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TRANSACTION AGREEMENT

BY AND AMONG

NORFOLK SOUTHERN RAILWAY COMPANY,

MICHIGAN CENTRAL RAILWAY, LLC

AND

WATCO TRANSPORTATION SERVICES, INC.

DATED AS OF

July 11, 2007

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TRANSACTION AGREEMENT

THIS TRANSACTION AGREEMENT (this “Agreement”) is made and entered into as of [], 2007, by and among NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation (“NSR”), MICHIGAN CENTRAL RAILWAY, LLC (“MCR” or the “Company”), a Delaware limited liability company, and WATCO TRANSPORTATION SERVICES, INC., a Kansas corporation and parent to MCR (“Watco”). Each of NSR and Watco shall hereinafter be referred to as a “Party” or collectively as the “Parties.”

WHEREAS, NSR currently owns or operates certain properties, trackage rights, signals, equipment, and other rights, Permits, claims, contracts and assets related thereto, in each case, as set forth on Annex A hereto (collectively, the “Assets”), including the rail line (tracks, rails, ballast, associated rail assets and underlying real estate) and certain operating rights constituting rail operating property located in Michigan and Indiana generally depicted on the map attached hereto as Appendix B (the “Line” or the “Subject Trackage”); and

WHEREAS, Amtrak operates passenger train service over a portion of the Line; and

WHEREAS, Amtrak owns a line of railroad between Kalamazoo, MI and Porter, IN, which constitutes a portion of the operating rights included in the Line; and

WHEREAS, Amtrak and NSR are parties to several agreements that govern the rights and obligations of each relating to the provision of passenger service, including passenger service on the Line; and

WHEREAS, NSR, Watco and the Company are aware of proposals to expand rail passenger service on trackage that may include portions of the Line, and each recognize the importance of that service to state and national constituencies; and

WHEREAS, the Company currently is wholly owned by Watco and governed by the limited liability company agreement attached hereto as Appendix C (the “Company Agreement”); and

WHEREAS, NSR, MCR and Watco have determined that it is advisable to join together in a joint venture which will own the Assets, subject to the Restrictions, as hereinafter defined; and

WHEREAS, MCR intends to make an application for STB Approval (as hereinafter defined) of the joint venture.

WHEREAS, upon the issuance of a decision granting STB Approval of the joint venture, Watco intends to prepare a Preliminary Start-Up Plan (as hereinafter defined) and, after NSR approves the Preliminary Start-Up Plan, loan cash to MCR from time to time within three (3) months after the Closing Date to fund the activities described in the Preliminary Start-Up Plan, such loan estimated to be a total of approximately \$1,100,000

(the actual aggregate amount so loaned referred to as the "Start-Up Funds"), and MCR will repay to Watco the amount of such Start-Up Funds from time to time within six (6) months after the Closing Date.

WHEREAS, NSR, MCR, and Watco intend to form the joint venture no earlier than sixty-one (61) days after the service of a decision granting STB Approval, provided no petitions for reconsideration have been filed.

WHEREAS, subsequent to the Closing for the joint venture the Parties intend the Company to be governed by an amended and restated limited liability company agreement substantially in the form attached hereto as Appendix D (the "First Amended and Restated Company Agreement"), in the latter case setting forth their rights and obligations of Watco and NSR as members of the Company; and

WHEREAS, at the Closing for the joint venture and on the terms and subject to the conditions contained herein, the Parties intend for NSR to contribute the Assets to the Company in exchange for the receipt of its Membership Interest in the Company as described in the First Amended and Restated Company Agreement; and

WHEREAS, at the Closing for the joint venture and on the terms and subject to the conditions contained herein, the Parties intend for Watco to contribute \$18.0 million consisting of locomotives, cash and a short-term installment note to the Company in exchange for its membership interest in the Company as described in the First Amended and Restated Company Agreement (and for purposes of clarity, the Start-Up Funds shall not be considered a contribution by Watco in exchange for its membership interest); and

WHEREAS, in connection with the transactions contemplated by this Agreement and the Company Agreement, at the Closing, the Parties will enter into, or will cause the Company to enter into, as applicable: (i) the First Amended and Restated Company Agreement; (ii) a Joint Use Agreement substantially in the form attached hereto as Appendix E (the "Joint Use Agreement") pursuant to which the Company provides to NSR haulage over the Line for traffic moving between NSR and certain handling lines connecting with the Company, and further provides to NSR limited trackage rights, (iii) a Master Interchange Agreement substantially in the form attached hereto as Appendix F (the "Master Interchange Agreement") generally setting forth the policies and protocols for the safe interchange of traffic between NSR and the Company, (iv) an assignment and assumption agreement substantially in the form attached hereto as Appendix G ("Assignment and Assumption Agreement – Amtrak-NSR Michigan Lines Agreements") generally providing for the partial assignment of Amended and Restated Off-Corridor Operating Agreement dated as of December 1, 2005, by and between NSR and National Passenger Railroad Corporation ("Amtrak Off-Corridor Agreement"), (v) an agreement and consent to assignment between Amtrak and NSR substantially in the form attached hereto as Appendix H ("Amtrak Agreement and Consent to Assignment"), (vi) an assignment and assumption agreement substantially in the form attached hereto as Appendix I ("Assignment and Assumption Agreement") generally providing for the assignment to the Company of certain rights and obligations of NSR with respect to the Line, (vii) a commercial agreement substantially in the form attached hereto as Appendix

J (the “Divisions Agreement”) generally setting forth the respective divisions for transportation services to be provided by the Company under certain existing and future contract and tariff movements that will become interline movements upon Closing, as hereinafter defined, (viii) a master locomotive run through agreement substantially in the form attached hereto as Appendix K (the “Master Locomotive Run Through Agreement”) generally governing the use of and liabilities associated with the locomotives that NS supplies, if any, (ix) a car supply agreement substantially in the form attached hereto as Appendix L (the “Car Supply Agreement”) generally pertaining to the supply of cars with respect to certain movements of traffic, (x) a fueling and services agreement substantially in the form attached hereto as Appendix M (the “Locomotive Fuel and Service Agreement”) generally governing the terms and conditions pursuant to which NSR and Company will provide certain locomotive fueling and locomotive servicing services to the other party; (xi) the LLC management right of entry agreement substantially in the form attached hereto as Appendix N (the “LLC Management Access and Qualification Agreement and Right of Entry”) generally providing for the qualification of the Company’s supervisory management prior to Closing, as hereinafter defined; (xii) an agreement concerning the assignment and assumption of the Lansing Trackage Rights substantially in the form attached hereto as Appendix O (the “Lansing Assignment and Assumption Agreement”); (xiii) an agreement concerning the assignment and assumption of the Battle Creek Trackage Rights substantially in the form attached hereto as Appendix P (the “Battle Creek Assignment and Assumption Agreement”); (xiv) an agreement concerning the assignment and assumption of the Grand Rapids Trackage Rights substantially in the form attached hereto as Appendix Q (the “Grand Rapids Assignment and Assumption Agreement”); and (xv) an agreement concerning the provision of certain specified administrative services by Watco Companies, Inc., parent to Watco, to the Company substantially in the form attached hereto as Appendix R (the “Support Services Agreement” and, collectively with the other agreements identified in this Recital under (i) through (xiv), the “Ancillary Agreements”).

WHEREAS, the Parties have determined to interchange traffic at Elkhart Yard, IN and Willow Run Yard; and

WHEREAS, existing interchange points (together with interchange points between MCR and NSR that the Parties contemplate will exist on the Closing Date, as hereinafter defined, at Elkhart Yard and Willow Run Yard, “Interchange Points”) and the carriers with interchange rights thereat consist entirely of Lansing (Canadian National (“CN”) and CSX Transportation, Inc. (“CSXT”)), Kalamazoo (CN), Grand Rapids (CSXT, Grand Rapids Eastern Railroad (“GRE”), Mid-Michigan Railroad (via GRE intermediate switch), and Marquette Rail LLC (via CSXT intermediate switch)), Battle Creek (CN), and White Pigeon (Michigan Southern Railroad); and

NOW, THEREFORE, with reference to the foregoing facts and in consideration of the mutual agreements and understandings set forth herein, the Parties hereto, intending to be legally bound, hereby agree as follows:

1. Definitions.

1.1 Certain Definitions. All terms defined in this Agreement shall have the defined meanings when used in this Agreement, unless otherwise defined or the context otherwise requires. The following terms shall have the following meanings:

"Action" means any litigation, action, suit, proceeding, investigation, arbitration, claim or other dispute by or before any court or other Governmental Authority, or any other alternative dispute resolution proceedings, such as arbitration or mediation.

"Affiliate" shall mean, with respect to any specified Person, (i) any other Person who, directly or indirectly, controls, is under common control with, or is controlled by, such specified Person, (ii) any other Person who is a director, officer, manager, member, partner or trustee of the specified Person or a Person described in clause (i) of this definition or any spouse of the specified Person or any such other Person or (iii) any Person of which the specified Person and/or any one or more of the Persons specified in clause (i) or (ii) of this definition, individually or in the aggregate, beneficially own 10% or more of any class of voting securities.

"Battle Creek Trackage Rights" shall mean the agreement, dated September 14, 1979, by and between Grand Trunk Western Railroad Company ("Grand Trunk"), to which Canadian National Railway Company ("CN") is successor, and Consolidated Rail Corporation ("Conrail"), to which NSR is successor, as it has been from time to time amended and assigned, and the underlying right of movement in and about Battle Creek, MI.

"Business Day" shall mean any day other than a Saturday or Sunday or any day banks in the State of New York are authorized or required to be closed.

"Canadian National" shall mean the Canadian National Railway Company.

"Charter Documents" shall mean the certificate of incorporation or articles of incorporation and the by-laws, with respect to a corporation; the partnership agreement, with respect to a general partnership; or the certificate of formation and operating or company agreement, with respect to a limited liability company.

"Cleanup" shall mean all actions, including investigations, required by Law to: (1) cleanup, remove, treat or remediate Hazardous Materials in the environment; (2) prevent the Release of Hazardous Materials so that they do not migrate, endanger or threaten to endanger public health or welfare or the environment; (3) perform pre-remedial studies and investigations and post-remedial monitoring and care; or (4) respond to any government requests for information or documents in any way relating to cleanup, removal, treatment or remediation or potential cleanup, removal, treatment or remediation of Hazardous Materials in the environment.

"Closing" shall mean the closing for the joint venture, which shall involve the capital contribution by Watco to MCR described in Section 3.2(a) of this Agreement and the capital contribution by NSR to MCR described in Section 3.3(a) of this Agreement.

"Closing Date" shall mean the date of the Closing.

"Contract" shall mean any note, bond, debenture, mortgage, license, agreement, commitment, contract, obligation, promise or understanding.

"Environmental Claim" means any fine, claim, action, lien, cause of action, investigation or notice by any Person alleging potential liability (including potential liability for Cleanup costs, governmental response costs, natural resources damages, property damages, personal injuries, or penalties) arising out of, based on or resulting from (a) the presence, Release of any Hazardous Materials, or (b) circumstances forming the basis of any violation of any Environmental Law.

"Environmental Laws" means all Laws relating to pollution or protection of human health or the environment, including all Laws relating to Releases or threatened Releases of Hazardous Materials or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, Release, disposal, transport or handling of Hazardous Materials, all Laws relating to record keeping, notification, disclosure and reporting requirements respecting Hazardous Materials and all Laws relating to endangered or threatened species of fish, wildlife and plants and natural resources.

"Governmental Authority" shall mean any nation or government, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government or any mediation body or arbitral tribunal, including the STB.

"Grand Rapids Trackage Rights" shall mean the two agreements, one dated January 24, 1984, by and between The Chesapeake & Ohio Railway Company ("C&O"), to which CSX Transportation, Inc. ("CSXT") is successor, and Conrail, to which NSR is successor, and one dated February 6, 1980, by and between C&O, to which CSXT is successor, and Conrail, to which NSR is successor, as amended from time to time, including by a Supplemental Agreement dated July 6, 1993, by and between CSXT and Conrail, to which NSR is successor, in each case as it has been from time to time amended and assigned, and the underlying rights of movement in and about Grand Rapids, MI.

"Hazardous Materials" shall mean all substances defined as Hazardous Substances, Oils, Pollutants or Contaminants in the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. § 300.5, or defined as such by, or regulated as such under, any Environmental Law.

"Indebtedness" means, with respect to any Person, (i) any liability, contingent or otherwise, (a) for borrowed money, capitalized lease obligations, purchase money obligations or other obligations relating to the deferred purchase price of assets or

property or (b) evidenced by a note, bond, debenture, letter of credit or similar instrument given in connection with the acquisition, other than in the ordinary course of business consistent with past practice, of any property, assets, securities or otherwise, including indebtedness created or arising under conditional sale or other title retention agreements (even though the rights and remedies of the seller or lender under the agreements in the event of default are limited to repossession or sale of the property), (ii) any liability of others described in the preceding clause (i) which such Person has guaranteed or which otherwise is its legal liability, (iii) all indebtedness referred to above secured by (or for which the holder of the indebtedness has an existing right, contingent or otherwise, to be secured by), any Lien upon the property of such Person, whether or not the obligations secured thereby have been assumed, and (iv) any amendment, renewal, extension or refunding of any liability referred to in clauses (i), (ii) and (iii) above; provided, however, that Indebtedness does not include any trade payables of any Person incurred in the ordinary course of business consistent with past practice. The amount of Indebtedness of any Person at any date shall be the outstanding balance at the date of all unconditional obligations as described above and the maximum amount of any contingent obligations at the date.

"Knowledge" with respect to NSR shall mean the actual knowledge, after due inquiry into the matter in question, of senior management officials of NSR Senior Management Officials with responsibility over the subject matter in question.

"Lansing Trackage Rights" shall mean the two agreements, one dated April 21 1995 by and between CSXT and Conrail, to which NSR is successor, and one dated October 13, 1924, by and between the Pere Marquette Railway Company, to which CSXT is successor, and the Michigan Central Railroad Company, to which NSR is successor, in each case as it has been from time to time amended and assigned, and the underlying right of movement in and about Lansing, MI.

"Law" shall mean any U.S. federal, state or local or foreign statute, law, rule, regulation, ordinance, order, code, policy or rule of common law, now or hereafter in effect and, in each case, as amended, any binding judicial or administrative interpretation thereof by a Governmental Authority or otherwise, including any judicial or administrative order, consent, decree or judgment.

"Leased Personal Property" shall mean all personal property leased by NSR and its Affiliates which is included in the Assets.

"Lien" shall mean any mortgage, deed of trust, pledge, security interest, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), or preference, purchase option, right of first offer, right of first refusal, priority or other security agreement (including any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of any financing statement under the Uniform Commercial Code or comparable Law of any jurisdiction to evidence any of the foregoing).

"Material Adverse Effect" shall mean, with respect to any party, any change, circumstance, event or effect which, individually or when considered in conjunction with other changes, circumstances or effects, has had or would reasonably be likely to have a material adverse effect on (a) with respect to a Material Adverse Effect on NSR, the Assets, taken as a whole, or the financial condition or results of operations of the business of the Company to be conducted with the Assets after the Closing, taken as a whole, or (b) with respect to a Material Adverse Effect on any Party, the ability of such Party to consummate the transactions contemplated by this Agreement, the Ancillary Agreements or the Company Agreement or to perform its obligations hereunder or thereunder; provided, that none of the following shall be deemed to constitute, and none of the following shall be taken into account in determining whether there has been, a Material Adverse Effect: (x) any adverse change, event, development, or effect arising from or relating to (1) general business or economic conditions, including changes in energy prices or availability, except to the extent that such conditions disproportionately affect such Party's business relative to the effect of such factors on other Persons operating in such party's industry, (2) national or international political or social conditions, including the engagement by the United States in hostilities, whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack upon the United States, or any of its territories, possessions, or diplomatic or consular offices or upon any military installation, equipment or personnel of the United States, except to the extent that such conditions disproportionately affect such Party's business relative to the effect of such factors on other Persons operating in such party's industry, (3) financial, banking, or securities markets (including any disruption thereof and any decline in the price of any security or any market index), (4) changes in United States generally accepted accounting principles, (5) changes in Law or (6) the taking of any action contemplated by this Agreement and the other agreements contemplated hereby, (y) any of the events, occurrences, or circumstances set forth in Schedule 1.1(b) and (z) any change, occurrence, event or effect, which shall have been cured without a Material Adverse Effect (excluding this clause (z)), on the Assets, before the earlier of the Closing Date or the date on which this Agreement is terminated pursuant to Section 14.

"Permitted Liens" shall mean collectively, (i) Liens for Taxes not yet due and payable or which are being contested in good faith by appropriate proceedings and for which adequate reserves have been made; (ii) such imperfections of title, easements and other similar encumbrances, if any, as do not, individually or in the aggregate, interfere in any material respect with the use of any Owned Property as such Owned Property is used on the date of this Agreement; (iii) mechanics', materialmen's, workmen's, repairmen's, warehousemen's, carrier's and other similar Liens arising in the ordinary course of business consistent with past practice, all of which shall be released at or prior to the Closing; or (iv) those Liens set forth on Schedule 1.1(c) hereto.

"Person" shall mean an individual or a partnership, corporation, trust, association, limited liability company, Governmental Authority or other entity.

"Release" means any release, spill, emission, discharge, leaking, pumping, injection, deposit, disposal, or leaching into the environment (including ambient air,

surface water, groundwater and surface or subsurface strata) or into or out of any property of any Hazardous Material, including the movement of Hazardous Materials through or in the air, soil, surface water, groundwater or property.

"STB" shall mean the Surface Transportation Board or any successor entity thereto.

"STB Approval" shall mean the grant of the approval of the STB, or the grant of an exemption from the need to obtain such approval, in each case received in response to submissions of the Parties requesting the same.

"Subsidiary" of any Person shall mean any entity of which such Person owns, directly or indirectly, securities or other ownership interests having the power to elect a majority of the board of directors or other persons performing similar functions, or otherwise having the power to direct, manage or control the conduct of business of such entity.

"Tax Return" shall mean 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 (foreign or domestic) 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.

"Taxes" shall mean 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).

"TBT" shall mean that Thoroughbred Bulk Terminal located in Grand Rapids, MI.

"Transfer" shall mean sell, assign, transfer, pledge, grant a security interest in, or otherwise dispose of, with or without consideration, and "Transferred" shall have a correlative meaning.

1.2 Construction of Certain Terms and Phrases. Unless the context otherwise requires, (a) words of any gender include each other gender; (b) words using the singular or plural number also include the plural or singular number, respectively; (c) the terms "hereof," "herein," "hereby" and derivative or similar words refer to this entire

Agreement; (d) the terms "Article" or "Section" refers to the specified Article or Section of this Agreement; (e) the terms "and" and "or" include the term "and/or" when the context is appropriate; (f) the terms "include" or "including" also include the words "without limitation" when the context is appropriate; (g) the phrases "ordinary course of business" and "ordinary course of business consistent with past practice" refer to the business and practice of the Person specified or, in the case of the operation of the Line, the business and practice of NSR and its Subsidiaries with respect to the Assets; and (h) a reference to "affected Subsidiaries" of NSR is a reference to a Subsidiary of NSR that has an interest that is affected by the matter referenced in the context in which the phrase appears. Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under generally accepted accounting principles, as in effect in the United States of America. Whenever this Agreement refers to an Appendix, Exhibit or Schedule attached hereto, the Appendix, Exhibit or Schedule shall be deemed to be incorporated by reference.

2. Pre-Closing Creation and Operations of the Company.

2.1 Pre-Closing Operations Generally.

Between the date of this Agreement and the earlier of the Closing or termination pursuant to Section 14, except (a) as contemplated by this Agreement, (b) as may be required by applicable Law, (c) as set forth in Section 2.1 of the Disclosure Schedule or (d) with the prior written consent of NS, the Company will, and Watco will cause to the Company to:

(i) not transfer any of the Company's assets other than in the ordinary course of business and other than in a manner and amount consistent with the contemplated transactions set forth in this Agreement;

(ii) not change the general nature of operation of the Company, or conduct any new line of business, considering that the Company has been created for the sole purpose of engaging in the transactions described in this Agreement;

(iii) not mortgage, encumber, pledge, lease, transfer or sell the Company, or any of the Company's assets or permit or allow any of the Company's assets to be subjected to any Lien other than Permitted Liens;

(iv) not terminate, make any material modifications to, transfer or materially amend the Company Agreement;

(v) not dispose of any books, records and accounts relating to the Company and the Company's assets, and to maintain such books records or accounts in the usual, regular and ordinary manner, on a basis consistent with generally accepted practices;

(vi) not take any action that would cause a breach of any representation or warranty set forth in Section 9 hereof; or

(vii) not authorize or enter into any agreement to otherwise take any of the foregoing actions.

2.2 Hiring and Qualification of Supervisory Management.

Upon the issuance of a decision granting STB Approval, the Company shall, and Watco shall cause the Company to, prepare a proposed "Preliminary Start-Up Plan," which such Preliminary Start-Up Plan shall include proposed funding, expenditures and business plan consistent with this Transaction Agreement and the dictates, if any, of the decision granting STB Approval. The Company shall, and Watco shall cause the Company to, distribute the Preliminary Start-Up Plan to NSR for its review and approval, which review shall be made in light of both Section 7.1 and Section 15, and which shall not be unreasonably withheld. The Preliminary Start-Up Plan shall include, as a minimum, funding to effectuate the following: (a) execution of the LLC Management Access and Qualification Agreement and Right of Entry; (b) initiation, and diligent pursuit, of such actions as may be necessary to hire supervisory management employees capable of themselves being qualified, and of qualifying future employees of the Company, for locomotive operations over the Line; and (c) initiation, and diligent pursuit, of such actions as may be necessary to progress such qualifications. Upon approval of the Preliminary Start-Up Plan, the Company shall, and Watco shall cause the Company to, initiate and diligently pursue execution of the Preliminary Start-Up Plan. Upon issuance of a decision granting STB Approval and NSR's approval of the Preliminary Start-Up Plan, Watco shall loan the Start-Up Funds to the Company from time to time within three (3) months after the Closing Date to fund the activities described in the Preliminary Start-Up Plan, and the Company will repay to Watco the amount of such Start-Up Funds from time to time within six (6) months after the Closing Date (which such Start-Up Funds will be treated by the Company for income tax purposes as start-up expenditures under Section 195 of the Code).

