by or from any certificate of registration issued for the Work of Authorship by the Register of Copyrights; (iv) the right to reproduce the Work of Authorship; (v) the right to prepare derivative works based upon the Work of Authorship; (vi) the right to distribute copies of the Work of Authorship; and (vii) all other rights, including renewal copyrights, accruing to COMPANY under the Copyright Act.
- 4.5 **Protection and Registration.** GP shall have the exclusive right to (i) seek patent protection for all inventions acquired by GP under Article 4.2, (ii) register all copyrights in Works of Authorship and register all trademarks and service marks acquired by GP under Articles 4.2, 4.3 or 4.4 in GP's own name; and (iii) protect as GP's trade secret or confidential information all of COMPANY's work for GP. GP shall have the exclusive right to dispose of all such Intellectual Property at its sole discretion. COMPANY shall retain no right whatsoever in or to such Intellectual Property.
- 4.6 **Warranties.** COMPANY hereby warrants, represents and covenants that, except for information provided by GP: (i) no public use of inventions or Works of Authorship has or will be made by COMPANY; (ii) to the best of COMPANY's knowledge, no other person or entity has any right in or to the Intellectual Property covered by Article 4; and (iii) COMPANY has not granted and will not grant any right, license or privilege with respect to the Intellectual Property, or any portion thereof, covered by Article 4 to any other person or entity.

ARTICLE 5 - TERMINATION AND SURVIVAL

- 5.1 **Termination.** Either party may terminate the Disclosure Period at any time by giving the other party thirty (30) days advance written notice to that effect. Termination of the Disclosure Period shall be effective at the end of the thirty (30) day notice period.
- 5.2 **Survival.** COMPANY'S obligations under Article 2 above regarding Confidential Information shall be in effect at all times during GP's engagement of COMPANY and shall continue: (i) with regard to each item of Confidential Information that constitutes a trade secret under applicable law, for so long as such item continues to be a trade secret under applicable law; and (ii) with regard to each item of Confidential Information other than trade secrets, for a period of sixty (60) months following any expiration or termination of the Disclosure Period. GP shall respond in a timely manner to reasonable inquiries from COMPANY as to whether clause (i) of this Article 5.2 applies to any item of Confidential Information.

ARTICLE 6 - GENERAL

- 6.1 **Notices.** Any notice required by this Agreement shall be in writing and shall be given either in person, by overnight courier, or sent by U.S. mail and addressed as set forth herein. Notices shall be deemed sufficiently given if and when received by the party to be notified at its address listed below, or, if mailed by certified mail, return receipt requested, on the date marked on the return receipt.

To: GP	To: COMPANY
Georgia-Pacific LLC 133 Peachtree Street, NE, 9 th Floor Atlanta, Georgia 30303 Attn: Pete Burris Title: Sr. Transportation Manager	Cando Rail Services, Ltd. Inc. <i>\$ 3/28/19</i> Unit 400, 740 Rosser Avenue <i>4-3-28-19</i> Brandon, MB R7A 0K9 Attn: Steve Bromley Title: VP, Commercial & Service Delivery North America
Georgia-Pacific LLC- Law Department 133 Peachtree Street, NE Atlanta, Georgia 30303 Attn: Marvin Waldrep Senior Counsel	

Either party may, by notice to the other, change its addressee or address for receiving such notices.

- 6.2 **No Warranty.** Except as otherwise agreed, GP makes no representation or warranty about any Confidential Information disclosed to COMPANY.
- 6.3 **Assignment.** COMPANY shall not assign, delegate or subcontract this Agreement or any rights or obligations hereunder without the prior written consent of GP, which consent may in GP's sole discretion be withheld.
- 6.4 **Further Agreements.** Except as expressly set forth herein, neither party is under an obligation to enter into any further agreement with the other.
- 6.5 **Dispute Resolution.** The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between managers who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. Any party may give the other party written notice of any dispute not resolved in the normal course of business. Within twenty (20) days after delivery of the disputing party's notice, the managers of both parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to attempt to resolve the dispute. All reasonable requests for information made by one party to the other shall be honored. In the event that the managers are unable to resolve the dispute, the parties shall submit the matter to non-binding mediation in accordance with the current model procedural rules of the Center for Public Resources Institute for Dispute Resolution. Notwithstanding anything to the contrary in this Article 6.5, either party may initiate litigation or otherwise pursue whatever legal remedies may be available to such party, under any of the following events: (i) either party refuses to participate in mediation as set forth in this Article 6.5, (ii) any unresolved issues remain after the conclusion of such mediation, or (iii) the passage of fifty (50) days after delivery of disputing party's notice.
- 6.6 **Injunctive Relief.** Notwithstanding the dispute resolution procedure set forth in Article 6.5, if the confidentiality provisions of this Agreement are violated or in imminent danger of being violated, GP shall be entitled to specific performance of this Agreement and to injunctive relief to prevent loss, unauthorized use, or dissemination of Confidential Information, Inventions or Works of Authorship. Nothing contained herein, however, shall restrict GP's right to seek monetary damages in addition to or independent of injunctive relief for violation of such provisions.

- 6.7 **Headings.** The headings of the articles herein have been inserted as a matter of convenience of reference only and shall not control or affect the meaning or construction of any of the terms or provisions hereof.
- 6.8 **No Partnership or Joint Venture.** The disclosure of Confidential Information herein does not create a partnership, joint venture, or other form of legal entity or business enterprise between the parties. Any business relationship between the parties will be governed by a separate agreement.
- 6.9 **Severability.** The unenforceability or invalidity of any provision of this Agreement shall not affect the validity or enforceability of the remaining provisions, but such remaining provisions shall be construed and interpreted in such a manner as to carry out fully the intent of the parties; provided, however, that should any judicial body interpreting this Agreement deem any provision to be unreasonably broad in time, scope or otherwise, it is the intent and desire of the parties that such judicial body, to the greatest extent possible, reduce the breadth of such provision to the maximum legally allowable parameters rather than deem such provision totally unenforceable or invalid.
- 6.10 **Entire Agreement.** This document contains the entire agreement between the parties, and supersedes any previous oral or written understandings, commitments, or agreements pertaining to the subject matter hereof.
- 6.11 **Modifications and Amendments.** This Agreement may not be modified or amended except by writing and signed by an authorized representative of the party against whom the modification or change is sought to be enforced. A party's officers, its designated contact, and the person signing below on its behalf, are each deemed to be an authorized representative.
- 6.12 **Export Compliance.** Each party will comply with the applicable United States export laws and regulations for any technical data exchanged under this Agreement.
- 6.13 **Governing Law.** This Agreement and the legal relationship of the parties shall be interpreted, construed and governed by the laws of the State of Delaware without resort to the conflict of law provisions.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate by their duly authorized representatives effective as of the day and year first above written.

Georgia-Pacific Consumer Operations LLC

By: 

Printed Name: Michael Hohnadel

Title: VP-Manufacturing

Cando Rail Services, Ltd. Inc. *3/28/19*
4/4 3-28-19

By: 

Printed Name: Steve Bromley

Title: VP, Commercial & Service Delivery North America