2.3 Hiring of Maintenance of Way Employees.

The Company agrees to the following: (i) the Company will provide to NSR maintenance of way employees who have been working on the Line, and who seek employment with the Company priority consideration for employment for each maintenance of way position created by the Company within one year after Closing Date (the terms of employment, including but not limited to seniority, rates of pay, benefits and employee responsibilities, shall be determined by the Company); and (ii) if an effort is undertaken by the Brotherhood of Maintenance of Way Employees (BMWE) to organize employees working on the Line, the Company will assume a neutral stance in such union organizing effort.

2.4 Dispatching Conversion Plan.

The Company and NSR shall initiate, and diligently pursue, a plan (the "Dispatching Conversion Plan") to convert safely, efficiently and effectively NSR control over dispatching on the Line to the Company's control over dispatching on the Line. The

Company and NSR agree that the costs associated with the Dispatching Conversion Plan shall be divided among the parties as follows:

(a) Each party (Watco, NSR and the Company) shall bear the costs of their own employees involved in the development of the Dispatching Conversion Plan.

(b) All other costs shall be borne by the Company.

(c) Without intending to modify the foregoing, and only as a clarification, the parties agree that the Company shall bear the cost of the equipment and employee time necessary for the conversion, whether that cost is for equipment to be installed for the use of the Company or for NSR, or the employee time is for activation of dispatching functions on equipment to be used by the Company or the deactivation of dispatching functions on equipment to be used by NSR.

(d) Subject to Section 15, each of Watco, the Company and NSR shall indemnify and hold harmless the other Parties against any and all costs and payments, including benefits, allowances, and arbitration, administrative and litigation expenses, arising out of lawsuits, claims or grievances brought by or on behalf of its own employees or their collective bargaining representatives, either pursuant to employee protective conditions imposed by a governmental agency upon the agency's approval or exemption of this Agreement and the Definitive Agreements, and the operations hereunder and thereunder or pursuant to a collective bargaining agreement. It is the Parties' intention that each of Watco, the Company and NSR shall bear the full costs of protection of its own employees under employee protective conditions that may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

3. Capital Contribution for Membership Interest.

3.1 Execution of the First Amended and Restated Company Agreement.

On the Closing Date, which shall in all cases be a date subsequent to the effective date of the decision granting STB Approval, Watco and NSR shall: (a) execute the First Amended and Restated Company Agreement, and (b) complete and execute and submit all other forms reasonable and necessary, and perform all other tasks reasonable and necessary, to have the Company exist in good standing to do business in the States of Michigan and Indiana governed by the First Amended and Restated Company Agreement instead of the Company Agreement.

3.2 Capital Contribution for Watco Interest

(a) At the Closing, NSR and Watco shall cause the Company to issue to Watco, in exchange for locomotives, cash in amount equal to the amount set forth in Schedule 2.2, and a short-term installment note to MCR (the "Watco

Contribution”), the membership interest in the Company as described in the First Amended and Restated Company Agreement.

(b) The Parties acknowledge that Watco’s initial capital account in the Company immediately after the Closing shall be the amount reflected in Exhibit 2.2 of the First Amended and Restated Company Agreement, which amount shall be equal to the sum of the contributions at the Closing of the agreed fair market value of the locomotives and cash.

3.3 Capital Contribution for NSR Interest.

(a) At the Closing, NSR and Watco shall cause the Company to issue to NSR, in exchange for NSR’s contribution of the Assets, the membership interest in the Company as described in the First Amended and Restated Company Agreement. NSR is to contribute the Assets to the Company free and clear of all Liens other than Permitted Liens and Retained Interests, as hereinafter defined, judgment liens of record which NSR shall provide an indemnification agreement in the form of the attached Appendix P, and the Restrictions.

(b) The Parties acknowledge that NSR’s initial capital account in the Company will be equal to NSR’s basis for financial reporting purposes in the Assets on the Closing Date.

3.4 Transfer of Liabilities.

Subject to the terms and conditions of this Agreement, at the Closing, NSR and Watco shall cause the Company to assume the liabilities and obligations of NSR and its Subsidiaries relating to the operation of the Assets set forth on Schedule 3.4 hereto (the “Assumed Liabilities”). Except as and to the extent otherwise expressly provided in this Agreement, the Company has not agreed to pay, shall not be required to assume and shall not have any obligation in respect of, any liability or obligation, direct or indirect, absolute or contingent, of Watco, NSR or any other Person, the assumption of which by the Company is not expressly provided for in this Agreement.

4. Certain Trackage Rights and Retained Interests.

4.1 Certain Trackage Rights.

(a) Prior to the Closing, NSR shall use its commercially reasonable efforts to obtain the consent of CN to an assignment of the Battle Creek Trackage Rights to the Company. NSR and Watco shall seek authority, or exemption from the need to obtain authority, of the STB permitting said assignment, should such consent be obtained. Any assignment by NSR of the Battle Creek Trackage Rights to the Company shall be pursuant to the Battle Creek Assignment Agreement.

(b) Prior to the Closing, NSR shall use its commercially reasonable efforts to obtain the consent of CSXT to an assignment of the Grand Rapids Trackage Rights and the Lansing Trackage Rights to the Company. NSR and Watco

shall seek authority, or exemption from the need to obtain authority, of the STB permitting said assignment, should such consent be obtained. Any assignment by NSR of the Grand Rapids Trackage Rights shall be pursuant to the Grand Rapids Assignment Agreement and any assignment of the Lansing Trackage Rights to the Company shall be pursuant to the Lansing Assignment Agreement.

(c) Prior to the Closing, NSR shall use its commercially reasonable efforts to obtain the consent of Amtrak, pursuant to the Amtrak Agreement and Consent to Assignment, to the Assignment and Assumption Agreement – Amtrak-NSR Michigan Lines Agreements.

4.2 Retained Interests

Schedule 4.2 sets forth certain interests of NSR and its Subsidiaries (the “Retained Interests”) in the Assets to be conveyed to the Company pursuant to Section 3.3(a) which interests shall be retained following the Closing by the party conveying the relevant Assets to the Company (the “Conveying Party”). The Retained Interests may be exercised only at the sole risk and expense of the Conveying Party, in a manner that shall not unreasonably interfere with the railroad operation of the Assets, and shall be subject to execution of a reasonable access agreement between the relevant Conveying Party and the Company. NSR shall cause any Conveying Party seeking to exercise Retained Interests to provide reasonable advance notice to the Company before said party may enter any relevant Assets consisting of Property for purposes of exercising a Retained Interest, and said party’s actions on such Property shall at all times be subject to the reasonable direction and control of the operating officer in charge of the Property and to applicable provisions of the Company’s safety and operating rules.

5. The Restrictions.

5.1 Restrictions Generally.

As a material and essential element of the Transaction, the contribution of the Assets to the Company shall be subject to certain defined restrictions (“Restrictions”) on the Company’s use of the Line, specifically that the Company may not use the Line to interchange existing or future rail traffic, via either a steel wheel or rubber wheel interchange, with any rail or other carrier other than NSR, or to any carrier at any Interchange Point other than those existing as of the Closing Date. The Restrictions set forth in the immediately prior sentence will not apply to:

(a) traffic that: (i) both originates and terminates its rail transportation on the Company’s lines, or (ii) is (A) moved by the Company and physically interchanged only with a Class 3 rail carrier, as that term is defined in 49 C.F.R. Part 1201 – Railroad Companies, Subpart A – Uniform System of Accounts, General Instruction 1-1(a) and as determined pursuant to General Instruction 1-1(b) for the year just prior to the initiation of the transportation, and (B) both originates and terminates within the State of Michigan; and

(b) traffic that originates or terminates at customers open to reciprocal switching in Lansing, Grand Rapids, Kalamazoo and Battle Creek, on the Closing Date, which customers shall be specifically identified in an appendix to be developed at the time of the Closing Date.

5.2 Waiver of the Restrictions.

The Company may seek a temporary (defined temporally or by means of a set volume of traffic) or permanent waiver of application of the Restrictions to a defined set of traffic (defined by origin-destination pair and commodity) as may be required to develop new traffic for the Line. Each waiver request shall be of sufficient detail and disclosure so as to permit a full and fair review of the waiver request. Each waiver request shall be submitted for approval to the NSR business development manager (or other designee from time to time designated by said business development manager) with authority over the commodity for which the waiver is sought ("NSR Business Manager"). The NSR Business Manager shall make reasonable efforts to acknowledge receipt of the request within one (1) business day, and to provide a response to the waiver request within five (5) business days. The Parties acknowledge and agree that NSR is contributing the Assets subject to the Restrictions, and that the default position is that a waiver need not be granted.

5.3 Liquidated Damages for Violation of the Restrictions; Audit and Payment of Liquidated Damages.

(a) The Parties acknowledge and agree that it will be virtually impossible to determine the damage that NSR would suffer in the event of a violation of the Restrictions, and therefore the Parties agree that the Company shall pay as liquidated damages ("Liquidated Damages") to NSR the amounts set forth in Schedule 5.3 for each and every car (loaded or empty) interchanged or, in the case of a violation involving intermodal traffic, on the basis of each container (loaded or empty) interchanged in violation of the Restrictions. The amounts set forth in Schedule 5.3 shall be indexed annually by the Consumer Price Index to take into account anticipated contribution growth.

(b) In order to assess whether the Company owes NSR Liquidated Damages, and the amount owed, if any, the Parties agree to cause the Company to submit to, and participate and cooperate in, an annual audit of its traffic in order to accurately assess the application of Liquidated Damages for a specified calendar year, in conformance with the provisions of this Section 5.3. NSR shall provide notice of its intent to initiate an audit ("Notice of Intent to Initiate an Audit") for the previous calendar year no later than March 1 of the year subsequent to the Audit Year, as hereinafter defined. The Notice of Intent to Initiate an Audit shall specify: (a) the calendar year to be covered by the audit (the "Audit Year"); (b) the protocols covering the methodology and conduct of the audit; and (c) the Person NSR proposes to have conduct the audit. Within one (1) month of the service of the Notice of Intent to Initiate an Audit, the Company shall serve notice on NSR whether it concurs with either or both of: (1) the protocols for the conduct of the audit and (2) the Person NSR proposes to have

conduct the audit. Disputes as to either of the foregoing shall be resolved by the dispute resolution process set forth in Section 16.6 hereof. The Person conducting the audit (the "Auditor") shall determine both the number of cars subject to the Liquidated Damages, and the amount of Liquidated Damages owed by the Company to NSR, and shall develop a report ("Audit Report") on both NSR and the Company. The foregoing determinations of the Auditor shall be binding on the Parties. If, in the conduct of the audit, the Auditor determines a flaw in the Protocols as a tool to correctly determine the number of cars moved in violation of the Restrictions, and the resulting Liquidated Damages, if any, due under the Restrictions, the Auditor shall report the same to each of NSR and the Company, for their determination of the proper course of action, with any modifications to the protocols being made only upon mutual agreement. Each Party to the audit (NSR and the Company) shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel, and one-half of the compensation, costs and expenses of the Auditor and the costs of the production of the Audit Report. The Auditor shall not have the power to determine the validity of the Restrictions, or the Protocols.

(c) Upon receipt of the Audit Report and the amount of Liquidated Damages owed by the Company to NSR, NSR shall prepare and deliver to the Company a statement setting forth the number of cars subject to the Liquidated Damages, and the amount of Liquidated Damages owed by the Company to NSR ("Restrictions Invoice"). The Company shall make reasonable efforts to make payment to Landlord within thirty (30) days, but in any event shall make payment within sixty (60) days, after the date of such Restrictions Invoice.

(d) The failure of NSR to demand an audit covering any one or more calendar years shall have no effect on the rights and obligations of either of the Parties or the Company pursuant to this Section 5 as to any other calendar year, and shall have no effect on the continued existence of the Restrictions.

5.4 Restrictions to be Included in the Deeds

Notwithstanding anything to the contrary in this Agreement, a copy of this Agreement, not including the Appendices hereto, shall be filed as an integrated part of all deeds. Any reference to the Line in the Definitive Documents shall include a reference to the Restrictions and all of the reservations and other use restrictions set forth above, as well as any others set forth in this MOU.

6. Amtrak and Passenger.

The Company accepts the Line subject to all of the rights and responsibilities of any assigned agreements (including but not limited to the Amtrak Off-Corridor Agreement) to the extent assigned and pursuant to the terms and conditions of such assignment agreements, and further accepts the Line subject generally to Federal law regarding the safe and efficient operations of the Amtrak service on the Michigan Line. Further, NSR, the Company and Watco acknowledge and agree that the potential exists for additional passenger (Amtrak and commuter) service on the Line, including the potential for an expansion, or increased frequency, of service between Detroit and Ann

Arbor. While other entities, including Amtrak, state government and the federal government, are responsible for funding infrastructure and operating costs related to the introduction and operation of additional passenger trains and service, NSR, the Company and Watco acknowledge their respective obligations to work with Amtrak and governmental entities to evaluate in good faith proposals for government-funded passenger service, and to cooperatively implement such funded proposals to the extent they do not interfere with the growth and development of freight service.

7. The Closing.

7.1 The Closing.

The Closing shall take place at the offices of Norfolk Southern Corporation at 10:00 A.M., local time on a date to be agreed to by NSR, the Company and Watco, which shall be no later than three Business Days following the date on which all of the conditions set forth in Article 10 shall have been satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the fulfillment or waiver of those conditions), or at such other time and place as NSR, the Company and Watco mutually agree upon in writing. The date of the Closing is referred to in this Agreement as the "Closing Date."

8. Deliveries at the Closing.

8.1 Deliveries at the Closing.

At the Closing:

(a) Watco shall deliver: (i) the Watco Contribution, provided that the cash portion thereof shall be delivered to the account(s) designated by the Company in writing by wire transfer of immediately available funds at least one Business Day prior to the Closing Date; (ii) to the Company or NSR, as applicable, a duly executed counterpart original of each Ancillary Agreement to which Watco is a party to; (iii) to NSR, a duly executed counterpart original of the First Amended and Restated Company Agreement; and (vi) such other documents and instruments as NSR may reasonably request to evidence the satisfaction of all conditions precedent set forth in Article 10 of this Agreement or which are required to be delivered by Watco at or prior to the Closing Date pursuant to this Agreement.

(b) NSR shall, or shall cause its applicable Subsidiary to, deliver: (i) to Watco, a duly executed counterpart original of the First Amended and Restated Company Agreement; (ii) to Watco or the Company, as applicable, a duly executed counterpart original of each Ancillary Agreement to which NSR or its Subsidiary is a party; (iii) to the Company, quitclaim deeds with respect to each of the Owned Properties to the Company; (iv) to the Company, the consents to the assignments provided for in Section 4(a) and in Section 4(b) of this Agreement; (v) to the Company, all such other deeds, endorsements, assignments and other instruments as are necessary to transfer to the Company NSR's and NSR's Subsidiaries' interest in the Assets in

accordance with the terms hereof; and (vi) to Watco, such documents and instruments as Watco may reasonably request to evidence the satisfaction of all conditions precedent set forth in Article 11 of this Agreement or which are required to be delivered by NSR at or prior to the Closing Date pursuant to this Agreement.

(c) NSR and Watco shall cause the Company to deliver to NSR or Watco duly executed counterpart originals of each Ancillary Agreement to which the Company is a party.

8.2 Further Assurances. At and following the Closing, each Party to this Agreement shall deliver or cause to be delivered, as appropriate, such further certificates, consents and other documents as may be necessary to carry out the terms of this Agreement.

9. Representations and Warranties of NSR.

Except as set forth in the disclosure schedule (the "Disclosure Schedule") prepared by NSR and delivered by NSR to Watco concurrently with the execution of this Agreement (in each case making reference to the particular subsection of this Agreement to which the relevant disclosure or exception is being made), NSR represents and warrants to Watco as of the date hereof and, to the extent provided in Section 12.3(a), as of the Closing, as follows:

9.1 Organization, Standing and Power. NSR is a corporation duly organized, validly existing and in good standing under the Laws of the jurisdiction of its incorporation and has all requisite power and authority to own, lease and operate its properties and assets and to carry on its business as now being conducted. NSR is duly qualified or licensed as a foreign entity and is in good standing in each jurisdiction where the nature of its properties owned or held under lease or the nature of the business conducted by it make such qualification necessary, except for any failure to be so qualified, licensed and in good standing as would not, individually or in the aggregate, have a Material Adverse Effect on the Company.

9.2 Authority; Enforceability; Noncontravention.

(a) Each of NSR and its involved Subsidiaries, as the case may be, has full power and authority to enter into, execute and deliver this Agreement, each of the Ancillary Agreements and the Company Agreement to which it is a party and perform its obligations hereunder and thereunder. This Agreement has been, and each of the Ancillary Agreements and the First Amended and Restated Company Agreement will be, duly authorized by all necessary action of each of NSR and its affected Subsidiaries, as the case may be. This Agreement has been, and each of the Ancillary Agreements and the First Amended and Restated Company Agreement will be, duly executed and delivered by each of NSR and its affected Subsidiaries, as the case may be, and, assuming their due execution and delivery by the other party or parties hereto or thereto, constitutes or will constitute a valid and legally binding obligation of each of NSR and its affected Subsidiaries, as the case may be, respectively, enforceable against them in accordance

with its terms, subject to the effect of bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar Laws relating to or affecting creditors' rights generally, and to the availability of equitable remedies.

(b) The execution and delivery of this Agreement, each of the Ancillary Agreements and the First Amended and Restated Company Agreement by each of NSR and its affected Subsidiaries, as the case may be, does not and will not, and compliance by NSR with the provisions of this Agreement, each of the Ancillary Agreements and the First Amended and Restated Company Agreement will not, (i) conflict with or result in a breach or default under the Charter Documents of NSR or its affected Subsidiaries; (ii) constitute or result in a material breach or violation of, or a material default under, or the acceleration of (with or without the giving of notice, the lapse of time or both) any obligation pursuant to, any provision of any Material Contract to which NSR or its affected Subsidiaries is a party or otherwise bound, or to which any property or asset of NSR or its affected Subsidiaries is subject; (iii) subject to the filings with Governmental Authorities and other matters referred to in Section 9.2(c) below, violate any Law applicable to NSR or its affected Subsidiaries; (iv) result in the creation or imposition of any material Lien on the Assets; or (v) constitute or result in any material change in the rights or obligations of any party under any of the Material Contracts.

(c) Except (i) for the applicable requirements of the STB and (ii) as set forth on Section 9.2(c) of the Disclosure Schedule, there are no approvals, authorizations, consents, orders or other actions of, or filings with, any Person, including any Governmental Authority, that are required to be obtained or made by NSR, or its relevant Subsidiaries in connection with the execution of, and the consummation of the transactions contemplated under, this Agreement, the Ancillary Agreements or the First Amended and Restated Company Agreement, except in each case as will not, individually or in the aggregate, impair in any material respect the performance by NSR or its affected Subsidiaries of their respective obligations hereunder.

9.3 Assets. The Assets constitute all properties, assets and rights (real, personal and mixed, tangible and intangible) currently utilized in the operation of the Line, other than operating equipment such as locomotives, rail cars and maintenance vehicles, and other than maintenance of way machinery and tools (the "Excluded Assets") and, except for the Excluded Assets, the Assets are sufficient to operate the Line (i) in substantially the same manner as operated by NSR and its Affiliates prior to the Closing (assuming the use, by the operator, of operating equipment and maintenance of way machinery and tools) and (ii) as contemplated by the NSR Joint Use Agreement. It is the intent of NSR to convey all interest in any real property that is contiguous and/or appurtenant to the Line delineated on the attached Appendix B, but not to convey any interest in any real property that is not contiguous and/or appurtenant to the Line delineated on the attached Appendix B. To the extent the Parties have erroneously failed to exclude from Appendix B any real property that is not contiguous and/or appurtenant to the Line, the Parties agree to perform all things reasonable and necessary to correct that error. Upon consummation of the transactions contemplated hereby, the Company

will acquire, good and marketable title to all of the non-real estate owned Assets free and clear of all Liens except for Permitted Liens.

9.4 Material Contracts.

(a) (i) True and correct copies of each Material Contract, including all amendments and modifications thereof and waivers thereunder, have been made available to Watco and its counsel; (ii) each Material Contract is in full force and effect, and is the valid and binding obligation of NSR or its affected Subsidiaries and, to the Knowledge of NSR, each other party to the Material Contract, and upon consummation of the transactions contemplated hereby each Material Contract will remain in full force and effect, and will be the valid and binding obligation of the Company and, to the Knowledge of NSR, each other party to the Material Contract; (iii) NSR or its affected Subsidiaries has performed all of its respective material obligations required to be performed by it to date under each Material Contract, and is not in material breach of or material default under any Material Contract, and no event has occurred or circumstance exists which, with notice or lapse of time or both, would constitute a material breach of or material default by NSR or its affected Subsidiaries under any Material Contract; (iv) to the Knowledge of NSR, each party to each Material Contract other than NSR or its affected Subsidiaries has performed all of the material obligations required to be performed by it to date under the Material Contract, and is not in material breach of or in material default under the Material Contract, and no event has occurred or circumstance exists which, with notice or lapse of time or both, would constitute a material breach of or material default by such other party under any Material Contract; and (v) no Material Contract will be affected adversely in any material way by the execution, delivery or performance of this Agreement, the Ancillary Agreements or the First Amended and Restated Company Agreement, each in accordance with its terms, and no Material Contract contains any change in control provision, restriction on assignment or other terms that will become applicable or inapplicable as a result of the consummation of the transactions contemplated by this Agreement, the Ancillary Agreements or the First Amended and Amended Company Agreement.

(b) For purposes of this Agreement, "Material Contracts" shall mean the following Contracts of NSR or its affected Subsidiaries, each of which contracts is listed in Section 9.4(b) of the Disclosure Schedule, (X) relating to or affecting in any material way the Assets or the Assumed Liabilities or (Y) to be assigned to the Company pursuant to the terms hereof which are in effect on the date hereof:

(i) Each Contract which is to be performed in whole or in part at or after the date of this Agreement and which (1) NSR cannot cancel upon a specified number of days' notice without payment or penalty and involves aggregate annual payments of more than \$100,000; (2) involves material non-monetary obligations to be performed later than one year from the date hereof; (3) otherwise materially affects the Assets or the operation of the Line; or (4) was not entered into in the ordinary course of business consistent with past practice;

(ii) Each Contract providing for any future payments that are conditioned, in whole or in part, on any Transfer or assignment of any of the Assets;

(iii) Each Contract for the Transfer of any of the Assets or for the grant of any preferential right to purchase any of the Assets or which requires the consent of any third party to the Transfer of any of the Assets;

(iv) Each Contract pursuant to which any material Leased Personal Property is used or leased in the operation of the Line;

(v) Each lease, sublease or other occupancy agreement pursuant to which NSR or any of its affected Subsidiaries leases, subleases or otherwise occupies any real property included or related to the Line (such leases, subleases and other occupancy agreements, together with any amendments, modifications and other supplements thereto, each a "Lease" and collectively, the "Leases");

(vi) Each lease, sublease or other occupancy agreement pursuant to which NSR or any of its affected Subsidiaries leases or subleases any Property to a third party or one of its Affiliates (each such lease, sublease and other occupancy agreement, together with any amendments, modifications and other supplements thereto, a "Third Party Lease" and collectively, the "Third Party Leases");

(vii) Each Contract imposing a Lien on any of the Assets which serve as collateral for Indebtedness; and

(viii) Each Contract granting haulage, trackage or other access or operating rights with respect to the Line.

9.5 Litigation and Proceedings. There is no pending or, to the Knowledge of NSR, threatened Action to which NSR or any of its affected Subsidiaries is a party involving the Assets or the operation of the Line in any material way, and neither NSR nor any of its affected Subsidiaries is subject to any material judgment, order, writ, injunction, decree or regulatory directive or agreement with respect to the Assets or the operation of the Line. None of the Assets is subject to any judgment, order or decree entered in any Action which would be reasonably likely to have a Material Adverse Effect on the Company.

9.6 Environmental Matters.

(a) To the Knowledge of NSR, NSR and its affected Subsidiaries, with respect to the Properties and the operation of the Line, are in compliance in all material respects with all applicable Environmental Laws (which compliance includes, but is not limited to, the possession by NSR and its affected Subsidiaries of all material permits and other governmental authorizations required under applicable Environmental Laws, and compliance with the terms and conditions thereof), except as set forth in Section 9.6(a)(i) of the Disclosure Schedule. To the Knowledge of NSR, none of NSR or any of its affected Subsidiaries has received in writing any notice,

action, inquiry, investigation or claim alleging that NSR or any of its affected Subsidiaries, with respect to the Properties or the operation of the Line, are not in such compliance, except as set forth in Section 9.6(a)(ii) of the Disclosure Schedule.

(b) To the Knowledge of NSR, there is no Environmental Claim relating to the Properties or the operation of the Line pending or threatened against NSR or any of its affected Subsidiaries or against any Person whose liability for any such Environmental Claim NSR or any of its affected Subsidiaries has retained or assumed either contractually or by operation of Law which would, individually or in the aggregate, be a Material Adverse Effect, except as set forth in Section 9.6(b) of the Disclosure Schedule.

(c) To the Knowledge of NSR, there are no present or past or future actions, activities, circumstances, conditions, events or incidents, including, without limitation, the Release, threatened Release or presence of any Hazardous Material which could form the basis of any Environmental Claim relating to the Properties or the operation of the Line which would, individually or in the aggregate, be a Material Adverse Effect, except as set forth in Section 9.6(c) of the Disclosure Schedule.

(d) NSR has delivered or otherwise made available for inspection to Watco true and correct copies and results of any reports, studies, analyses, tests or other monitoring reports or related substantive correspondence with any Governmental Authority possessed or initiated by or on behalf of NSR pertaining to Hazardous Materials in, on, beneath or adjacent to the Properties, or regarding NSR's compliance with applicable Environmental Laws with respect to the Properties and the operation of the Line (any of the foregoing, "Environmental Reports").

9.7 Labor Relations. Except as set forth in Section 9.7 of the Disclosure Schedule:

(a) There is no strike, lockout, slowdown or stoppage pending or, to the Knowledge of NSR, threatened against or directly affecting the operation of the Line.

(b) There is no material unfair labor practice, charge or complaint against NSR or its affected Subsidiaries with respect to the operation of the Line, pending or, to the knowledge of NSR, threatened, before any Governmental Authority; and there is no grievance that would be reasonably likely to have a Material Adverse Effect on NSR nor any arbitration proceeding arising out of or under any collective bargaining agreement pending against NSR or its affected Subsidiaries with respect to the operation of the Line.

9.8 Books and Records. The books and records of NSR and their respective Subsidiaries relating to the Assets and the operation of the Line have been fully, properly and accurately maintained in all material respects.

9.9 Real Property.

(a) Section 9.9(a) of the Disclosure Schedule sets forth a true, correct and complete identification of the real property owned by NSR or its affected Subsidiaries included in the Assets (each such parcel individually, an "Owned Property" and collectively, the "Owned Properties") showing the common address, or other means of identification, and record title holder thereof and, to the Knowledge of NSR, all Liens thereon. Each of NSR and its affected Subsidiaries, as applicable, owns, and upon the consummation of the transactions contemplated hereby will transfer and quitclaim to the Company all of their respective rights, titles and interests in and to the Owned Properties and to all buildings, structures and other improvements thereon, free and clear of all Liens, except for Permitted Liens, and subject to the Retained Interests, sufficient for the operation of the Line in the ordinary course of business (i) in substantially the same manner as operated by NSR prior to the Closing and (ii) as contemplated by the Joint Use Agreement.

(b) Section 9.9(b) of the Disclosure Schedule sets forth an identification of the real property leased or subleased by NSR or its affected Subsidiary pursuant to each Lease (each a "Leased Property" and collectively, the "Leased Properties," and, collectively with the Owned Properties, the "Properties"). NSR has conducted a search of its records and has provided to Watco true, correct and complete copies of all work letters, side agreements, consents, subordination agreements, guarantees and other similar arrangements or agreements with respect to each Lease and to which NSR or its affected Subsidiaries is a party that NSR has found in its search. NSR or its affected Subsidiary holds, and after the consummation of the transactions contemplated hereby the Company will hold, a valid and existing leasehold or subleasehold interest, as applicable, in each Leased Property pursuant to the applicable Lease, free and clear of all Liens, other than Permitted Liens, and subject to the Retained Interests. There are no oral agreements in effect as to any Lease to which NSR or its affected Subsidiaries is a party. The terms of the Leases have not been modified in any respect, except to the extent that such modifications are set forth in the documents previously delivered or made available to Watco and the Company and their counsel, and none of NSR or its affected Subsidiaries is in negotiations with any landlord to cancel or terminate any Lease prior to the stated maturity date of such Lease. Except for Permitted Liens, none of NSR or its affected Subsidiaries has assigned, transferred, conveyed, mortgaged, deeded in trust or encumbered its leasehold interest in any Lease. Neither NSR nor any of its affected Subsidiaries has received a notice of default or termination with respect to any Lease. No material damage or destruction (i.e., damage or destruction that would permit either party to the applicable Lease to terminate such Lease or cause the abatement of rent thereunder) has occurred with respect to any of the Leased Properties which has not been repaired prior to the date hereof.

(c) Section 9.9(c) of the Disclosure Schedule sets forth the common address of, or other means of identifying, each parcel of real property leased or subleased by NSR or its affected Subsidiary pursuant to each Third Party Lease and the property (or portion thereof) subject to such Third Party Lease. True, correct and complete copies of all work letters, side agreements, consents, subordination agreements, guarantees and other similar arrangements or agreements with respect to the Third Party Leases and to which NSR or its affected Subsidiaries is a party has heretofore been made

available to Watco. The terms of the Third Party Leases have not been modified in any respect, except to the extent that such modifications are set forth in the documents previously delivered or made available to Watco and its counsel, and neither NSR nor any of its affected Subsidiaries is in negotiations with any tenant or subtenant to cancel or terminate any Third Party Lease prior to the stated maturity date of such Third Party Lease.

9.10 Brokers. Neither NSR nor any of its affected Subsidiaries has retained or otherwise engaged or employed, or paid or agreed to pay any fee or commission, to any agent, broker, finder or other Person, for or on account of acting as a finder or broker in connection with this Agreement, the Ancillary Agreements or the Company Agreement or the transactions contemplated hereby and thereby.

10. Representations and Warranties of Watco. Watco hereby represents and warrants as of the date hereof and, to the extent provided in Section 13.2(a), as of the Closing, as follows:

10.1 Company Documents. Upon the issuance of a decision granting STB Approval, Watco shall: (a) complete and execute and submit all other forms reasonable and necessary to have the Company exist in good standing to do business in the States of Michigan and Indiana, and (b) perform all other tasks reasonable and necessary to have the Company exist in good standing to do business in the States of Michigan and Indiana.

10.2 Organization, Standing and Power. Watco is a corporation duly organized, validly existing and in good standing under the Laws of the jurisdiction of its incorporation and has all requisite power and authority to own, lease and operate its properties and assets and to carry on its business as now being conducted. The Company is a limited liability company, validly existing and in good standing under the Laws of the jurisdiction in which it was formed and has all requisite power and authority to own, lease and operate its properties and assets and to carry on its business as now being conducted.

10.3 Authority; Enforceability; Noncontravention.

(a) Each of Watco and the Company has full power and authority to enter into, execute and deliver this Agreement, each of the Ancillary Agreements and the First Amended and Restated Company Agreement to which it is a party and perform its obligations hereunder and thereunder. This Agreement has been, and each of the Ancillary Agreements and the First Amended and Restated Company Agreement to which it is a party will be, duly authorized by all necessary action of Watco. This Agreement has been, and each of the Ancillary Agreements and the First Amended and Restated Company Agreement to which it is a party will be, duly authorized by all necessary action of the Company. This Agreement has been and each of the Ancillary Agreements and the First Amended and Restated Company Agreement to which it is a party will be, duly executed and delivered by Watco, and, assuming it is duly executed

and delivered by NSR and/or the Company, as applicable, constitutes or will constitute a valid and legally binding obligation of Watco, enforceable against it in accordance with its terms, subject to the effect of bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar Laws relating to or affecting creditors' rights generally, and to the availability of equitable remedies. This Agreement has been and each of the Ancillary Agreements and the First Amended and Restated Company Agreement to which it is a party will be, duly executed and delivered by the Company, and, assuming it is duly executed and delivered by NSR and/or Watco, as applicable, constitutes or will constitute a valid and legally binding obligation of the Company, enforceable against it in accordance with its terms, subject to the effect of bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar Laws relating to or affecting creditors' rights generally, and to the availability of equitable remedies.

(b) (i) The execution and delivery by Watco of this Agreement, each of the Ancillary Agreements and the First Amended and Restated Company Agreement do not and will not, and compliance by Watco, as the case may be, with the provisions of this Agreement, each of the Ancillary Agreements and the First Amended and Restated Company Agreement will not, (i) conflict with or result in a breach or default under the Charter Documents of Watco or any of the terms, conditions or provisions of any Contract to which Watco is a party or otherwise bound, or to which any property or asset of Watco is subject; (ii) subject to the filings with Governmental Authorities and other matters referred to in Section 12.1(d) below, violate any Law applicable to Watco; or (iii) result in the creation or imposition of any Lien on any asset of Watco, except in each case as will not, individually or in the aggregate, impair in any material respect Watco's performance of its obligations hereunder.

(ii) The execution and delivery by the Company of this Agreement, each of the Ancillary Agreements and the First Amended and Restated Company Agreement do not and will not, and compliance by the Company, as the case may be, with the provisions of this Agreement, each of the Ancillary Agreements and the First Amended and Restated Company Agreement will not, (i) conflict with or result in a breach or default under the Charter Documents of the Company or any of the terms, conditions or provisions of any Contract to which the Company is a party or otherwise bound, or to which any property or asset of the Company is subject; (ii) subject to the filings with Governmental Authorities and other matters referred to in Section 12.1(d) below, violate any Law applicable to the Company; or (iii) result in the creation or imposition of any Lien on any asset of the Company, except in each case as will not, individually or in the aggregate, impair in any material respect the Company's performance of its obligations hereunder.

(c) Except (i) for the applicable requirements of the STB and (ii) as set forth on Schedule 10.2(c), there are no approvals, authorizations, consents, orders or other actions of, or filings with, any Person that are required to be obtained or made by Watco or the Company in connection with the execution of, and the consummation of the transactions contemplated under, this Agreement, the Ancillary Agreements or the First Amended and Restated Company Agreement, except for any

matters as will not, individually or in the aggregate, impair in any material respect Watco's performance of its obligations hereunder.

(d) Each of Watco and the Company acknowledges and agrees that the Restrictions are valid.

10.4 Brokers. Neither Watco nor the Company has retained or otherwise engaged or employed, or paid or agreed to pay any fee or commission, to any agent, broker, finder or other Person, for or on account of acting as a finder or broker in connection with this Agreement, the Ancillary Agreements or the First Amended and Restated Company Agreement or the transactions contemplated hereby and thereby.

10.5 Sufficient Funds. Watco has, and will have as of the STB Approval, sufficient funds available to pay the Watco Initial Contribution, and as of the Closing, the Subsequent Watco Contribution.

11. Covenants.

11.1 Operation of the Line by NSR. Between the date of this Agreement and the earlier of the Closing or termination pursuant to Section 15, except (a) as contemplated by this Agreement, (b) as may be required by applicable Law, (c) as set forth in Schedule 11.1 or (d) with the prior written consent of Watco, NSR will, and will cause its affected Subsidiaries to (X) operate the Line according to the ordinary course of business consistent with past practice, (Y) use all commercially reasonable efforts to preserve intact the Assets and maintain the rights, franchises and existing relations with customers, suppliers, employees and business associates relating thereto and (Z) without limiting the generality of the clauses (X) and (Y) above:

(i) not transfer any of the Assets or any interest of NSR or its affected Subsidiaries therein other than in the ordinary course of business consistent with past practice or to NSR or its affected Subsidiary;

(ii) not change the general nature of operation of the Assets or conduct any new line of business with the Assets not consistent with past practice;

(iii) not mortgage, encumber or pledge any of the Assets or permit or allow any of the Assets to be subjected to any Lien other than Permitted Liens;

(iv) not terminate, make any material modifications to, transfer or materially amend any Material Contract;

(v) not dispose of any books, records and accounts relating to the Assets, and to maintain such books records or accounts in the usual, regular and ordinary manner, on a basis consistent with prior periods;

- (vi) not enter into any lease for real property with respect to any portion of the Assets;
- (vii) not permit any waste of any of the Assets;
- (viii) not pay, discharge or satisfy any material claim, liability or obligation (absolute, accrued, contingent or otherwise) related to the Assets other than in the ordinary course of business consistent with past practice;
- (ix) not cancel or compromise any material debt or material claim or waive or release any material rights relating to the Assets or the operation of the Line;
- (x) not grant any haulage, trackage or other access or operating rights with respect to the Line, except as required by Law;
- (xi) not take any action that would cause a breach of any representation or warranty set forth in Article 10 hereof; or
- (xii) not authorize or enter into any agreement to otherwise take any of the foregoing actions.

11.2 Inspection of Records; Environmental Audits.

(a) Between the date of this Agreement and the Closing, NSR shall, and shall cause its affected Subsidiaries to, allow, to the extent not prohibited by applicable Law, the officers, attorneys, accountants and other duly authorized representatives of Watco reasonable access during regular business hours to the records and files, correspondence, audits, properties and personnel, as well as to all information, in each case, relating to the Assets. Any information regarding the Assets so obtained, and any information obtained by any Party pursuant to the provisions of this Agreement, the Company Agreement and the Ancillary Agreements, shall be subject to the Agreement Regarding Confidentiality and Related Matters, dated as of October 27, 2005, as extended to date (the "Confidentiality Agreement"), and such information shall be held by the recipient in accordance with the terms of the Confidentiality Agreement; it being understood that, for purposes of this provision, the term of the Confidentiality Agreement shall be deemed to have been extended for a period of one (1) year immediately following the Closing Date. Notwithstanding anything herein to the contrary, any Party and the Company may disclose any information in connection with an audit by its external auditors, the Internal Revenue Service, or other tax authority.

(b) Between the date of this Agreement and the Closing, NSR shall continue to make available for inspection by Watco true, correct and complete copies of the Environmental Reports, and shall promptly deliver to Watco true, correct and complete copies of any Environmental Reports that are prepared after the date hereof or that have not been previously disclosed to Watco.

11.3 Commercially Reasonable Efforts. Between the date of this Agreement and the Closing, each of the Parties to this Agreement will use its commercially reasonable efforts to cause the conditions to the obligations of the other Parties set forth in Article 13 of this Agreement, as the case may be, to be satisfied; provided, that, except as agreed in writing by the Parties hereto, in no event shall any of the Parties hereto be obligated to accept, or cause the Company to accept, in connection with obtaining any Required Governmental Consents required by Section 12.1(d) or any consent, approval or agreement required by Section 4, any condition or requirement that is not acceptable to such Party in its reasonable judgment. In addition, the Parties hereto shall (i) cooperate and use their commercially reasonable efforts to obtain all consents, approvals, authorizations and agreements (or exemptions therefrom) of all Governmental Authorities necessary to authorize, approve or permit the consummation of the transactions contemplated by this Agreement, the Company Agreement and the Ancillary Agreements (the "Required Governmental Consents") at the earliest possible time hereafter, (ii) as promptly as practicable hereafter, file or submit, or cause to be filed or submitted, to all Governmental Authorities all notices, applications, documents and other materials necessary in connection with obtaining the Required Governmental Consents and (iii) use their respective commercially reasonable efforts to respond as promptly as practicable to all inquiries received from all Governmental Authorities for additional information or documentation in connection with obtaining such Required Governmental Consents. Each of the Parties hereto shall promptly advise each other Party hereto upon receiving any communication (written or oral) from any Governmental Authority whose consent, approval or authorization is required, or to whom notice must be submitted, for consummation of the transactions contemplated by this Agreement, the First Amended and Restated Company Agreement and the Ancillary Agreements which constitutes a reasonable likelihood that any requisite regulatory consent, approval or authorization will not be obtained or that receipt of any such consent, approval or authorization will be materially delayed or materially conditioned. Each of the Parties hereto shall furnish to each other Party hereto such necessary information and reasonable assistance as the other may reasonably request in connection with its preparation of any filings or submissions to any Governmental Authority necessary to obtain any of the Required Governmental Consents. Each of the Parties hereto shall provide each other Party hereto with draft copies and as-filed copies of all filings and submissions with Governmental Authorities in respect of the Required Governmental Consents and shall provide the other with a reasonable opportunity to comment upon all such draft copies. Each of the Parties hereto and its respective representatives shall promptly inform the other Party hereto regarding the substance of all communications and contacts received from any Governmental Authority with respect to this Agreement, the Company Agreement, the Ancillary Agreements or the transactions contemplated hereby and thereby, and neither of the Parties hereto shall initiate any contact or communications with any Governmental Authority regarding this Agreement, the Ancillary Agreements or the transactions contemplated hereby and thereby without giving reasonable prior notice to each other Party hereto and offering each other Party hereto the opportunity to have a representative of such other Party participate in the contact or communication. For the avoidance of doubt, each Party hereto shall be free to discuss regulatory matters with any Governmental Authority without the participation of the other Parties hereto to the extent

such discussions do not directly relate to the transactions contemplated by this Agreement, the First Amended and Restated Company Agreement and the Ancillary Agreements.

11.4 Real Estate Matters.

Between the date of this Agreement and the Closing, NSR shall disclose to Watco any newly identified Liens on the Owned Properties that have not been previously disclosed to Watco.

11.5 Publicity.

The initial public disclosure relating hereto, if any, will be a joint press release and thereafter, except as otherwise required by Law, the applicable rules of the stock exchanges on which NSR's, Watco's and/or the Company's shares are listed, if any, or any other self-regulatory organization, each of the Parties shall coordinate with each of the other Parties, including by the provision of drafts and the opportunity to comment thereon, prior to issuing any press releases or otherwise making public statements with respect to the transactions contemplated hereby.

11.6 Encumbrance and Transfer of Assets.

From and after the date hereof, NSR shall not, and shall cause its affected Subsidiaries not to, without the prior written consent of Watco, enter into, amend or extend any Contract in any manner which would encumber any of the assets or properties anticipated by this Agreement to be contributed by NSR to the Company.

11.7 Validity and Legality of the Restrictions.

From and after the date hereof, and as a covenant to survive Closing, each of Watco and the Company agrees that it will not challenge, or, in the case of Watco, cause the Company to challenge, and shall defend, and, in the case of Watco, shall cause the Company to defend, the validity or legality of the Restrictions.

12. Conditions to the Closing.

12.1 Mutual Conditions.

The respective obligations of the Parties to complete the purchase/sale of the Watco Interest and the NS Interest and to take the other actions required to be taken by each of the Parties at the Closing is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any of which may be waived jointly by NSR, the Company and Watco in writing, in whole or in part):

(a) First Amended and Restated Company Agreement. NSR and Watco or their respective Affiliates shall have entered into, and the Company shall have taken all necessary and reasonable action to make effective, the First Amended and Restated Company Agreement.

(b) Trackage Rights Assignments. NSR shall have received the consents and the STB action referred to in Section 4.1(a), 4.1(b), and 4.1(c), and such consents shall be reasonably acceptable to each of the Parties.

(c) Ancillary Agreements. NSR and Watco, the Company and their respective Affiliates, as applicable, shall have entered into each of Ancillary Agreements.

(d) Regulatory Approvals. All Required Governmental Consents (including the receipt of STB Approval from the STB) shall have been obtained and shall be in full force and effect, and not subject to conditions that any Party deems unacceptable in its reasonable judgment, and shall not be subject to a pending petition for review before a U.S. Court of Appeals. A period of sixty (60) days shall have passed subsequent to the service of a decision granting STB Approval, during which period no petition for reconsideration shall have been filed.

(e) No Order or Action. No Law shall have been enacted, entered, promulgated, clarified or enforced by any Governmental Authority which prohibits, restricts or makes illegal the consummation of the Closing or any of the material transactions contemplated thereby, or material provisions hereof, including but not limited to the valid existence and enforcement of the Restrictions, or by the Company Agreement or any of the Ancillary Agreements, and no Action shall be pending or threatened that questions the validity of this Agreement, the Company Agreement or any of the Ancillary Agreements or declares or proposes to declare the same unlawful or seeks to enjoin the consummation of any of the material transactions contemplated hereby or thereby.

12.2 Additional Conditions of NSR.

The obligation of NSR to complete the purchase of the NS Interest, and to take the other actions required to be taken by NSR at the Closing is subject to the satisfaction, at or prior to the Closing, of each of the following additional conditions (any of which may be waived by NSR in writing, in whole or in part):

(a) Representations and Warranties. The representations and warranties contained in Article 9 hereof and in all certificates delivered by Watco to NSR pursuant hereto or in connection with the transactions contemplated hereby shall be true and accurate in all respects (in the case of representations and warranties qualified by “materiality,” “in all material respects,” “Material Adverse Effect” or similar terms or phrases, and in the case of the representations and warranties set forth in Sections 10.1 and 10.2) or in all material respects (in the case of all other representations and warranties) as of the date of this Agreement and as of the Closing as though made at and as of the Closing (except for changes contemplated by this Agreement and except for representations and warranties that by their terms speak specifically as of the date of this Agreement or some other date, in which case as of such date).

(b) Performance. Watco shall have performed all obligations and complied in all material respects with all covenants required by this Agreement to be performed or complied with by Watco on or prior to the Closing Date.

(c) Certificate. Watco shall have delivered to NSR a certificate, dated the Closing Date, signed on behalf of Watco by an officer of Watco, certifying that the conditions specified in Sections 12.2(a) and (b) of this Agreement have been satisfied.

(d) No Material Adverse Effect. There shall have been no Material Adverse Effect on Watco.

12.3 Additional Conditions of Watco.

The obligation of Watco to complete the contribution of the Assets in exchange for the Watco Interest, and to take the other actions required to be taken by Watco at the Closing is subject to the satisfaction, at or prior to the Closing, of each of the following additional conditions (any of which may be waived by Watco in writing, in whole or in part):

(a) Representations and Warranties. The representations and warranties contained in Article 9 hereof and in all certificates delivered by NSR to Watco pursuant hereto or in connection with the transactions contemplated hereby shall be true and accurate in all respects (in the case of representations and warranties qualified by "materiality," "in all material respects," "material adverse effect" or similar terms or phrases, and in the case of the representations and warranties set forth in Sections 9.1 and 9.2) or in all material respects (in the case of all other representations and warranties) as of the date of this Agreement and as of the Closing as though made at and as of the Closing (except for changes contemplated by this Agreement and except for representations and warranties that by their terms speak specifically as of the date of this Agreement or some other date, in which case as of such date).

(b) Performance. NSR shall have performed all obligations and complied with in all material respects all covenants required by this Agreement to be performed or complied with by NSR on or prior to the Closing Date.

(c) Certificate. NSR shall have delivered to Watco a certificate, dated the Closing Date, signed on behalf of NSR by an officer of NSR, certifying that the conditions specified in Sections 12.3(a) and (b) of this Agreement have been satisfied.

(d) No Material Adverse Effect. There shall have been no Material Adverse Effect on NSR.

(e) Consents. At the Closing, NSR shall have delivered to Watco all consents, approvals and agreements of any third Persons required by the terms of any Material Contract in order that the rights of NSR or its affected Subsidiaries or the prospective rights of the Company under such Material Contract, in each case, as they relate to the Assets or the Assumed Liabilities, will not be impaired by the consummation of the transactions contemplated by this Agreement, the Company Agreement and the

Ancillary Agreements, and such consents, approvals and agreements shall be in full force and effect.

13. Survival of Representations and Warranties; Indemnity.

13.1 Survival of Representations and Warranties. All representations and warranties and covenants made in this Agreement or made in any document delivered pursuant to this Agreement by or on behalf of any party shall survive the execution and delivery of this Agreement and the Closing, regardless of notice of or any investigation or right of investigation made after the date of this Agreement by or on behalf of any party, and, except as to the Watco covenant set forth in Section 11.7, shall terminate and expire one (1) year following the Closing Date. The Watco and Company covenant set forth in Section 11.7 shall survive the Closing Date and shall remain as a continuing obligation of Watco and the Company, respectively.

13.2 Indemnification by NSR.

(a) NSR shall indemnify, save and hold harmless (i) Watco, and each of its respective officers, directors, employees and agents, and each of its respective successors and assigns (collectively, the "Watco Indemnified Parties"), from and against any and all costs, losses, claims, liabilities, damages, fines, penalties, expenses and Cleanup costs (including any interest which may be imposed in connection therewith and court costs and reasonable fees and disbursements of counsel) ("Damages," which shall not include any claim of diminution of value of Watco's membership interest in the Company, regardless of whether the Company shall have incurred actual loss) incurred in connection with, arising out of, resulting from or incident to: (A) any breach of the representations or warranties of NSR in this Agreement (in each case, solely for the purpose of calculating the amount of Damages, without regard to any qualification or limitation with respect to "materiality," whether by reference to "material," "in all material respects" or "Material Adverse Effect"), or (B) any breach or default in any covenants or agreements made by NSR in this Agreement; and (ii) the Company and each of its officers, directors, employees and agents and its successors and assigns (collectively, the "Company Indemnified Parties") and any Watco Indemnified Parties from and against any and all Damages incurred in connection with, arising out of, resulting from or incident to any obligation or liability, other than the Assumed Liabilities, incurred in connection with, arising out of, resulting from or incident to any act or omission by NSR prior to the Closing relating to the Assets, whether fixed or contingent, recorded or unrecorded, known or unknown and whether or not set forth on the Disclosure Schedule.

(b) NSR shall defend, indemnify and hold harmless any Watco Indemnified Parties and any Company Indemnified Parties for, from, and against all Damages asserted against, resulting to, imposed on, or incurred by Watco or the Company in connection with: (i) any misrepresentation or breach of any environmental representation or warranty set forth in Section 9.6 of this Agreement; (ii) the Release of any Hazardous Materials (A) prior to the Closing Date on, from or under the Properties or in connection with the operation of the Assets or (B) on, from or under any other property

where, prior to the Closing Date, Hazardous Materials are or were Released, discharged or disposed of in connection with the Properties or the Assets, whether or not, in any case, such Release, discharge or disposal was in compliance with Environmental Law; (iii) the violation of any Environmental Law prior to the Closing by NSR or its affected Subsidiaries or any other Person in connection with the Properties or the Assets; and (iv) any Environmental Claim arising prior to the Closing Date relating to the Properties or the Assets against any Person whose liability for such Environmental Claim NSR or any of its affected Subsidiaries has retained or assumed either contractually or by operation of Law.

(c) NSR shall have no obligation to indemnify the Watco Indemnified Parties or the Company Indemnified Parties under Section 13.2(a) and Section 13.2(b) until the total aggregated Damages suffered by the Watco Indemnified Parties, or the Company Indemnified Parties, as the case may be, and subject to indemnification under Section 13.2(a) or Section 13.2(b) are in excess of \$1,000,000 in the aggregate, and then NSR will be obligated to indemnify the Watco Indemnified Parties and the Company Indemnified Parties for Damages only in excess of such amount, but NSR shall not be liable for indemnification under Section 13.2(a) and Section 13.2(b) for total aggregated Damages suffered by the Watco Indemnified Parties and the Company Indemnified Parties and subject to indemnification under Section 13.2(a) or Section 13.2(b) in excess of a combined \$18,000,000. Allocation of indemnification between the Watco Indemnified Parties and the Company Indemnified Parties shall be made by mutual agreement between the Watco Indemnified Parties and the Company Indemnified Parties, with any failure to agree subject to the dispute resolution provisions set forth in Section 15. The indemnifications provided for under Section 13.2(a) and Section 13.2(b) shall expire five (5) years following the Closing Date. If NSR is obligated to indemnify the Watco Indemnified Parties or the Company Indemnified Parties, then NSR may, at NSR's election, (i) pay such indemnification directly to the Watco Indemnified Parties or the Company Indemnified Parties, as the case may be, (ii) pay any Damages arising from any liability or any Third Party Claim directly to the applicable third party (to the extent that such Damages are owed to such third party), or (iii) contribute amounts to the Company and cause the Company to pay any Damages arising from any liability or any Third Party Claim directly to the applicable third party (to the extent that such Damages are owed to such third party); provided that the foregoing shall not limit in any way the obligation of NSR to satisfy all such indemnification obligations.

(d) Except for fraud, injunctive and provisional relief and remedies that cannot be waived as a matter of Law, if the Closing occurs, this Section 12.2 shall be the exclusive remedy for any breach of any of NSR's representations and warranties or any breach of NSR's covenants contained in this Agreement.

13.3 Indemnification by Watco and the Company.

(a) Each of Watco and the Company shall indemnify, save and hold harmless NSR and its affected Subsidiaries and Parent, and each of their respective officers, directors, employees and agents and each of their respective successors and

assigns ("NSR Indemnified Parties"), from and against any and all Damages incurred in connection with, arising out of, resulting from or incident to: (i) any breach of or any inaccuracy in any of, the representations or warranties of Watco or the Company, respectively, in this Agreement (in each case, solely for the purpose of calculating the amount of Damages, without regard to any qualification or limitation with respect to "materiality," whether by reference to "material," "in all material respects" or "Material Adverse Effect"); or (ii) any breach or default in covenants or agreements made by Watco or the Company, respectively, in this Agreement.

(b) Except for fraud, injunctive and provisional relief and remedies that cannot be waived as a matter of Law, if the Closing occurs, this Section 13.3 shall be the exclusive remedy for any breach of any of Watco's or the Company's representations and warranties or any breach of Watco's or the Company's covenants contained in this Agreement.

(c) Each of Watco and the Company shall have no obligation to indemnify the NSR Indemnified Parties under Section 13.3(a) and Section 13.3(b) until the total aggregated Damages suffered by the NSR Indemnified Parties and subject to indemnification under Section 13.3(a) or Section 13.3(b) are in excess of \$1,000,000 in the aggregate.

13.4 Notification of Claims. A Party entitled to indemnification under Sections 12.2 or 12.3 (an "Indemnified Party") shall notify the other Party (the "Indemnifying Party") within a reasonable period of time after becoming aware of any Damages which the Indemnified Party shall have determined has given or could give rise to a claim for indemnification under Sections 13.2 or 13.3 hereof. Such notice shall include an estimate of the Damages that the Indemnified Party has determined may be incurred to the extent then known or reasonably determinable. The failure to so notify the Indemnifying Party will not relieve the Indemnifying Party of any liability that it may have to any Indemnified Party, except to the extent of any prejudice to the Indemnifying Party resulting from such delay. As soon as practicable after the date of such notice, the Indemnified Party shall provide to the Indemnifying Party all information and documentation necessary to support and verify the Damages so claimed and the Indemnifying Party and its agents shall be given access to all books and records in the possession or control of the Indemnified Party which the Indemnifying Party reasonably determines to be related to such claim.

13.5 Matters Involving Third Parties.

(a) If any third party shall commence an Action against any Indemnified Party with respect to any matter (a "Third Party Claim") which may give rise to a claim for indemnification under Sections 13.2 or 13.3 or if an Indemnified Party otherwise becomes aware that a Third Party Claim may be asserted against the Indemnified Party, the Indemnified Party shall notify the Indemnifying Party in writing as soon as practicable. The failure to so notify the Indemnifying Party will not relieve the Indemnifying Party of any liability that it may have to any Indemnified Party, except to the extent of any prejudice to the Indemnifying Party resulting from such delay. If the

Indemnifying Party notifies the Indemnified Party that it does not dispute the claim, or fails to notify the Indemnified Party within 30 days after delivery of such notice by the Indemnified Party whether the Indemnifying Party disputes the claim, all Damages incurred in connection with, arising out of, resulting from or incident to such Third Party Claim will be conclusively deemed a liability of the Indemnifying Party and the Indemnifying Party shall pay the amount of such Damages to the Indemnified Party promptly upon the final determination thereof.

(b) If the Indemnifying Party does not respond to the notice or elects not to assume the defense of such claim or demand, in each case within the period allowed after delivery of the notice, the Indemnified Party shall have the right to defend such claim or demand by appropriate proceedings or to settle or pay any such claim or demand for such an amount as the Indemnified Party shall deem appropriate, in either case at the sole cost and expense of the Indemnifying Party, provided that the Indemnified Party shall not settle any such claim without the prior written consent of the Indemnifying Party, which consent will not be unreasonably withheld, conditioned or delayed. In the event that the Indemnifying Party does not assume the defense of such claim or demand, the Indemnifying Party shall have the right to participate in such defense (including with counsel of its choice), at its own expense, and the Indemnified Party shall reasonably cooperate with the Indemnifying Party in connection with such participation.

(c) If the Indemnifying Party notifies the Indemnified Party that it desires to defend against such claim or demand, then the Indemnifying Party shall be entitled to participate in or, at the Indemnifying Party's option, assume at its own cost and expense the defense of any such claim or demand with counsel of its own choosing (which shall be reasonably acceptable to the Indemnified Party), provided, that, if the Indemnifying Party assumes the defense of such claim or demand it shall reimburse the Indemnified Party for out of pocket expenses incurred by the Indemnified Party (such as travel costs, but not internal time charges) and the Indemnified Party (i) shall reasonably cooperate with the Indemnifying Party; and (ii) may elect to participate in any such defense at its sole cost and expense, but the control of such defense and its settlement or resolution shall rest with the Indemnifying Party. In the event there is a significant conflict of interest between the Indemnified Party and the Indemnifying Party in the conduct of the defense of such claim or demand, the reasonable fees and disbursements of one counsel of the Indemnified Party shall be at the expense of the Indemnifying Party. The Indemnifying Party shall not compromise or settle any such claim or demand without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld, conditioned or delayed), unless such settlement or compromise does not subject the Indemnified Party to any monetary liability, will not impose on the Indemnified Party any obligation, admission, restriction or further Damages and includes a complete, unconditional release of the Indemnified Party from all liability with respect to such claim or demand.

(d) In all cases the Indemnified Party and the Indemnifying Party shall keep each other reasonably informed as to all matters concerning any Third

Party Claim and shall promptly notify the other party in writing of any and all significant developments relating thereto.

13.6 Taxes. If any indemnity payment pursuant to this Article 13 is determined to be taxable to any Indemnified Party by any Governmental Authority, the indemnity payment shall be increased by such amount as is necessary so that, after taking into account the Tax liability imposed upon such Indemnified Party upon receipt of such indemnity payment, the Indemnified Party receives an amount equal to the amount it would have received had such indemnity payment not been subject to Tax (after taking into account, in accordance with Section 13.8(a), any Tax benefits and/or insurance coverage that may be available to the Indemnified Party). Notwithstanding anything to the contrary herein, property taxes on the Line in Elkhart County, Indiana for the year of Closing shall be prorated between the Company and NSR as of the Closing Date.

13.7 Post-Closure Environmental Claims. The Company shall indemnify and hold harmless the NSR Indemnified Parties from and against any suit or claim growing out of any nuisance, use, storage, release or disposal of hazardous substances, hazardous waste, toxic materials or waste materials, upon the Line or other real property assets, including without limitation laws, ordinances and governmental regulations controlling air, water, noise, solid wastes and other pollution; provided, that the Company shall not indemnify and hold harmless the NSR Indemnified Parties to the extent that any such suit or claim is based upon any act or omission prior to Closing. MCR shall install and bear the expense of any and all pollution control structures, devices or equipment which are required under any applicable laws, ordinances or governmental regulations as a result of MCR's operations.

13.8 Other Limits on Indemnification.

(a) The amount of any Damages sustained by an Indemnified Party shall be reduced (i) by any amount received by such Indemnified Party with respect thereto under any insurance coverage relating thereto (other than insurance coverage provided by an Affiliate (other than Company) of such indemnitee) or from any other party alleged to be responsible therefore, or from any other party with any contribution commitment therefore (including, without limitation, contribution from state or federal Cleanup funds) and (ii) by the amount of any Tax benefit actually realized with respect to the Damages. An Indemnified Party shall use its commercially reasonable efforts to collect any amounts available under such insurance coverage and from such other party alleged to have responsibility or other contribution commitment and to realize any Tax benefit with respect to the Damages. If an Indemnified Party realizes a Tax benefit or receives an amount under insurance coverage or from such other party with respect to Damages sustained at any time subsequent to any indemnification provided pursuant to this Article 13, then such Indemnified Party shall promptly reimburse the applicable Indemnifying Party for any payment made by such Indemnifying Party in connection with providing such indemnification up to such amount realized or received by the Indemnified Party. Nothing in this Section 13.8(a) shall limit in any way the ability of Watco, NSR or the Company to (i) take (or refrain from taking, as the case may be) any reasonable position for Tax purposes that Watco, NSR or the Company determines to

take (or refrain from taking) in its sole discretion or (ii) refrain from pursuing any third party insurance recovery that Watco, NSR or the Company, as the case may be, determines would be commercially inadvisable to pursue.

(b) Each Indemnified Party shall use its commercially reasonable efforts to mitigate any claim or liability that an Indemnified Party asserts or may assert under this Article 13. In the event that an Indemnified Party shall fail to make such commercially reasonable efforts to mitigate any such claim or liability, then notwithstanding anything contained in this Agreement to the contrary, the Indemnifying Party shall not be required to indemnify any Indemnified Party for that portion of any Damages that would reasonably be expected to have been avoided if the Indemnified Party had made such efforts.

14. Termination.

14.1 Termination by Mutual Consent. This Agreement may be terminated at any time prior to the Closing by the mutual agreement, in writing, of each of NSR and Watco.

14.2 Termination by Final Order. This Agreement may be terminated by NSR or Watco upon written notice to the other Parties that any final, non-appealable Law shall have been enacted, entered, promulgated or enforced by any Governmental Authority of competent jurisdiction which prohibits, restricts or makes illegal the consummation of the Closing or any of the material transactions contemplated thereby, or by the First Amended and Restated Company Agreement or any of the Ancillary Agreements.

14.3 Termination by NSR. NSR may (but shall not be obligated to) terminate this Agreement prior to the Closing by giving written notice to the other Parties if:

(a) there has been a material violation or breach by Watco or the Company of any of its respective agreements or covenants contained in this Agreement or there has been a material violation or breach by Watco or the Company of any of their respective representations or warranties contained in this Agreement, and such violation or breach shall not have been cured or corrected within twenty days after receipt of notice thereof;

(b) the Closing does not occur on or prior to December 1, 2007 (the "Outside Date"), or such later date as may be agreed to in writing by the Parties; provided that the non-occurrence is not due to a breach by NSR of any condition or covenant hereunder;

(c) there has been imposed by a Governmental Authority a condition to any Required Governmental Consent, which condition is not acceptable to NSR; or

(d) there has been a Material Adverse Effect on Watco which shall not have been cured or corrected within twenty days after receipt of notice thereof; provided that such Material Adverse Effect is not due to a breach by NSR of any condition or covenant hereunder.

14.4 Termination by Watco or the Company. Either Watco or the Company may (but shall not be obligated to) terminate this Agreement prior to the Closing by giving written notice to the other Parties if:

(a) there has been a material violation or breach by NSR of any of its respective agreements or covenants contained in this Agreement or there has been a material violation or breach by NSR of any of its representations or warranties contained

in this Agreement, and such violation or breach shall not have been cured or corrected within twenty days after receipt of notice thereof;

(b) the Closing does not occur on or prior to the Outside Date, or such later date as may be agreed to in writing by the parties; provided that the non-occurrence is not due to a breach by Watco or the Company of any condition or covenant hereunder;

(c) there has been imposed by a Governmental Authority a condition to any Required Governmental Consent, which condition is not acceptable to Watco or the Company; or

(d) there has been a Material Adverse Effect on NSR which shall not have been cured or corrected within twenty days after receipt of notice thereof; provided that such Material Adverse Effect is not due to a breach by Watco or the Company of any condition or covenant hereunder.

14.5 Effect of Termination. In the event of the termination of this Agreement as permitted by this Section 14, no Party shall have any obligation under, or liability to any other in respect to, this Agreement, except with respect to, any willful breach of this Agreement that gives rise to such termination and except for the provisions of the Confidentiality Agreement and the confidentiality obligations contained in Section 11.2(a), this Section 14.5 and Section 15 hereof, which shall survive the termination of this Agreement.

15. True-up in the Event of Termination of the Agreement.

The Parties acknowledge and agree that this Agreement anticipates funding of the Company (through the loan of the Start Up Funds by Watco to the Company), and the subsequent expenditure of additional funds by the Company (pursuant to the Preliminary Start-Up Plan), after STB Approval but before Closing. In the event this Agreement is terminated after STB Approval but before Closing, one-half of all direct expenses incurred by the Company for the hiring of supervisory management for training and otherwise for the conduct of the business of the Company in anticipation of the Closing that are incurred between STB Approval and the termination of this Agreement shall be reimbursed by NSR to the Company, provided, however, that nothing in this Section 16 shall apply to expenses related to the purchase or rental of any locomotives, track equipment, crew vehicles and office equipment ("Company Physical Assets"), including but not limited to the cost of any of the Company Physical Assets, parts, service contracts, and the like, but not including fuel, it being the understanding of the Parties that these Company Physical Assets will remain the property of the Company should this Agreement be terminated after STB Approval but before Closing.

16. Miscellaneous

16.1 Notices. All notices, requests, demands and other communications (collectively, "Notices") given pursuant to this Agreement shall be in writing, and shall be delivered by personal service, courier, overnight delivery service, facsimile transmission (which must be confirmed) or by United States registered or certified mail, postage prepaid, return receipt requested, to the following addresses:

(i) if to NS, to:

Executive Vice President Operations
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

With a copy to:

Senior Director – Joint Facilities
Norfolk Southern Corporation
1200 Peachtree Street, N.E., Box 158
Atlanta, Georgia 30309

with a copy to:

Vice President Law
Norfolk Southern Corporation
Three Commercial Place

Norfolk, VA 23510

(ii) if to Watco, to:

Mr. Ed McKechnie
Chief Commercial Officer
Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

With a copy to:

Mr. Craig Richey
General Counsel
Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

(iii) if to the Company, to:

President
Michigan Central Railway, LLC
315 W. 3rd Street
Pittsburg, Kansas 66762

with a copy to:

Mr. Ed McKechnie
Chief Commercial Officer
Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

With a copy to:

Mr. Craig Richey
General Counsel
Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

Any Notice, other than a Notice sent by registered or certified mail, shall be effective when received; a Notice sent by registered or certified mail, postage prepaid return receipt requested, shall be effective on the earlier of when received or the third day following deposit in the United States mails. Any Party may from time to time change its

address for further Notices hereunder by giving notice to the other Parties in the manner prescribed in this Section.

16.2 Entire Agreement. This Agreement, the First Amended and Restated Company Agreement, the Ancillary Agreements and the Confidentiality Agreement, in each case including any attached exhibits and schedules, contain the sole and entire agreement and understanding of the Parties with respect to the entire subject matter of this Agreement, and any and all prior discussions, negotiations, commitments and understandings, whether oral or otherwise, related to the subject matter of this Agreement are hereby merged herein. Nothing in this Agreement, express or implied, is intended to confer upon any Person other than the parties hereto any rights or remedies under or by way of this Agreement.

16.3 Assignment. No Party may assign its rights or obligations under this Agreement, and any attempted or purported assignment or any delegation of any Party's duties or obligations arising under this Agreement to any third party or entity shall be deemed to be null and void, and shall constitute a material breach by such Party of its duties and obligations under this Agreement.

16.4 Extension, Waiver and Amendment. At any time prior to the Closing, NSR may (a) extend the time for the performance of any of the obligations or other acts of any other Party hereto, (b) waive any inaccuracies in the representations and warranties of any other Party hereto contained herein or in any document delivered pursuant hereto, and (c) waive compliance by any other Party hereto with any of the agreements or conditions contained herein. At any time prior to the Closing, Watco and the Company may jointly (a) extend the time for the performance of any of the obligations or other acts of NSR, (b) waive any inaccuracies in the representations and warranties of NSR contained herein or in any document delivered pursuant hereto, and (c) waive compliance by NSR with any of the agreements or conditions contained herein. Any agreement on the part of a Party hereto to any such extension or waiver shall be valid if set forth in writing in an instrument signed by or on behalf of such Party. The waiver by any Party hereto of a breach of this Agreement shall not operate or be construed as a waiver of any subsequent breach. This Agreement may be amended only by a written agreement executed by all of the Parties to this Agreement.

16.5 Governing Law; Submission to Jurisdiction.

(a) THE LAWS OF THE STATE OF DELAWARE SHALL GOVERN THE VALIDITY OF THIS AGREEMENT, THE CONSTRUCTION OF ITS TERMS AND THE INTERPRETATION OF THE RIGHTS AND DUTIES ARISING HEREUNDER.

(b) Subject to Section 16.6, each of the Parties hereto hereby (i) consents to submit itself to the exclusive jurisdiction of any Federal or state court located in the State of Delaware (the "Delaware Courts") in any action to enforce or in aid of the agreement to arbitrate in Section 16.6 or for provisional relief to maintain the status quo or prevent irreparable harm pending the appointment of the arbitrators, and to the non-

exclusive jurisdiction of the Delaware Courts for enforcement of any award issued hereunder (ii) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, and (iii) waives any objection based on forum non conveniens or any other objection to venue thereof.

16.6 Dispute Resolution.

(a) All disputes with respect to this Agreement shall be resolved first through discussions among the officers of each Party, then through discussions between the chief executive officers, or other designated member of the senior management, of each of the Parties, in each case seeking a mutually-acceptable consensus resolution. If the Parties have not resolved a dispute within thirty (30) days following reference of the dispute to the Party's chief executive officers or other designated member of the senior management, either Party may refer the dispute to binding arbitration before a panel of three independent arbitrators sitting in Washington, D.C., and acting under the American Arbitration Association under its commercial arbitration rules. The decision of a majority of the panel of arbitrators shall be final and conclusive upon the Party. Each Party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel, and one-half of the compensation, costs and expenses of the three arbitrators and the arbitration filing fees. The arbitrators shall not have the power to award special, consequential or punitive damages or to determine violations of criminal or antitrust laws. Pending the award of the arbitrators, there shall be no interruption in the transaction of business under this Agreement, and all payments in respect thereto shall be made in the same manner as prior to the arising of the dispute until the matter in dispute shall have been fully determined by arbitration, and thereupon such payment or restitution shall be made as required by the decision of the panel of arbitrators.

(b) By agreeing to arbitration, the Parties do not intend to deprive any Delaware Court of its jurisdiction to issue a pre-arbitral injunction, pre-arbitral attachment, or other order in aid of arbitration proceedings and the enforcement of any award. Without prejudice to such provisional remedies as may be available under the jurisdiction of a Delaware Court, the arbitral tribunal shall have full authority to grant provisional remedies and to direct the parties to request that any court modify or vacate any temporary or preliminary relief issued by such court, and to award Damages for the failure of any party to respect the arbitral tribunal's orders to that effect.

(c) The Parties are committed to the prompt and efficient resolution of disputes. Accordingly, if one or more disputes arises under this Agreement, such disputes may be brought in a single arbitration. If more than one arbitration is brought with respect to disputes under this Agreement, then any Party may request that any arbitration or any new dispute arising under this Agreement be consolidated into any prior arbitration. The new dispute or arbitration shall be so consolidated, provided that the arbitral tribunal for the prior (or first filed) arbitration determines that (i) the new dispute or arbitration presents significant issues of law or fact common with those in the pending arbitration; (ii) no Party would be unduly prejudiced and (iii) consolidation under such circumstances would not result in undue delay for the prior arbitration. Any

order of consolidation issued by such arbitral tribunal shall be final and binding upon the Parties. Unless the Parties otherwise agree, the arbitral tribunal appointed first in time shall serve as the arbitral tribunal for the consolidated arbitration. The Parties waive any right they have to appeal or to seek interpretation, revision or annulment of such order of consolidation under the Rules or in any court. The Parties agree that upon such an order of consolidation, they will promptly dismiss any arbitration brought under this Agreement, the subject of which has been consolidated into another arbitral proceeding.

16.7 Severability. Whenever possible each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement shall be or become prohibited or invalid under applicable Law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement.

16.8 Captions. The various captions of this Agreement are for reference only and shall not be considered or referred to in resolving questions of interpretation of this Agreement.

16.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

16.10 Costs and Attorneys' Fees. Except to the extent provided for in Section 14 hereof, whether or not the transactions contemplated hereby are consummated, each of the Parties shall bear and pay all costs and expenses incurred by it or on its behalf in connection with the transactions contemplated hereunder, including fees and expenses of its own financial or other consultants, investment bankers, accountants and counsel. Notwithstanding the foregoing, the Parties agree to split the costs of any STB filing fees, and should the STB request the appointment of a Third-Party Consultant, as defined in 49 C.F.R. Section 1105.4(j), such Third-Party Consultant.

16.11 Judicial Interpretation. Should any provision of this Agreement require judicial interpretation, it is agreed that a court or other tribunal interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against any Person by reason of the rule of construction that a document is to be construed more strictly against the Person who itself or through its agent prepared the same, it being agreed that all Parties have participated in the preparation of this Agreement.

16.12 No Third Party Beneficiaries. Except as expressly provided in this Agreement, this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the Parties hereto; provided, however, that this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the Parties and their respective successors and permitted assigns.

[Signature Page Follows]

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

**WATCO TRANSPORTATION
SERVICES, INC.**

By: R. B. Webb
Name: R. B. Webb
Title: CEO

**MICHIGAN CENTRAL
RAILWAY, LLC**

By: [Signature]
Name: Craig R. Birkley
Title: General Counsel - EVO

**NORFOLK SOUTHERN RAILWAY
COMPANY**

By: [Signature]
Name: Daniel M. Mazur
Title: Vice President

Schedule 3.4

None.

Schedule 4.2

RESERVING unto NSR, its successors and assigns, lessees and licensees, a permanent and exclusive easement for the purpose of installing, constructing, operating, repairing, using, maintaining, utilizing, renewing, replacing and removing (which reservation includes without limitation ingress and egress rights) of fiber optic and other communication lines and/or systems, as well as any facilities incident thereto, over, on, under, across, along and through the subject property, provided, however, that Purchaser, its successors and assigns, shall have the right to install, construct, operate, repair, use, maintain, utilize, renew, replace and remove its own signal or other communication systems that are dedicated to the Company's operational railroad communication purposes, and no other purposes, upon terms agreeable to Seller, its successors and assigns.

ALSO, RESERVING unto NSR, its successors and assigns, lessees and licensees, a permanent and exclusive easement for the purpose of installing, constructing, operating, repairing, using, maintaining, utilizing, renewing, replacing and removing (which reservation includes without limitation ingress and egress rights) of signboards or billboards of any type over, on under, across and through the subject property.

Schedule 5.3

The Parties have evaluated and concluded that determination of Liquidated Damages fixed amounts would be unlikely, under the unique circumstances, to accurately reflect market-based adjustments in foregone contribution amounts, and that formulaic provisions would be both difficult and costly to administer. Therefore, the Parties have agreed that Liquidated Damages [REDACTED]

Disclosure Schedule

Section 9.2(c)

- Approval or exemption from approval of the Surface Transportation Board of the transfer of the Lines from NSR to the Company.
- Approval or exemption from approval of the Surface Transportation Board to effectuate the Joint Use Agreement.
- Approval or exemption from approval of the Surface Transportation Board of the continuance in control of the Company by Watco upon the acquisition of the Line by the Company.

Section 9.4(b) – Material Contracts

Each of the trackage rights agreements, as amended or supplemented from time to time, referred to under the definition, in Section 1.1, of “Battle Creek Trackage Rights”; “Grand Rapids Trackage Rights”; and “Lansing Trackage Rights.

An agreement between NSR and Michigan Southern Railroad Company (“MSO”), dated as of June 1, 1999, and having a term of ninety-nine (99) years for the transport of traffic in MSO’s revenue waybill account to be interchanged with CSX Transportation, Inc.

See also Schedule 9.9(c).

Section 9.6(a)(i) - Environmental

Section 9.6(a)(ii) - Environmental

Section 9.7 – Labor Relations

Section 9.9(a) – Real Property

Section 9.9(b) – Property Leased to NSR

Lease Agreement by and between Grand Trunk Western (Nature Ventures, Inc., successor), as lessor, and The New York Central Railroad Company (Norfolk Southern Railway Company, successor), as lessee, dated May 31, 1967, but effective as of January 1, 1967, as assigned and amended, concerning property located at at Kalamazoo, MI.

Lease Agreement by and between General Motors Corporation, as lessor, and Consolidated Rail Corporation (Norfolk Southern Railway Company, successor), as lessee, dated December 6, 1978, as assigned and amended, concerning property at Lansing, MI.

Section 9.9(c) – Property Leased by NSR to Third Parties

Appendix A – List of Assets

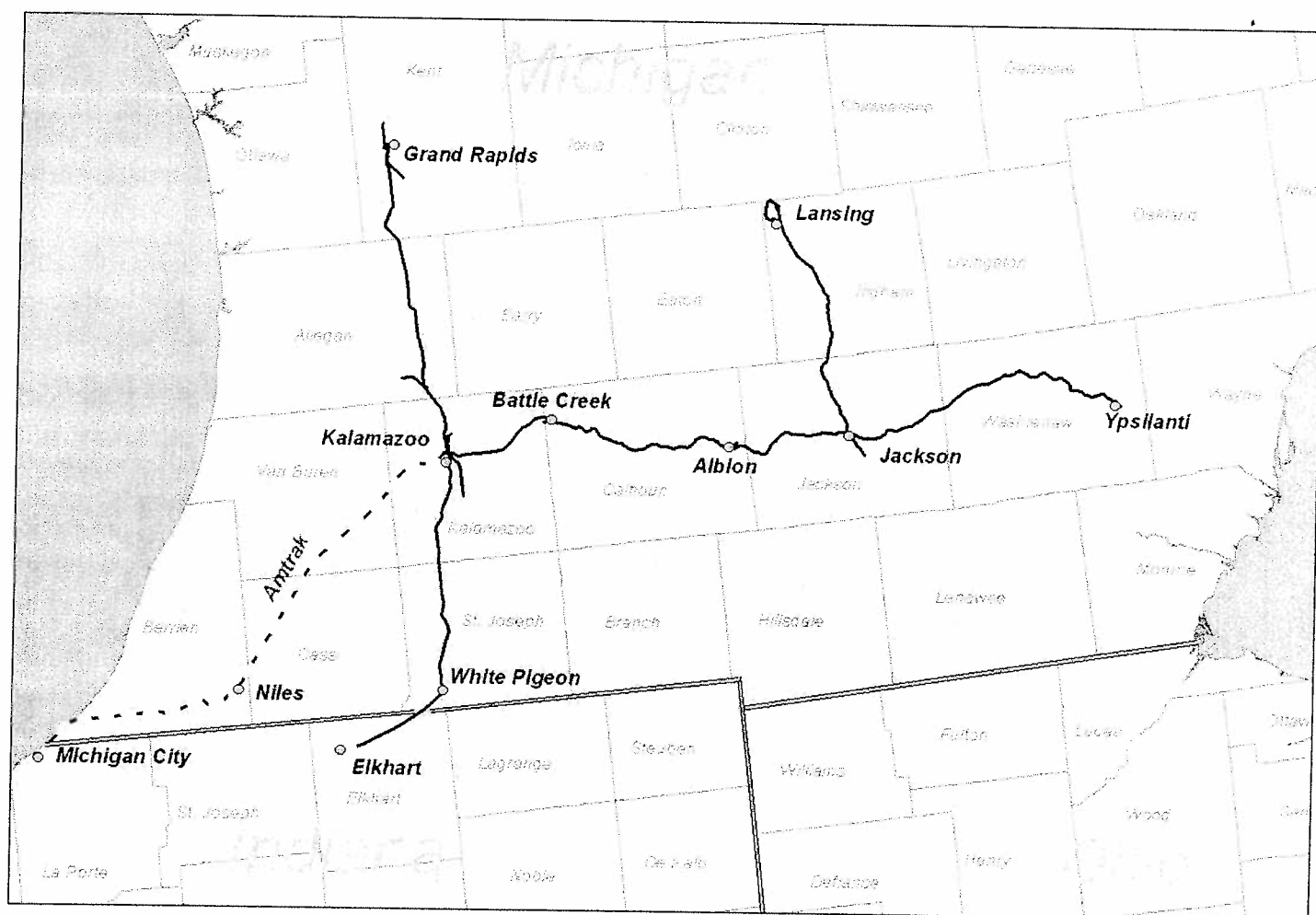
The Line

Segment	Description	Milepost Limits	Segment Length (miles)
Elkhart - Grand Rapids	Kalamazoo Branch	KH 1.4 – 27.4 FB 27.3 - FB 100.6	99.3
Elkhart - Grand Rapids	Airline Extension (@ Three Rivers)	AZ 69.6 – 70.4	0.8
Elkhart - Grand Rapids	Quincy Secondary (@ White Pigeon)	QY 421.2 – 421.3	0.1
Grand Rapids	Hughart RT (@Grand Rapids)	FB 100.6 - 102.3	1.7
Grand Rapids	Kalamazoo IT (Grand Rapids)	KZ 94.25 - 95.0	0.8
Grand Rapids	Plainwell IT	OW 66.6 – 70.24	3.6
Grand Rapids	Hastings RT (@Grand Rapids)	XH 88.1 – 92.4	4.3
Grand Rapids	Comstock IT	VW 106 – 106.9	0.9
Lansing Branch	Lansing Secondary	LZ 0 – 36.8	36.8
Lansing Branch	Meadows IT (@ Lansing via CSXT)	LZ 38 – 38.3	0.3
Lansing Branch	Lansing IT (@Lansing via CSXT)	UA 60.7 - 61.4	0.7
Lansing Branch	Lansing Manufacturers RR	XF 0 – 5.1	5.1
Lansing Branch	Lansing IT (@Lansing)	XM 57.1 – 58.9	1.8
Michigan Line	Michigan Line	MH 28.0 – 119.5 MH 121.4 – 143.3	113.4
Michigan Line – Albion	Lansing IT (@Albion)	VP 21.6 - 23.4	1.8
Michigan Line – Jackson	Jackson IT (@Jackson)	JJ 96.5 - 97.4	0.9
Michigan Line – Jackson	Northern IT (@Jackson)	VJ 0.7 – 4.2	3.5
Michigan Line – Kalamazoo	CK&S IT (@Kalamazoo)	CQ 42.7 - CQ 43.9 IJ 44.3 – 44.7	1.6
Michigan Line – Kalamazoo	B O Secondary (@Kalamazoo)	KY 0 – 3.2	3.2
Michigan Line – Kalamazoo	Upjohn Secondary (@Kalamazoo)	UP 0 – 6.7	6.7
Amtrak Line	Niles IT (@Niles)	QQ 0.5 - 1.0	0.5
Michigan Line -Battle Creek	Old Moscow Branch (@ Battle Creek)	VU 0 – 1.6	1.6
Trackage rights over CN	Baron – Gord (@Battle Creek)	176.7 – 175.5	1.2

Trackage rights over CSXT	CP MA – CP North Lansing – CP Grand @ Lansing	LZ 36.8 – 37.9	1.1
Trackage rights over CSXT	CP North Lansing – Turner St. (Ensel Yard) (@ Lansing)	0.0 – 2.2 HZ	2.2
Trackage rights over CSXT	Pleasant Avenue – Fuller Jct. @ Grand Rapids	0.0 – 1.0 M9	1.0
Local Trackage rights over Amtrak (MP 143.3 – 145.1 leased to Amtrak)	Kalamazoo – MI/IN State Line	143.3 – 222.8	79.5
Line leased to CSXT @ Grand Rapids	Plaster Mill Spur	YV 232.4 – 232.8	0.4
Line Leased to CN @ Kalamazoo	Pavilion Jct. (Kalamazoo) – Pavilion, MI	9.5 – 0.4	9.1
		Total Miles:	384.0

Appendix B – Map of the Line

Exhibit B



Appendix C – Company Agreement

**LIMITED LIABILITY COMPANY AGREEMENT
MICHIGAN CENTRAL RAILWAY, LLC**

THIS AGREEMENT, having an effective date of July 3, 2007, and being established by Watco Transportation Services, Inc., the sole member of this limited liability company, shall govern the duties, obligations and activities of this company and its members. The parties to this agreement are sometimes referred to individually as "Member" and collectively as "Members".

I. The Limited Liability Company

A. Formation. The Members hereby form a limited liability company under the Delaware limited liability company act under the name of MICHIGAN CENTRAL RAILWAY, LLC ("Company").

B. Filings. The Members have executed articles of organization for the Company, which articles were filed for record in the office of the Delaware Secretary of State on July 3, 2007.

C. Purpose. The purpose of the Company shall be to acquire assets, including real estate, rail equipment and materials, locomotives and operate a rail line and its operations, and to hold, manage, lease, construct improvements, sell or otherwise deal with the real estate and the business, and to provide such services as may be necessary or incidental to carrying out the stated purpose. This designation of a specific purpose shall not, however, be deemed to prohibit the Company from operating any business which it may have the authority to operate under Delaware law.

D. Principal Place of Business. The principal place of business shall be located at 315 W 3rd St, Pittsburg, Kansas 66762 or at such other place or places as the Company shall designate from time to time.

E. Registered Office. The registered office of the Company shall be located at 1209 Orange Street, Wilmington, Delaware, 19801, and the name of its initial registered agent at such address is The Corporation Trust Center. The registered office and/or agent may be changed from time to time by the Company by filing the necessary forms with the Delaware Secretary of State.

F. Term. The Company's existence shall commence on the filing of the articles of organization with the Delaware Secretary of State, and shall continue until terminated in accordance with the terms of this Agreement or by operation of law.

II. Capital Contributions

A. Initial Contributions. The initial Member shall contribute to the Company, at the time of execution of this agreement, substantial time and labor, financial backing and cash in the amount set forth opposite its name below:

Watco Transportation Services, Inc.....\$5.00

B. Additional Contributions. No Member shall be required to make additional contributions to the Company, although any Member may make voluntary additional contributions if agreed to by all of the non-contributing Members; provided that any voluntary contribution shall not increase the contributing Member's ownership interest. In the event additional funds are necessary for working capital or other purposes related to the Company or its operation, the Members may elect to make additional capital contributions, or any Member may loan all or a portion of the needed funds to the Company. Each individual advancement of funds other than capital contributions shall be evidenced by a promissory note from the Company, with interest and repayment terms as may be agreed by a majority in interest of the Members, excluding the Member making the loan.

C. Capital Accounts. A separate capital account shall be established for each Member in the amount of his initial capital contributions, and thereafter adjusted in accordance with additional contributions, withdrawals, and profit, loss and other allocations. The determination of a Member's capital account, and any adjustments thereto, shall be made in accordance with tax and accounting principles set forth in Section 704(b) of the Internal Revenue Code and applicable Regulations thereunder.

III. Ownership, Allocations and Distributions

A. Ownership. The ownership of the equity interest in the Company may, at the option of the Members, be evidenced by Membership Certificates, with the Certificates to be in such form as shall be determined by the Members. In consideration for the initial capital contributions as described above, and for such services as may be provided by the initial Member in establishing the Company and its operations, Watco Transportation Services, Inc. shall be the sole Member and own One Hundred (100%) percent of the Company.

B. Allocations. For all purposes, including accounting and income tax reporting, profits and losses of the Company shall be allocated in accordance with ownership.

Notwithstanding anything herein to the contrary, to the extent required by law, profits, losses, and other deductions attributable to property contributed to the Company by a Member shall be allocated so as to take into account any variation between the tax basis of the property and the fair market value thereof at the time of contribution, in accordance with Internal Revenue Code Section 704(c) and applicable Treasury Regulations as they now exist or may hereafter be amended.

C. Distribution of Funds. Accumulated cash in excess of that necessary for the payment of past due and current liabilities, current costs of operation, and a reasonable working capital

reserve may be distributed to the Members upon agreement of a majority in interest of the Members. In no event shall distributions be made which would reduce the total capital accounts below the total capital contributions of the Members. In the event the Company has incurred a loss so that the total of the capital accounts is less than the total contributions, no distribution shall be made until such time as the capital accounts have reached or exceeded the total contributions. The amount of distribution to be made to each Member shall be determined in accordance with ownership.

Upon final dissolution and liquidation of the Company, and after payment of all liabilities in the order of priority required by the limited liability company act or other applicable law, the assets of the Company shall be allocated and distributed first to the Members in accordance with capital account percentages until such capital accounts are fully repaid, and any excess in accordance with ownership percentages.

IV. Accounting and Reports

(a) **Books.** The books of the Company shall be kept and maintained in accordance with generally accepted accounting principles, at the Company's principal place of business, or such other location as may be determined by the Company, and shall contain a full and accurate account of the Company's operations.

(b) **Reports.** For each accounting year the books shall be reviewed and financial statements and tax returns prepared by a qualified accountant or other person acceptable to all the Members. Each Member shall be entitled to review (in person or by a designated representative) the books and records at any reasonable time, and shall be provided copies of all financial and other reports and all tax returns.

(c) **Bank Account.** The Company shall open and maintain in a federally insured commercial bank, one or more bank accounts in the name of the Company, in which revenues and other receipts shall be deposited and from which disbursements and distributions shall be made. Distributions shall be solely for operation of the Company's business or as may be otherwise provided in this agreement. Any one of the Members shall be authorized to sign or endorse checks and otherwise transact business within said account or accounts, provided that said transaction of business has been approved by a majority of the Members.

V. Management

A. **Management of the Company.** The management of the Company shall be vested in its

Members, with each Member having voting rights equal to that Member's ownership percentage. All matters to be determined shall be by majority vote.

The Members may designate on an annual or more frequent basis one or more individuals as general manager or managers to assume the day to day control of the Company's business, and may, if desired, designate one or more officers with such duties as directed by the Members.

B. Limitations on Authority. Without the prior consent of a majority in interest of the Members, no Member, general manager, officer or other person shall have authority to:

- (1) Do any act in contravention of this agreement, the articles of organization, or other governing rules or regulations of the Company;
- (2) Do any act which would make it impossible to carry on the ordinary business of the Company;
- (3) Confess a judgment against the Company;
- (4) Possess Company property or the rights in specific Company property for other than a Company purpose;
- (5) Borrow money from the Company;
- (6) Deal in stocks, bonds, securities or commodities or in the futures market on behalf of the Company; or
- (7) Transfer, sell or assign any Company property or rights, other than as may be required to carry on the day-to-day operations of the Company; Without the prior unanimous written consent of the Members, no Member, general manager, officer or other person shall have authority to:
- (8) Borrow funds on behalf of the Company;
- (9) Mortgage or otherwise encumber any assets of the Company;

C. Duties of Members. If a Member is appointed as the general manager or as an officer of the Company, he shall diligently perform his duties as contemplated under this or any other agreement with the Company in accordance with good business practices. The Member acting in such a capacity shall not be liable to other Members or the Company for the performance of any act

or failure to act so long as no fraud, gross neglect or bad faith is involved in such performance or failure.

D. Compensation. Any Member appointed or designated as general manager or as an officer of the Company, or otherwise performing duties for or on behalf of the Company, shall be entitled to such compensation as may be agreed by a majority in interest of the Members. Any such compensation shall be treated as an expense of the Company and shall be payable irrespective of whether or not the Company operates at a profit.

VI. Sale or Transfer

A. First Right of Refusal. A Member shall not sell, assign or otherwise transfer his interest in the Company without first giving written notice to the other Members of his intention to sell or assign his interest and the consideration that has been offered. The other Members shall have sixty (60) days within which to purchase such interest (on a prorata basis if more than one Member wishes to purchase the interest), on the same terms and for the same consideration as set forth in the notice from the selling Member. If none of the other Members desire to purchase the interest, the selling Member may sell or assign his interest to a third party, provided that such sale is completed within thirty (30) days after expiration of the initial sixty (60) day period, and on the terms and for the consideration as stated in the initial notice.

B. Status of Transferee. Unless approved in writing by all the Members other than the Member transferring his interest, a transferee of an interest in the Company, even though the other Members have chosen not to exercise their first rights of refusal, shall have no right to participate in the management of the business and affairs of the Company or to become a Member; the transferee shall be entitled to receive only the share of profits, losses and distributions to which that Member would otherwise be entitled. Any such transfer shall be reflected in amended articles of organization filed with the Secretary of State.

C. Joint Tenancy. Notwithstanding anything herein to the contrary, any Member may designate that his interest in the Company shall be held with his spouse and/or any other family member as joint tenants with right of survivorship. In such event, the Company will so note such ownership designation on its books and records and such designation shall not be deemed a transfer which is subject to the other Members' rights of first refusal; provided, however, that in such event, said spouse or other party shall execute an irrevocable consent to all terms and provisions of this Agreement and irrevocably designate the Member as the spouse's agent and attorney in fact for all purposes relating to the Member's interest in the Company.

VII. Death of a Member

A. Purchase of Deceased Member's Interest. Upon the death of an individual Member, the Company shall have the right to purchase the deceased Member's interest at the fair market value of such interest. If the parties cannot agree on such value, an appraiser acceptable to both the Company and the deceased Member's personal representative, shall be selected to provide such value, and such determination shall be binding on all parties. In the event the Company does not desire to purchase the deceased Member's interest, his heir or heirs shall be entitled to succeed to his economic share and interest, provided that said heir or heirs may notify the Company of the intention and desire not to continue the business interest of the deceased in the Company. In such event, the Company shall be terminated and dissolved; provided, however, that this provision shall not operate to prevent one or more of the remaining Members from purchasing the interest of the deceased Member at an agreed price and continuing to operate the business as a proprietorship or other entity.

B. Right to Continue Business. The Company may, upon unanimous consent of the remaining Members and, if the Company has not purchased the deceased Member's interest, the consent of the heir or heirs succeeding to the interest of the deceased Member, continue the Company provided such continuation is not prohibited by applicable law.

VIII. Termination and Dissolution

A. Causes for Termination. Unless otherwise provided herein, the Company shall be terminated and dissolved upon the occurrence of any one of the following:

- (1) By the unanimous written agreement of all Members;
- (2) Bankruptcy or insolvency of the Company, or of any Member thereof;
- (3) Death or incompetency of an individual Member, or the dissolution of a Member not an individual; or
- (4) Otherwise as may be provided herein or by applicable statute.

B. Right to Continue Business. Notwithstanding the occurrence of an event causing termination, the Members remaining may continue the Company by unanimous written consent, provided such continuation is not prohibited by applicable law.

C. **Procedures Upon Dissolution.** Upon the dissolution of the Company, a financial statement shall be prepared setting forth the assets and liabilities of the Company, and a copy furnished to each Member. The Members shall appoint a liquidating trustee, who shall liquidate the assets of the Company and make such payments and distributions as provided by this agreement or by applicable statute. Any distributions in kind shall be made to all Members in undivided shares.

IX. Miscellaneous

A. **Notices.** Any notices given pursuant to this agreement may be served personally on the Member to be notified or may be mailed, postage prepaid, certified with return receipt requested, addressed as follows:

To: Watco Transportation Services, Inc.
Attn: Craig R. Richey, General Counsel
315 W. 3rd St
Pittsburg, Kansas 66762

Any notice which is mailed and postmarked within the period allowed shall be deemed to have been received within the designated period. Any Member may change the address for notice by written notice to the Company and other Members in accordance with this provision.

B. **Successors and Assigns.** All the terms and conditions of this agreement shall be binding upon the successors and assigns of the Members, but shall not inure to the benefit of the successors and assigns of the Members except as otherwise provided herein.

C. **Entire Agreement.** This agreement constitutes the entire understanding between the parties with respect to the subject matter.

D. **Amendment.** This agreement may be modified or amended only by the unanimous written consent of all Members.

E. **Delaware Law.** This agreement and its application shall be governed by the laws of the State of Delaware. In the event of any conflict between this agreement and the Delaware limited liability company act, the provisions of said act shall control.

Watco Transportation Services, Inc., Sole Member
By: _____
Its: _____

Appendix D – First Amended and Restated Company Agreement

FIRST AMENDED AND RESTATED
LIMITED LIABILITY COMPANY
AGREEMENT
OF
MICHIGAN CENTRAL RAILWAY, LLC

BY AND BETWEEN
NORFOLK SOUTHERN RAILWAY COMPANY
AND
WATCO TRANSPORTATION SERVICES, INC.

Effective as of [], 2007

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FIRST AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
MICHIGAN CENTRAL RAILWAY, LLC

This First Amended and Restated Limited Liability Company Agreement (this "Agreement") of Michigan Central Railway, LLC, a Delaware limited liability company (the "Company"), is entered into pursuant to and in accordance with the Delaware Limited Liability Company Act, 6 Del. Code §§ 18-101 - 1109 (the "Act"), and shall be effective as of [], 2007, by and between Norfolk Southern Railway Company, a Virginia corporation ("NSR", and NSR or any Permitted Transferee thereof sometimes referred to as the "NS Member"), and Watco Transportation Services, Inc., a Kansas corporation ("Watco", and Watco or any Permitted Transferee thereof sometimes referred to as the "Watco Member"), as the Members pursuant to the provisions of the Act.

WHEREAS, Watco, NSR and the Company have entered into that certain Transaction Agreement dated as of [], 2007 (the "Transaction Agreement"), which provides, among other things, for the NS Member to contribute the Assets to the Company and for the Watco Member to make capital contributions to the Company equal to \$18,000,000 in the aggregate, in each case in accordance with the provisions thereof, and for Watco to loan the Start-Up Funds (as defined in the Transaction Agreement) to the Company from time to time within three (3) months after the Closing Date to fund the activities described in the Preliminary Start-Up Plan (as defined in the Transaction Agreement), and for the Company to repay to Watco the Start-Up Funds from time to time within six months after the Closing Date.

WHEREAS, on July 3, 2007, Watco caused the Company to be organized pursuant to the Certificate of Formation; and

WHEREAS, pursuant to the Transaction Agreement, the Company issued and sold to NSR its Membership Interest; and

WHEREAS, in connection with the issuance and sale of the Membership Interest to NSR, Watco and the Company desire to admit NSR as a Member and to set forth their mutual agreements with respect to (i) the respective rights, obligations and interests of the Members in the Company, (ii) the management and governance of the Company, and (iii) certain other matters set forth herein.

NOW, THEREFORE, in consideration of the foregoing facts and the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto hereby agree as follows:

DEFINITIONS

Capitalized words and phrases used in this Agreement have the following meanings:

"Acceptance Agreement" shall have the meaning set forth in Section 10.2(d).

"Acceptance Period" shall have the meaning set forth in Section 10.2(c).

"Act" shall have the meaning set forth in the Preamble.

"Adjusted Capital Account" means, with respect to any Member, the balance in such Member's Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments:

(a) Credit to such Capital Account any amounts which such Member is deemed to be obligated to restore pursuant to the penultimate sentences in Sections 1.704-2(g)(1) and 1.704-2(i)(5) of the Regulations; and

(b) Debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) and 1.704-1(b)(2)(ii)(d)(6) of the Regulations.

"Adjusted Capital Account Deficit" means, with respect to any Member, the deficit balance, if any, in such Member's Adjusted Capital Account as of the end of the relevant Fiscal Year. The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

"Affiliate" means, with respect to any specified Person, (i) any other Person who, directly or indirectly, controls, is under common control with, or is controlled by, such specified Person, (ii) any other Person who is a director, officer, manager, member, partner or trustee of the specified Person or a Person described in clause (i) of this definition or any spouse of the specified Person or any such other Person, (iii) any relative of the specified Person or any other Person described in clause (ii) of this definition, or (iv) any Person of which the specified Person and/or any one or more of the Persons specified in clause (i), (ii) or (iii) of this definition, individually or in the aggregate, beneficially own 10% or more of any class of Voting Securities.

"Agreement" shall have the meaning set forth in the Preamble. Words such as "herein," "hereinafter," "hereof," "hereto" and "hereunder" refer to this Agreement as a whole, unless the context otherwise requires.

"Amtrak Agreement and Consent to Assignment" means an agreement and consent to assignment of even date hereof by and between National Passenger Railroad Corporation and NSR.

"Annual Operating Plan" shall have the meaning set forth in Section 5.6(a).

"Assets" means the Line and those certain signals, equipment, and other rights, Permits, claims, contracts and assets related thereto.

"Assignment and Assumption Agreement" means the assignment and assumption agreement of even date between the Company and NSR.

"Assignment and Assumption Agreement – Amtrak-NSR Michigan Lines Agreements" means the assignment and assumption agreement of even date hereof by and between NSR and the Company generally providing for the partial assignment of Amended and Restated Off-Corridor Operating Agreement dated as of December 1, 2005, by and between NSR and National Passenger Railroad Corporation.

"Auditors" means the independent registered public accounting firm from time to time engaged by the Company to audit its financial statements and results of operations. The Auditors initially shall be Grant Thornton LLP, until changed by mutual agreement of the Members. Successor Auditors shall be appointed by the Management Committee in accordance with Section 5.5.

"Bankruptcy" means, with respect to any Person, a Voluntary Bankruptcy or an Involuntary Bankruptcy (as each such term is defined herein).

"Battle Creek Assignment and Assumption Agreement" means the Battle Creek Assignment and Assumption Agreement of even date herewith by and between NSR and the Company.

"Budget" shall have the meaning set forth in Section 5.6(a).

"Business" means the business conducted by the Company, including owning, managing and maintaining the Line, and making certain capital improvements to the same, and performing certain haulage and other freight railroad transportation services as a freight common carrier.

"Business Day" means a day of the year on which banks are not required or authorized to close in New York City.

"Business Plan" shall have the meaning set forth in Section 5.6(a).

"Capital Account" means, with respect to any Member, the Capital Account maintained for such Member in accordance with the following provisions:

(a) To each Member's Capital Account there shall be credited (1) such Member's Capital Contributions, (2) such Member's distributive share of Profits and any items in the nature of income or gain which are specially allocated pursuant to Section 3.3 and (3) the amount of any Company liabilities assumed by such Member or which are secured by any Property distributed to such Member. The principal amount of a promissory note which is not readily traded on an established securities market and which is contributed to the Company by the maker of the note (or a Member related to the maker of the note within the meaning of Regulations Section 1.704-1(b)(2)(ii)(c)) shall not be included in the Capital Account of any Member until the Company makes a taxable disposition of the note or until (and to the extent) principal payments are made on the note, all in accordance with Regulations Section 1.704-1(b)(2)(iv)(d)(2).

(b) To each Member's Capital Account there shall be debited (1) the amount of money and the Gross Asset Value of any Property distributed to such Member pursuant to any

provision of this Agreement, (2) such Member's distributive share of Losses and any items in the nature of expenses, deductions or losses which are specially allocated pursuant to Section 3.3 and (3) the amount of any liabilities of such Member assumed by the Company or which are secured by any Property contributed by such Member to the Company.

(c) In the event a Membership Interest is Transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the Transferred Membership Interest.

(d) In determining the amount of any liability for purposes of subparagraphs (a) and (b) above, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Management Committee shall determine that it is prudent to modify the manner in which the Capital Accounts or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities which are secured by contributed or distributed property or which are assumed by the Company or any Members), are computed in order to comply with such Regulations, the Management Committee may make such modification, provided that it is not likely to have a material effect on the amounts distributed to any Person pursuant to Section 11 upon the dissolution of the Company. The Management Committee also shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and the amount of capital reflected on the Company's balance sheet, as computed for book purposes, when appropriate under Regulations Section 1.704-1(b)(2)(iv)(q) and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b).

"Capital Contribution" means, with respect to any Member, the amount of money and the initial Gross Asset Value of any Property (other than money) contributed to the Company with respect to the Membership Interest in the Company held or purchased by such Member.

"Capital Improvement Agreement" means any agreement entered into between the Company and the Watco Member whereby the Watco Member or its subsidiaries will effect the Capital Projects on behalf of the Company.

"Capital Project Process" shall have the meaning set forth in Section 5.2(b).

"Capital Project" means those capital expenditures relating to the Line as set forth in the Budgets (including any Rollover Budgets) approved in accordance with this Agreement or Business Plan.

"Capital Transaction" shall mean any of the following: (i) a sale, exchange, transfer, assignment or other disposition of all or substantially all of the Company's Property or all or substantially all of the rights in the Company's Property; (ii) any condemnation or deeding in lieu of condemnation of all or substantially all of the Company's Property; (iii) any financing

or refinancing of the Company's Property; (iv) any fire or other casualty to all or substantially all of the Company's Property to the extent that such funds are not paid to a lender or used to restore, rebuild or repair the Company Property; and (v) any other transaction the proceeds of which, in accordance with generally accepted accounting principles, are considered capital in nature.

"Car Supply Agreement" means the Car Supply Agreement of same date herewith by and between NSR and the Company.

"Certificate of Formation" means the Certificate of Formation filed with the Secretary of State of the State of Delaware pursuant to the Act to organize the Company, as originally executed and amended, modified, supplemented or restated from time to time, as the context requires.

"Claims" shall have the meaning set forth in Section 5.8(a).

"Closing Date" shall be the date the Capital Contributions described in Section 2.1 are made.

"Code" means the United States Internal Revenue Code of 1986, as amended from time to time.

"Committee Representative" means at any given time each of the individuals then appointed by the Members to and serving as a member of the Management Committee, or their alternates, as provided in Section 5.

"Company" shall have the meaning set forth in the Preamble.

"Company Minimum Gain" has the same meaning as the term, "partnership minimum gain," in Regulations Section 1.704-2(b)(2) and 1.704-2(d).

"Damages" shall have the meaning set forth in Section 10.2(b).

"Default Sale Notice" shall have the meaning set forth in Section 10.2(c).

"Delaware Courts" shall have the meaning set forth in Section 12.14.

"Depreciation" means, for each Fiscal Year, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such Fiscal Year, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such Fiscal Year, Depreciation shall be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction for such Fiscal Year bears to such beginning adjusted tax basis; provided, however, that if the adjusted basis for federal income tax purposes of an asset at the beginning of such Fiscal Year is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using the applicable depreciation method described in section 168(b) of the Code (excluding any elections thereunder) and the recovery period described as the general depreciation system in Rev. Proc. 87-56; 1987-2 C.B.

674, or a successor provision selected by the Management Committee if such pronouncement is no longer effective, for Property that was contributed by a Member.

"Dispute" shall have the meaning set forth in Section 12.15.

"Dissolution Event" shall have the meaning set forth in Section 11.1.

"EBITDA" means, with respect to the Company, earnings before interest, taxes, depreciation and amortization as measured under GAAP.

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time.

"Fair Value" means the fair market value as determined by unanimous mutual agreement reached by the Members, or in the event the Members are unable to agree, as determined by an independent investment banking firm or firms or, in the case of any asset or other item not customarily valued by an investment banking firm, a qualified independent appraiser of the type customarily engaged in the valuation thereof (a "Qualified Appraiser"), in accordance with the following procedure. In the case of any event which gives rise to a requirement to determine "Fair Value" hereunder, the Management Committee shall be responsible for initiating the process by which Fair Value shall be determined as promptly as practicable, but in any event within twenty (20) days following such event and if the procedures contemplated herein in connection with determining Fair Value have not been complied with fully, then any such determination of Fair Value for any purpose hereunder shall be deemed to be preliminary and subject to adjustment pending full compliance with such procedures. Upon the occurrence of an event requiring the determination of Fair Value, the Management Committee shall give each Member notice of such event, and the Members shall engage in direct good faith discussions to arrive at a mutually agreeable determination of Fair Value. In the event the Members are unable to arrive at a mutually agreeable determination within thirty (30) days of the notice, an independent investment banking firm of national standing or Qualified Appraiser of national standing, as the case may be, selected by unanimous agreement of the Members shall make such determination and render such opinion. The determination so made shall be conclusive and binding on the Members. The fees and expenses of the investment banking firm or Qualified Appraiser retained for such purpose shall be paid by the Company.

"Fiscal Quarter" means any of the following:

- (a) the period commencing on the date hereof and ending on the earliest to follow the Closing Date of March 31, June 30, September 30 and December 31 of the year in which the Closing Date occurs,
- (b) any subsequent three (3) month period commencing on each of January 1, April 1, July 1 and October 1 and ending on the last date before the next such date, and
- (c) the period commencing on the immediately preceding January 1, April 1, July 1, or October 1, as the case may be, and ending on the date on which all Property is distributed to the Members pursuant to Section 11.

"Fiscal Year" means any of the following:

- (a) the period commencing on the date hereof and ending on December 31 of the year in which the Closing Date occurs,
- (b) any subsequent twelve (12) month period commencing on January 1, and
- (c) the period commencing on the immediately preceding January 1, and ending on the date on which all Property is distributed to the Members pursuant to Section 11.

"Divisions Agreement" means the Divisions Agreement of even date herewith by and between NSR and the Company.

"Freight Rail Common Carrier" shall mean the Company, NSR or such other freight rail common carrier that the Company, in accordance with the Agreement, admits to the entirety or any portion of the Line by way of haulage or trackage rights.

"GAAP" means generally accepted accounting principles as in effect in the United States of America, consistently applied.

"General Manager" shall mean that officer of the Company so designated who shall be responsible for directing the day-to-day operations, management and supervision of the Company.

"Gross Asset Value" means with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(a) The initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value (taking Code Section 7701(g) into account) of such asset on the date of contribution as determined by the Management Committee.

(b) The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values (taking Code Section 7701(g) into account), as determined by the Management Committee as of the following times: (A) the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a de minimis Capital Contribution; (B) the distribution by the Company to a Member of more than a de minimis amount of Company property as consideration for an interest in the Company; (C) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), and (D) in connection with the grant of an interest in the Company (other than a de minimis interest) as consideration for the provision of services to or for the benefit of the Company by an existing Member acting in the capacity of a Member, or by a new Member acting in the capacity of a Member or in anticipation of being a Member, provided that an adjustment described in clauses (A) and (B) of this paragraph shall be made only if the Management Committee reasonably determines that such adjustment is necessary to reflect the relative economic interests of the Members in the Company.

(c) The Gross Asset Value of any Company asset distributed to any Member shall be adjusted to equal the gross fair market value (taking Code Section 7701(g) into account) of such asset on the date of distribution as determined by the Management Committee.

(d) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted tax basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)-(2)(iv)(m) and subparagraph (f) of the definition of "Profits" and "Losses"; provided, however, that Gross Asset Values shall not be adjusted pursuant to this subparagraph (d) to the extent that an adjustment pursuant to subparagraph (c) is required in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (d).

If the Gross Asset Value of an asset has been determined or adjusted pursuant to subparagraph (a), (b) or (c), such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset, for purposes of computing Profits and Losses.

"Indemnified Parties" shall have the meaning set forth in Section 10.2(f).

"Indemnified Persons" shall have the meaning set forth in Section 5.8(a).

"Involuntary Bankruptcy" means, with respect to any Person, without the consent or acquiescence of such Person, the entering of an order for relief or approving a petition for relief or reorganization or any other petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or other similar relief under any present or future bankruptcy, insolvency or similar statute, law or regulation, or the filing of any such petition against such Person which petition shall not be dismissed within ninety (90) days, or without the consent or acquiescence of such Person, the entering of any order appointing a trustee, custodian, receiver or liquidator of such Person or of all or any substantial part of the Property of such Person which order shall not be dismissed within ninety (90) days.

"Issuance Items" shall have the meaning set forth in Section 3.3(h).

"Items" shall have the meaning set forth in Section 3.4.

"Joint Use Agreement" means that joint use agreement of even date hereof between the Company and NSR.

"JV Transaction Agreements" means, collectively, (i) the Transaction Agreement, (ii) this First Amended and Restated Company Agreement; (iii) the Joint Use Agreement, (iv) the Master Interchange Agreement, (v) the Assignment and Assumption Agreement – Amtrak-NSR Michigan Lines Agreements, (vi) the Amtrak Agreement and Consent to Assignment, (vii) the Assignment and Assumption Agreement, (viii) the Divisions Agreement, (ix) the Master Locomotive Run Through Agreement, (x) the Car Supply Agreement, (xi) the Locomotive Fuel and Service Agreement, (xii) the LLC Management Access and Qualification Agreement and Right of Entry, (xiii) the Lansing Assignment and Assumption

Agreement, (xiv) the Battle Creek Assignment and Assumption Agreement, (xv) the Grand Rapids Assignment and Assumption Agreement, and (xvi) the Support Services Agreement.

"Lansing Assignment and Assumption Agreement" means the Lansing Assignment and Assumption Agreement of even date herewith by and between NSR and the Company.

"Line" means the rail line (tracks, rails, ballast, associated rail assets and underlying real estate) and certain operating rights constituting the rail operating property located in Michigan and Indiana set forth in Exhibit A hereto and as generally depicted on the map attached as Exhibit B hereto.

"Liquidation Period" shall have the meaning set forth in Section 11.7.

"Liquidator" shall have the meaning set forth in Section 11.9(a).

"LLC Management Access and Qualification Agreement and Right of Entry" means that agreement dated as of the date hereof between the Company and NSR generally providing for the qualification of the Company's supervisory management.

"Locomotive Fuel and Service Agreement" means that agreement dated of even date hereof between NSR and Company concerning certain locomotive fueling and locomotive servicing services to the other party.

"Losses" shall have the meaning set forth in the definition of "Profits."

"Major Decisions" means taking any of the following actions, notwithstanding any other provisions of the Transaction Agreement or this Agreement:

(i) Repealing, modifying, amending this Agreement and/or any of the JV Transaction Agreements to which the Company is a party, or waiving compliance with any the provisions of those agreements;

(ii) Entering into any agreement with respect to or consummating any (A) sale, transfer, lease, license or other disposition of property or assets of the Company to a third party, in either case that is not both in the ordinary course of business and on an arm's length basis, (B) acquisition, divestiture, spin-off, merger, consolidation, business combination or similar transaction involving equity interests or assets of the Company, or (C) formation of, investment of the funds or assets of the Company in or other participation in any organization, whether a joint venture or partnership or otherwise;

(iii) With regard to accounting, budgets and expenditures: (A) making any material change in the Company's accounting practices or policies (other than as required by GAAP), (B) appointing or making any change in the Auditors, (C) approving the Annual Operating Plan, including without limitation the Budget and the Business Plan, or any changes in, amendments to or deviations from, the

Annual Operating Plan, including without limitation the Budget (including any Rollover Budget) and/or the Business Plan (which shall be proposed for each Fiscal Year by the Watco Representatives and approved by the Management Committee, which approval shall not be unreasonably withheld), or (D) incur or make expenditures beyond 110% of those contained in the Budgets, individually or in the aggregate, except as may be reasonable or necessary, in light of force majeure events or other eventualities, to maintain operations of the Company and, if any, NSR, on the Line;

(iv) Engaging in any of the following: (A) declaring, making or paying any dividend or any other distribution (whether in cash, securities or other property) on any equity interests of the Company, other than the distributions contemplated by this Agreement, and determining the levels thereof; (B) incurring any indebtedness, guarantee or lien or making any loans in excess of \$1,000,000, except as reasonable or necessary, in light of force majeure events or other eventualities, to maintain operations of the Company and, if any, NSR, on the Line; (C) making advances or capital contributions to, or investments in, any Person, except as provided in the Budget or Rollover Budget; (D) creating any equity option, structured equity, employee stock option plan or other similar plan, making any grants under any such plan or materially modifying any employee benefit plan; or (E) admitting any new Members to the Company or modifying the number of Units or Percentage Interests held by any Member, or the rights, privileges and obligations of any Member;

(v) Requiring any Capital Contribution beyond those contributions specified in this Agreement from any Member objecting to the same;

(vi) Initiating or consenting to the filing of any petition to place the Company in insolvency, bankruptcy or similar proceedings;

(vii) Except in the ordinary course of business, commencing, settling or disposing of any litigation or regulatory proceeding by or against or otherwise affecting the Company or any of its assets or properties where the amount at issue in the proceeding exceeds \$1,000,000;

(viii) Creating, or modifying the duties, responsibilities, activities or composition of, any committee, including the Management Committee, or subcommittee of the Company;

(ix) Incurring or making operating expenses or capital expenditures beyond 110% of those contained in the Budget (including any Rollover Budget), except as reasonable or necessary, in light of force majeure events, to maintain operations of the Company and, if any, NSR, on the Line;

(x) Entering into an agreement, program or other arrangement pursuant to which the Company creates or changes existing interchange points or grants or provides to any Person any access or operating rights, including but not

limited to haulage or trackage or interchange rights, or any other rights that allow a third party access over the Line; or

(xi) Taking any of the actions set forth in clauses (i) through (x) above with respect to any entity of which the Company owns, directly or indirectly, securities or other ownership interests having the power to elect a majority of the board of directors or other persons performing similar functions, or otherwise having the power to direct, manage or control the conduct of business of such entity or otherwise owning at least ten percent (10%) of the outstanding ownership interests of such entity.

"Management Committee" shall have the meaning set forth in Section 5.1(a).

"Master Interchange Agreement" means the Master Interchange Agreement of even date herewith by and between NSR and the Company.

"Master Locomotive Agreement" means the Master Locomotive Run-Through Agreement of even date herewith by and between NSR and the Company.

"Members" means the Persons (i) who are referred to as such in the opening paragraph of this Agreement or who have become a new or substituted Member by acquisition of a Membership Interest pursuant to the terms of this Agreement and (ii) who have not ceased to be a Member.

"Member Nonrecourse Debt" has the same meaning as the term "partner nonrecourse debt" in Section 1.704-2(b)(4) of the Regulations.

"Member Nonrecourse Debt Minimum Gain" means an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.704-2(i)(3) of the Regulations.

"Member Nonrecourse Deductions" has the same meaning as the term "partner nonrecourse deductions" in Sections 1.704-2(i)(1) and 1.704-2(i)(2) of the Regulations.

"Membership Interest" means an ownership interest in the Company or any portion of or interest in such interest, including any and all benefits to which the holder of such interest may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement. The Membership Interest for the NS Member and the Watco Member shall be thirty-three percent (33%) and sixty-seven percent (67%), respectively.

"Net Cash Flow" means for any period the gross cash proceeds of the Company for such period (excluding Capital Contributions and Net Proceeds from Capital Transactions) less the portion thereof used to pay or establish reserves for all Company expenses, debt payments (including the amounts described in Section 1.9 of this Agreement), capital improvements, replacements, and contingencies, all as determined by the Management

Committee. "Net Cash Flow" shall not be reduced by depreciation, amortization, cost recovery deductions, or similar allowances, but shall be increased by any reductions of reserves previously established pursuant to the first sentence of this definition provided the reason for the reduction is not to satisfy past or ongoing expenses or capital expenditures.

"Net Proceeds of a Capital Transaction" shall mean the net cash proceeds from a Capital Transaction less any portion thereof used to establish reserves for all Company expenses, debt payments, capital improvements, replacements, working capital, and contingencies or any portion thereof used to restore the Company Property following a casualty or condemnation, all as determined by the Management Committee. "Net Proceeds of a Capital Transaction" shall include all principal, interest and other payments with respect to any note or other obligation received by the Company in connection with a Capital Transaction.

"Nonrecourse Deductions" shall have the meaning set forth in Section 1.704-2(b)(1) of the Regulations.

"Nonrecourse Liability" shall have the meaning set forth in Section 1.704-2(b)(3) of the Regulations.

"Notice" shall have the meaning set forth in Section 12.15.

"NS Member" shall have the meaning set forth in the Preamble.

"NSR" shall have the meaning set forth in the Preamble.

"NSR In-Kind Distribution" shall have the meaning set forth in Section 11.5.

"NSR Joint Use Agreement" shall mean the Joint Use Agreement of even date herewith by and between NSR and the Company.

"Officers" means Persons designated as officers of the Company by the Management Committee for so long as any such Person remains an Officer in accordance with the terms of this Agreement.

"Omnibus Bill of Sale" means the Bill of Sale of even date herewith by NSR in favor of the Company.

"Percentage Interest" means, for a given Fiscal Year and subject to the last sentence within this definition, a percentage for each Member determined as follows:

- (i) the numerator shall be the sum of:
 - (i) Sixty-five percent (65%) for the NS Member and thirty-five percent (35%) for the Watco Member of all EBITDA for such Fiscal Year that does not exceed the threshold amount of seven million dollars (\$7,000,000),

- (ii) Sixty percent (60%) for the NS Member and forty percent (40%) for the Watco Member of all EBITDA for such Fiscal Year that exceeds the threshold amount of seven million dollars (\$7,000,000) but does not exceed the threshold amount of ten million dollars (\$10,000,000), and
- (iii) Fifty percent (50%) for the NS Member and fifty percent (50%) for the Watco Member of all EBITDA for such Fiscal Year that exceeds the threshold amount of ten million dollars (\$10,000,000);
- (ii) the denominator shall be all EBITDA for such Fiscal Year;

provided that if there is no EBITDA for a given Fiscal Year, the NS Member's Percentage Interest for such Fiscal Year shall be sixty-five percent (65%) and the Watco Member's Percentage Interest for such Fiscal Year shall be thirty-five percent (35%). Each threshold amount enumerated in this definition shall be revised upward or downward each year, beginning with the first Fiscal Year following the effective date of this Agreement, by a percentage equal to fifty percent (50%) of the change from one year to the next year in the Rail Cost Adjustment Factor (Unadjusted) ("RCAFU") as approved by the Surface Transportation Board. The threshold amounts shall be revised by calculating the percentage of increase or decrease in the index for the latest calendar year as related to the index for the previous calendar year and applying that percentage to the threshold amounts. In computing the adjusted threshold amounts, any fraction of a dollar (\$1.00) less than fifty cents (\$0.50) shall be dropped, and any fraction equal to or greater than fifty cents (\$0.50) shall be increased to the next whole dollar. In the event the base for the RCAFU shall be changed from that in effect at the effective date of this Agreement, an appropriate revision shall be made. If the STB or any successor organization discontinues publication of the RCAFU, an appropriate substitute for determining the percentage of increase or decrease shall be negotiated by the parties hereto. In the absence of agreement, the Members shall submit the matter to binding arbitration under terms of Section 12.5.

"Permitted Transfer" shall have the meaning set forth in Section 9.2.

"Permitted Transferees" means a transferee pursuant to a Permitted Transfer.

"Person" means an individual or a partnership, corporation, trust, association, limited liability company or other entity.

"Profits" and **"Losses"** means, for each Fiscal Year, an amount equal to the Company's taxable income or loss for such Fiscal Year, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, deduction or credit required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments (without duplication):

- (a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this definition of "Profits" and "Losses" shall be added to such taxable income or loss;

(b) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this definition of "Profits" and "Losses" shall be subtracted from such taxable income or loss;

(c) In the event the Gross Asset Value of any Company asset is adjusted pursuant to subparagraphs (b) or (c) of the definition of Gross Asset Value, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the Gross Asset Value of the asset) or loss (if the adjustment decreases the Gross Asset Value of the asset) from the disposition of such asset and shall be taken into account for purposes of computing Profits or Losses;

(d) Gain or loss resulting from any disposition of Property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the Property disposed of, notwithstanding that the adjusted tax basis of such Property differs from its Gross Asset Value;

(e) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year, computed in accordance with the definition of Depreciation;

(f) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Member's interest in the Company, the amount of such adjustments shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) from the disposition of such asset and shall be taken into account for purposes of computing Profits and Losses; and

(g) Notwithstanding any other provision of this definition, any items which are specially allocated pursuant to Section 3.3 shall not be taken into account in computing Profits or Losses.

The amounts of the items of Company income, gain, loss, deduction or credit available to be specially allocated pursuant to Section 3.3 shall be determined by applying the rules analogous to those set forth in subparagraphs (a) through (g) above.

"Property" means all real and personal property acquired by the Company, including cash, and any improvements thereto, and shall include both tangible and intangible property.

"Regulations" means the Treasury Regulations, including temporary and proposed Regulations, promulgated under the Code, as such regulations are amended from time to time.

"Redemption Date" shall have the meaning set forth in Section 9.8(b).

"Redemption Right" shall have the meaning set forth in Section 9.8(a).

"Rollover Annual Operating Plan" shall have the meaning set forth in Section 5.6(b).

"Rollover Budget" shall have the meaning set forth in Section 5.6(b).

"Rules" shall have the meaning set forth in Section 12.15.

"Securities Act" means the Securities Act of 1933, as amended from time to time.

"Support Services Agreement" means that agreement concerning the provision of certain specified administrative services by Watco Companies, Inc., parent to Watco, to the Company substantially in the form attached hereto as Appendix R (the "Support Services Agreement" and,

"Tax Matters Partner" shall have the meaning set forth in Section 7.3(d).

"Transaction" means all or any material part of the transactions contemplated by the Transaction Agreement and/or the Ancillary Agreements (as defined in the Transaction Agreement).

"Transaction Agreement" shall have the meaning set forth in the Recitals.

"Transfer" means, as a noun, any voluntary or involuntary transfer, distribution, sale, pledge, assignment or hypothecation or other disposition and, as a verb, voluntarily or involuntarily to transfer, sell, pledge, assign or hypothecate or otherwise dispose of.

"Unified Assignment and Assumption Agreement" means the Unified Assignment and Assumption Agreement of even date herewith by and between NSR and the Company.

"Voluntary Bankruptcy" means, with respect to any Person, any of the following:

(a) the inability of such Person generally to pay its debts as such debts become due, or an admission in writing by such Person of its inability to pay its debts generally or a general assignment by such Person for the benefit of creditors.

(b) the filing of any petition or answer by such Person seeking to adjudicate itself as bankruptcy or insolvent, or seeking for itself any liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of such Person or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking, consenting to, or acquiescing in the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for such Person or for any substantial part of its Property, or

(c) corporate action taken by such Person to authorize any of the actions set forth above.

"Voting Securities" shall mean any securities of any Person which vote generally in the election of directors.

"Watco" shall have the meaning set forth in the Preamble.

"Watco In-Kind Distribution" shall have the meaning set forth in Section 11.5

"Watco Member" shall have the meaning set forth in the Preamble.

"Watco Parent" shall mean Watco Companies, Inc., a Kansas corporation and ultimate parent of Watco.

"Wholly-Owned Affiliate" of any Person means an Affiliate of such Person:

(a) one hundred percent (100%) of the voting stock or beneficial ownership of which is owned by such Person, or by any Person who, directly or indirectly, owns one hundred percent (100%) of the voting stock or beneficial ownership of such Person,

(b) an Affiliate of such Person who, directly or indirectly, owns one hundred percent (100%) of the voting stock or beneficial ownership of such Person, and

(c) any Wholly-Owned Affiliate of any Affiliate described in clause (a) or clause (b).

SECTION 1 THE COMPANY

1.1 Rights and Liabilities of Members Generally. The rights and liabilities of the Members shall be as provided under the Act, the Certificate of Formation and this Agreement.

1.2 Name. The name of the Company is and shall be Michigan Central Railway, LLC, and all business of the Company shall be conducted in such name or, in the discretion of the Management Committee, under any other name.

1.3 Purpose; Powers.

(a) Generally.

(i) The purpose of the Company is to engage in the Business and in any other lawful activity for which a limited liability company may be organized under the Act.

(ii) The Company has the power to do any and all acts necessary, appropriate, proper, advisable, incidental or convenient to or in furtherance of the purposes of the Company set forth in Section 1.3(a) and has, without limitation, any

and all powers that may be exercised on behalf of the Company by the Management Committee pursuant to Section 5.

(b) Carrier Status. Notwithstanding the generality of Section 1.3(a), the Members intend that the Company shall be a rail carrier as that term is defined in 49 U.S.C. § 10102(5) that performs transportation services over the Line as a Freight Rail Common Carrier.

1.4 Principal Place of Business, Chief Executive Office and Registered Office. The principal place of business and chief executive office of the Company shall be located in Kalamazoo, MI or in such other place as the Management Committee may determine from time to time. The registered office of the Company in the State of Delaware initially is located at c/o The Corporation Trust Company, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

1.5 Term. The term of the Company commenced on the date the Certificate of Formation was filed in the office of the Secretary of State of the State of Delaware in accordance with the Act and shall continue until the winding up and liquidation of the Company and its business is completed following a Dissolution Event, as provided in Section 11.

1.6 Filings; Agent for Service of Process.

(a) The Members shall promptly after the execution of this Agreement cause the Certificate of Formation to be filed in the Office of the Secretary of State of the State of Delaware in accordance with the provisions of the Act. The Management Committee shall take, or cause to be taken, any and all actions reasonably necessary to perfect and maintain the status of the Company as a limited liability company under the laws of the State of Delaware, including the preparation and filing of such amendments to the Certificate of Formation and such other assumed name certificates, documents, instruments and publications as may be required by law, including, without limitation, action to reflect:

(i) A change in the Company name,

(ii) A correction of false or erroneous statements in the Certificate of Formation or the desire of the Members to make a change in any statement therein in order that it shall accurately represent the agreement among the Members, or

(iii) A change in the time for dissolution of the Company if approved by the Members as evidenced by an amendment to this Agreement (approved as provided herein).

(b) The Members and the Management Committee shall execute and cause to be filed original or amended certificates and shall take any and all other actions as may be reasonably necessary to perfect and maintain the status of the Company as a limited liability company or similar type of entity under the laws of any other jurisdictions in which the Company engages in business.

(c) The registered agent for service of process on the Company in the State of Delaware shall be The Corporation Trust Company or any successor as appointed by the Members in accordance with the Act.

(d) Upon the dissolution and completion of the winding up and liquidation of the Company in accordance with Section 11, the Management Committee (and, if necessary or otherwise requested by the Management Committee, the Members) shall promptly execute and cause to be filed certificates of cancellation, statements of intent to dissolve and articles of dissolution in accordance with the Act and the laws of any other jurisdiction(s) in which the Management Committee deems such filing necessary or advisable.

1.7 Title to Property. At all times, the Company shall hold title to all of its Property in the name of the Company and not in the name of any Member. No Member shall have any ownership interest in such Property in its individual name, and each Member's Membership Interests in the Company shall be personal property for all purposes.

1.8 Payments of Individual Obligations. The Company's credit and assets shall be used solely for the benefit of the Company, and no asset of the Company shall be Transferred or encumbered for, or in payment of, any individual obligation of any Member.

1.9 Repayment of Start-Up Funds

The Company shall repay to Watco within six months after the Closing Date the amount of the Start-Up Funds (as defined in the Transaction Agreement) loaned by Watco to the Company. For the avoidance of doubt, such repayments shall constitute repayment of debt and shall not constitute distributions as contemplated by Section 4 hereof.

SECTION 2 CAPITAL CONTRIBUTIONS

2.1 Initial Capital Contributions. Pursuant to the Transaction Agreement and simultaneously with the execution of this Agreement, (a) the Watco Member has made the Capital Contribution described in Section 3.2(a) of the Transaction Agreement and (b) the NS Member has made the Capital Contribution as described in Section 3.3(a) of the Transaction Agreement. The Capital Contributions described in this Section 2.1 are reflected in Exhibit 2.1 hereto.

2.2 Initial Capital Accounts. The Company shall establish an individual Capital Account for each Member. The Company shall determine and maintain each Capital Account in accordance with Regulations Section 1.704-1(b)(2)(iv). The Capital Accounts of the Members as of the date hereof are as reflected in Exhibit 2.2 hereto.

2.3 Withdrawal and Return of Capital. Except as otherwise provided in Section 4 or Section 11, no Member shall be entitled to a return of any of its Capital Contribution without the consent of the other Members, except upon the dissolution or liquidation of the Company to the extent provided in this Agreement. Under circumstances requiring or permitting

a return of any Capital Contribution, no Member shall have the right to receive property other than cash except as may be specifically provided herein.

SECTION 3 ALLOCATIONS

3.1 Profits. After giving effect to the special allocations set forth in Section 3.3, Profits for any Fiscal Year shall be allocated to the Members as follows:

(a) First, Profits shall be allocated to each Member in an amount necessary to offset any previous allocations of Loss to such Member pursuant to Section 3.2 until such Losses are recaptured.

(b) Second, Profits less any amounts allocated under Section 3.1(a) shall be allocated to the Members in proportion to their respective Percentage Interests.

3.2 Losses. After giving effect to the special allocations set forth in Section 3.3 and subject to Section 3.4, Losses for any Fiscal Year shall be allocated to the Members in proportion to their Percentage Interests.

3.3 Special Allocations. The following special allocations shall be made in the following order:

(a) Minimum Gain Chargeback. Except as otherwise provided in Regulations Section 1.704-2(f), notwithstanding any other provision of this Section 3, if there is a net decrease in Company Minimum Gain during any Fiscal Year, each Member shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Members share of the net decrease in Company Minimum Gain, determined in accordance with Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 3.3(a) is intended to comply with the minimum gain chargeback requirement in Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(b) Member Minimum Gain Chargeback. Except as otherwise provided in Regulations Section 1.704-2(i)(4), notwithstanding any other provision of this Section 3, if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any Fiscal Year, each Member who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Section 1.704-2(i)(5) of the Regulations, shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Member's share of the net decrease in Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2).

This Section 3.3(b) is intended to comply with the minimum gain chargeback requirement in Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith.

(c) Qualified Income Offset. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), or 1.704-1(b)(2)(ii)(d)(6), items of Company income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of the Member as quickly as possible, provided that an allocation pursuant to this Section 3.3(c) shall be made only if and to the extent that the Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Section 3 have been tentatively made as if this Section 3.3(c) were not in the Agreement.

(d) Gross Income Allocation. In the event any Member has an Adjusted Capital Account Deficit at the end of any Fiscal Year which is in excess of the sum of the amount such Member is deemed obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 3.3(d) shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit in excess of such sum after all other allocations provided for in this Section 3 have been made as if Section 3.3(c) and this Section 3.3(d) were not in the Agreement.

(e) Nonrecourse Deductions. Except as provided in Section 3.3(i), Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Members in proportion to their respective Percentage Interests.

(f) Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1).

(g) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset, pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Sections 1.704-1(b)(2)(iv)(m)(2) or 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of such Member's interest in the Company, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in accordance with their Percentage Interests in the event Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Member to whom such distribution was made in the event Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

(h) Allocations Relating to Taxable Issuance of a Membership Interest. Any income, gain, loss or deduction realized as a direct or indirect result of the issuance of a Membership Interest by the Company to a Member (the "Issuance Items") shall be allocated among the Members so that, to the extent possible, the net amount of such Issuance Items,

together with all other allocations under this Agreement to each Member shall be equal to the net amount that would have been allocated to each such Member if the Issuance Items had not been realized.

(i) Special Allocations of Depreciation. Subject to Section 3.4, Depreciation shall be allocated between the Members in the following manner:

(A) Depreciation attributable to Property contributed to the Company on the Closing Date by the Watco Member shall be allocated one hundred percent (100%) to the Watco Member;

(B) Depreciation attributable to Property contributed to the Company on the Closing Date by the NS Member shall be allocated one hundred percent (100%) to the NS Member.

(C) Depreciation attributable to all other Property shall be allocated between the Members in proportion to their respective Percentage Interests.

(j) **Special Allocations of Gain from Capital Transactions.** Gain for each item of Property arising from a Capital Transaction (computed by reference to Gross Asset Value) in excess of any gain allocated pursuant to Sections 3.3(a) and (b) above shall be allocated to a Member up to and in proportion to the excess of (i) the amount of Depreciation allocated to the Member pursuant to Section 3.3(i) above, over (ii) the sum of (A) amounts previously allocated to such Member pursuant to this Section 3.3(j), (B) the amount of gain allocated to the Member pursuant to Sections 3.3(a) and (b) above, and (C) such Member's remaining share of Company Minimum Gain and Member Nonrecourse Minimum Gain. Any remaining gain from a Capital Transaction shall be allocated between the Members pursuant to Section 3.1. Gain for tax purposes shall be consistent with the allocations under this Section 3.3(j) and Section 3.6.

(k) **Payments to Members.** If any fees, interest, or other amounts paid to a Member or an Affiliate of a Member pursuant to this Agreement or any other agreement between the Company and such Member or Affiliate providing for the payment of such amounts, and deducted by the Company, whether in reliance upon Section 162, 163, 707(a) or 707(c) of the Code or otherwise, are disallowed as deductions to the Company on its federal income tax return for the Fiscal Year in or with respect to which such amounts are paid and are treated instead as Company distributions, then: (i) there shall be allocated to the Member who received (or whose Affiliate received) such payments an amount of gross income for the Fiscal Year in or with respect to which such fees, interest or other amounts were paid equal to the amount of such fees, interest or other amounts that are so disallowed and treated as Company distributions; and (ii) the Profit or Loss, as the case may be, for the Fiscal Year in or with respect to which such fees, interest, or other amounts were paid shall be increased or decreased, as the case may be, by the amount of such fees, interest, or other amounts that are disallowed and treated as Company distributions. Notwithstanding this provision, the Members may provide in one or more separate agreements for a guaranteed payment as described in Section 707(c) of the Code to a Member.

3.4 Loss Limitation. Losses allocated pursuant to Section 3.2, together with Depreciation allocated pursuant to Section 3.3(i) (the "Items"), shall not exceed the maximum amount of Losses and Items that can be allocated without causing any Member to have an Adjusted Capital Account Deficit at the end of any Fiscal Year. In the event some but not all of the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of Losses and Items pursuant to Section 3.2 and Section 3.3(i), the limitation set forth in this Section 3.4 shall be applied on a Member by Member basis and Losses and Items not allocable to any Member as a result of such limitation shall be allocated to the other Members in accordance with the positive balances in such Member's Capital Accounts (including the adjustment described in subparagraphs (a) and (b) of the definition of "Adjusted Capital Account") so as to allocate the maximum permissible Losses and Items to each Member under Regulations Section 1.704-1(b)(2)(ii)(d). Subsequent Profits shall be specially allocated pursuant to Section 3.1(a) to charge back any Losses and Items disproportionately allocated to the Members pursuant to this Section 3.4, pro rata in accordance with the amount of such excess Losses and Items allocated hereunder and not charged back hereby.

3.5 Other Allocation Rules.

(a) For purposes of determining the Profits, Losses, or any other items allocable to any period, Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Management Committee using any permissible method under Code Section 706 and the Regulations thereunder.

(b) The Members are aware of the income tax consequences of the allocations made by this Section 3 and hereby agree to be bound by the provisions of this Section 3 in reporting their shares of Company income and loss for income tax purposes.

(c) Solely for purposes of determining a Member's proportionate share of the "excess nonrecourse liabilities" of the Company within the meaning of Regulations Section 1.752-3(a)(3), the Members' interests in Company Profits are in proportion to their Percentage Interests.

(d) To the extent permitted by Regulations Section 1.704-2(h)(3), the Management Committee shall endeavor to treat distributions of Net Cash Flow or Net Proceeds from a Capital Transaction as having been made from the proceeds of a Nonrecourse Liability or a Member Nonrecourse Debt only to the extent that such distributions would cause or increase an Adjusted Capital Account Deficit for any Member.

3.6 Tax Allocations; Code Section 704(c).

In accordance with Code Section 704(c) and the Regulations thereunder, income, gain, loss, deduction and credit with respect to any Property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such Property to the Company for federal income tax purposes and its initial Gross Asset Value (computed in accordance with the definition of Gross Asset Value) using the traditional method set forth in Regulations Section 1.704-3(b). In accordance with Section 3.3(i) above and Code Section 704(c) and the

Regulations thereunder, for tax purposes, the depreciation, amortization and other cost recovery deductions attributable to Property contributed to the Company by a Member on the Closing Date shall be allocated one hundred percent (100%) to the contributing Member.

In the event the Gross Asset Value of any Company asset is adjusted pursuant to subparagraph (b) of the definition of Gross Asset Value, subsequent allocations of income, gain, loss, deduction and credit with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the Management Committee in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 3.6 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provisions of this Agreement.

3.7 Revaluation of Capital Accounts.

Capital Accounts shall not be revalued in connection with the Capital Contributions described in section 3.2(a) of the Transaction Agreement that are made subsequent to the Closing Date.]

SECTION 4 DISTRIBUTIONS

4.1 Distributions. Except as otherwise provided in this Section 4 or Section 11, remaining Net Cash Flow and Net Proceeds of a Capital Transaction, if any, shall be distributed upon the approval of the Management Committee, which distribution shall occur at least annually. Any distribution of Net Cash Flow (or otherwise) by the Company not otherwise governed by Section 4.3 or Section 11.2(c) shall be distributed pro rata to the Members in accordance with each Member's Percentage Interest but subject to Section 4.4. Except as provided in this Section 4.1, for distributions of Net Cash Flow occurring within the first Fiscal Quarter of each Fiscal Year, each Member's Percentage Interest shall be the Percentage Interest for the immediately preceding Fiscal Year. For all other distributions of Net Cash Flow not occurring within the first Fiscal Quarter of each Fiscal Year, each Member's Percentage Interest shall be the Percentage Interest for the Fiscal Year in which the distribution occurs. If a distribution of Net Cash Flow occurs in a Fiscal Quarter other than the First Fiscal Quarter but before a Member's Percentage Interest can be objectively determined, the amount of a Member's distribution must be based on a projection of a Member's Percentage Interest for the Fiscal Year in which the distribution occurs using all available data (including prior distributions) and reasonable assumptions derived both from that data and from available information regarding future circumstances. Until each Member has received one or more distributions relating to a given Fiscal Year that equal each Member's objectively determined Percentage Interest in distributions related to such Fiscal Year, any subsequent distribution to each Member must be adjusted in a manner that results in each Member receiving total distributions relating to such Fiscal Year that equals each Member's objectively determined Percentage Interest. Any

distribution of Net Proceeds from a Capital Transaction by the Company not otherwise governed by Section 4.3 or Section 11.2(c) shall be distributed (i) first up to and in proportion to the Member's Adjusted Capital Accounts (after taking into account allocations pursuant to Section 3), and (ii) thereafter pro rata to the Members in accordance with each Member's Percentage Interest but subject to Section 4.4.

4.2 Amounts Withheld. All amounts withheld pursuant to the Code or any provision of any state, local or foreign tax law with respect to any payment, distribution or allocation to the Company or the Members shall be treated as amounts paid or distributed, as the case may be, to the Members with respect to which such amount was withheld pursuant to this Section 4.2 for all purposes under this Agreement. The Company is authorized to withhold from payments and distributions, or with respect to allocations to the Members, and to pay over to any federal, state and local government or any foreign government, any amounts required to be so withheld pursuant to the Code or any provisions of any other federal, state or local law or any foreign law, and shall allocate any such amounts to the Members with respect to which such amount was withheld. The withholdings by the Company referred to in this Section 4.2 shall be made at the appropriate applicable statutory rate under the applicable tax as determined by the Management Committee.

4.3 Limitations on Distributions. The Company shall make no distributions to the Members except (i) as provided by and in accordance with this Section 4 and Section 11 or as agreed to by all of the Members and (ii) in conformance with the Act.

4.4 Distributions and Allocations in Respect of a Transferred Membership Interest. If any Membership Interest is Transferred during any Fiscal Year in compliance with the provisions of Section 9 or Section 10 or additional Members are admitted to the Company after the date hereof on different dates during any Fiscal Year, Profits, Losses, each item thereof, and all other items attributable to the Transferred Membership Interest or the newly issued Membership Interest, as the case may be, for such Fiscal Year shall be divided and allocated among the Members by taking into account their varying Percentage Interests during the Fiscal Year in accordance with Code Section 706(d), using the interim-closing-of-the-books method unless the Members agree otherwise in writing. In the case of a Transferred Interest, all distributions on or before the date of such Transfer shall be made to the transferor, and all distributions thereafter shall be made to the transferee. Solely for purposes of making such allocations and distributions, the Company shall recognize such Transfer not later than the end of the calendar month during which it is given notice of such Transfer, provided that, if the Company is given notice of a Transfer at least ten (10) Business Days prior to the Transfer, the Company shall recognize such Transfer as of the date of such Transfer, and provided further that if the Company does not receive a notice stating the date such Membership Interest (or portion thereof) was Transferred and such other information as the Management Committee may reasonably require within thirty (30) days after the end of the Fiscal Year during which the Transfer occurs, then all such items shall be allocated, and all distributions shall be made, to the Person who, according to the books and records of the Company, was the owner of the Membership Interest on the last day of such Fiscal Year.

SECTION 5
MANAGEMENT

5.1 Management Committee.

(a) *Management by the Management Committee.* Subject to the provisions of this Agreement, the business, property and affairs of the Company shall be managed, and all powers of the Company shall be exercised, by or under the direction of a management committee (the "Management Committee"). Without limiting the generality of the foregoing, but subject to the express limitations set forth elsewhere in this Agreement, the Management Committee shall have all necessary powers to manage and carry out the purpose, business, property and affairs of the Company.

(b) *Composition of Management Committee.* The Management Committee shall consist of five committee representatives, three of whom shall be designated by the Watco Member and two of whom shall be designated by the NS Member and alternates, to serve in the absence or unavailability of a committee representative (each, including alternates, a "Committee Representative"). Each Committee Representative shall serve at the pleasure of the Member or Members who designated such Committee Representative. The initial Committee Representatives are identified in Exhibit 5.1(b) hereto. Any Committee Representative may resign upon written notice to the Member who designated such Committee Representative and to the Company. The resignation of any such Committee Representative shall take effect upon receipt of such notice, or at such later time as shall be specified in such notice. A Committee Representative may be removed at any time with or without cause by the Member who originally designated such Committee Representative. Except as governed by Section 10 for an Event of Default by a Member, any vacancy occurring for any reason in the number of Committee Representatives shall be filled by the Member who originally designated the Committee Representative whose position has become vacant. The Chairman of the Management Committee shall be appointed by the Watco Member.

(c) *Independent Activities.* Except as otherwise restricted by the provisions of this Agreement or any other agreement between the Company and the Person acting as Committee Representative, each Committee Representative in his capacity as a Committee Representative shall be required to devote such time to the affairs of the Company as may be necessary to serve the Company in such capacity and shall be free to serve any other Person or enterprise in any capacity that such Committee Representative may deem appropriate in his discretion.

5.2 Committees of the Management Committee.

(a) *Creation of Committees.* Subject to Section 5.5 and except as otherwise set forth in this Section 5.2, the Management Committee shall have the power and right (but not the obligation) to create and disband committees and to determine the duties, responsibilities, activities and composition thereof. Except as otherwise provided herein, the Watco Member and the NS Member each shall be entitled to representation on any such committee, such representation to be proportionate to their respective Membership Interests.

(b) *Capital Project Committee.* The provisions of Section 5.2(a) notwithstanding, there shall be a Capital Project Committee consisting of three Committee Representatives, two of whom shall be designated by the Watco Member and one of whom shall be designated by the NS Member. The Capital Project Committee shall establish a process (the "Capital Project Process") to determine capacity needs and capital expenditures with respect to Capital Projects. The Capital Project Committee shall be responsible for (i) determining the optimum use of capital expenditures provided for in the Company's Budget (including any Rollover Budget) or Business Plan in accordance with the Capital Project Process and (ii) overseeing the negotiating and entering into any Capital Improvement Agreements. The initial designees to the Capital Project Committee shall be those persons identified in Exhibit 5.2(b)(i) hereto.

5.3 Meetings of Management Committee.

(a) *Notices.* Meetings of the Management Committee shall be held at least once each calendar quarter and may be called by any Committee Representative. All meetings shall be held upon fifteen (15) Business Days' notice by mail or four (4) Business Days' notice delivered personally or by telephone, e-mail or facsimile stating the business to be transacted at such meeting; provided, that at least thirty (30) Business Days' notice shall be provided for any meeting in which approval of any action of the type set forth in clause (x) of the definition of Major Decision is sought. Notice of a meeting need not be given to any Committee Representative who signs a waiver of notice or a consent to holding the meeting (which waiver or consent need not specify the purpose of the meeting) or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior to its commencement, the lack of notice to such Committee Representative. All such waivers, consents and approvals shall be filed with the Company records or made a part of the minutes of the meeting. The Committee Representatives present may adjourn any meeting to another time and place. Notice of any adjourned meeting shall be given to the Committee Representatives who are not present at the time of the adjournment thereof in accordance with the second sentence of this Section 5.3. Meetings of the Management Committee shall be held at the offices of the Company unless another location shall have been designated in the notice of the meeting or at such place as may be approved by the Management Committee. Members of the Management Committee may participate in a meeting through use of conference telephone or similar communications equipment, so long as all Committee Representatives participating in such meeting can hear one another. Participation in a meeting in such manner constitutes presence in person at such meeting. No business other than that stated in the notice shall be transacted at any meeting without the unanimous consent of all of the Committee Representatives. Any Committee Representative may authorize in writing any Person to act for

it by proxy on all matters on which a Committee Representative is entitled to act, including waiving notice of, or voting or participating at, any meeting.

(b) *Quorum.* The presence in person of a majority of the Committee Representatives (at least one of whom shall be a Committee Representative appointed by the NS Member if a Major Decision is to be made) shall constitute a quorum for the transaction of business at a meeting of the Management Committee duly called in accordance with Section 5.3(a).

(c) *Vote.* Each Committee Representative shall have one vote to cast in person or by proxy.

(d) *Action of the Committee.* Except to the extent that this Agreement expressly requires otherwise (including as provided in Section 5.5), every action or resolution done or made by the majority approval of the Management Committee at a duly noticed meeting at which a quorum is present is the action of the Management Committee.

5.4 Action by Unanimous Written Consent. Any action required or permitted to be taken by the Management Committee other than approval of any action of the type set forth in clause (ix) of the definition of Major Decision may be taken by the Committee Representatives without a meeting without prior notice and without a vote, but only if a consent or consents in writing shall be signed by all of the Committee Representatives.

5.5 Major Decisions; Redemption.

(a) Notwithstanding anything to the contrary contained in this Agreement (other than Section 5.10), until such time as the NS Member no longer owns any Membership Interests, neither the Management Committee nor any committee thereof shall authorize or effect any action that constitutes a Major Decision unless such action has received the approval of at least one of the Committee Representatives appointed by the NS Member.

(b) Notwithstanding anything to the contrary contained in this Agreement, the Committee Representatives appointed by the NS Member shall have exclusive authority to effect an exercise of the Redemption Right in the event that Company shall be an Assignee.

5.6 Annual Operating Plan.

(a) The Company shall have an annual operating plan for each Fiscal Year (each such plan an "Annual Operating Plan"), which shall include, at a minimum, the budget (the "Budget") and Business Plan") for the applicable Fiscal Year. Exhibit 5.6 hereto is the Annual Operating Plan for the first Fiscal Year. On or prior to the date which is sixty days before the end of each Fiscal Year, commencing with the Fiscal Year ending December 31, 2007, the Management Committee shall prepare a Budget and Business Plan for the following Fiscal Year. The Annual Operating Plan for the next succeeding Fiscal Year shall, upon approval of the Management Committee in accordance with Section 5.5, become the Annual Operating Plan for such Fiscal Year.

(b) If the Management Committee does not approve an Annual Operating Plan for any Fiscal Year prior to the commencement of such Fiscal Year, then the Annual Operating Plan for such Fiscal Year shall be the Annual Operating Plan from the immediately preceding Fiscal Year (excluding such preceding Fiscal Year's extraordinary and nonrecurring items, but including any contractually obligated or legally required commitments or expenditures for the current Fiscal Year), as the case may be, adjusted upward or downward, in the case of the Budget, based on a percentage equal to fifty percent (50%) of the change from one Fiscal Year to the next Fiscal Year in the RCAFU in a manner consistent with that set forth in the definition of Percentage Interest (as to the Annual Operating Plan, a "Rollover Annual Operating Plan" and, as to the Budget, a "Rollover Budget").

(c) Notwithstanding anything to the contrary set forth herein, the Budget (including any Rollover Budget) and Business Plan for any Fiscal Year shall include and take into account capital expenditures for Pre-Approved Capital Projects (as such term is defined in the Transaction Agreement) allocated to such Fiscal Year.

5.7 Officers. Subject to Section 5.5, the Management Committee shall have the authority to appoint and terminate Officers of the Company and retain and terminate employees, agents and consultants of the Company and to delegate such duties to any such Officers, employees, agents and consultants as the Management Committee deems appropriate, including the power, acting individually or jointly, to represent and bind the Company in all matters, in accordance with the scope of their respective duties, provided that the Management Committee shall appoint the General Manager, whose duties shall include without limitation those duties set forth in Exhibit 5.7 hereto. The setting and modifications of compensation levels (including bonuses and benefits, if any) for any such Officers, employees, agents or consultants shall be set by the approval of the Management Committee in accordance with Section 5.5.

5.8 Exculpation and Indemnification.

(a) Indemnified Persons. The Committee Representatives, the Officers and each Member and its Affiliates, and the partners, members, shareholders, officers, directors, advisory directors, managers, employees and control persons (as such term is defined in the Securities Act) of each Member and its Affiliates (collectively, the "Indemnified Persons") shall not be liable, directly or indirectly, to the Company, any other Member or any other Person who has an interest in the Company for any act or omission (in relation to the Company or this

Agreement) taken or omitted by such Indemnified Person in good faith in their capacity as such, provided that such act or omission did not constitute gross negligence, fraud or willful violation of the law, this Agreement or, subject to Section 5.9(a), a violation of that Person's fiduciary duties to the Company. To the fullest extent permitted by applicable law, the Company shall indemnify and hold harmless each Indemnified Person and may indemnify any other Person subject to approval and designation of such person for such indemnification by approval of the Management Committee against all claims, damages, losses, liabilities and expenses of whatever nature (including reasonable attorneys' fees and disbursements) ("Claims") relating to activities undertaken in connection with the Company in their capacity as such, including, but not limited to, amounts paid in satisfaction of judgments, in compromise or as fines and penalties, and counsel fees and expenses reasonably incurred in connection with the investigation, defense or disposition of any action, suit or other proceeding, whether civil or criminal, before any court or administrative body in which such Indemnified Person may be or may have been involved as a party or otherwise, or with which such Indemnified Person may be or may have been threatened, while acting as such Indemnified Person; provided that no indemnity shall be payable hereunder against any liability incurred by such Indemnified Person by reason of gross negligence, fraud, a willful violation of the law or a breach of this Agreement or, subject to Section 5.9(a), a violation of that Person's fiduciary duties to the Company. No Indemnified Person shall settle or compromise any Claim without the written consent, which consent shall not be unreasonably withheld, of the Management Committee, subject to Section 5.5.

(b) Advance of Expenses. Expenses incurred by an Indemnified Person in defense or settlement of any Claim that may be subject to a right of indemnification hereunder may be advanced (and must be advanced to Members, the Committee Representatives and Officers, if any, of the Company) by the Company prior to the final disposition thereof upon receipt of an undertaking by or on behalf of the Indemnified Person to repay such amount if it shall ultimately be determined that the Indemnified Person is not entitled to be indemnified by the Company.

(c) Non-Exclusivity. The right of any Indemnified Person to the indemnification provided herein shall be cumulative of and in addition to any and all rights to which such Indemnified Person may otherwise be entitled by contract or as a matter of law or equity and shall extend to such Indemnified Person's successors, assigns and legal representatives.

(d) Satisfaction from Company Assets. All judgments against the Company or an Indemnified Person, in respect of which such Indemnified Person is entitled to indemnification, shall only be satisfied from Company assets, and no other Person shall have any liability with respect thereto.

(e) Expenses. The Company is authorized to pay expenses, fees, withholding taxes and other costs reasonably incurred by the Company, including, without limitation, expenses incurred in connection with acquisitions or investments and expenses incurred under this Section 5.8.

5.9 Fiduciary Duty; Exculpation.

(a) Notwithstanding any other provisions of this Agreement, whether express or implied, or applicable law, the Members agree that, to the fullest extent permitted by Section 18-1101(c) of the Act, the NS Member shall not owe any duties at law or in equity (including fiduciary duties) to the Company or any other Member, and that an Indemnified Person who is a NS Committee Representative shall have a fiduciary duty to NSR and not to the Company. Notwithstanding the foregoing, nothing in this Section 5.9 shall eliminate any implied covenant of good faith and fair dealing between any Member and the Company or the other Members.

(b) The provisions of this Agreement, to the extent that they restrict the duties and liabilities of an Indemnified Person otherwise existing at law or in equity, are agreed by the Members hereunder to replace such other duties and liabilities of such Indemnified Person.

5.10 Interparty Matters. Notwithstanding anything to the contrary contained in this Agreement (other than Section 5.5(b)), in the event of any disagreement, dispute or controversy between any Member or any of its Affiliates (other than the Company), on the one hand, and the Company, on the other hand, arising out of or relating to this Agreement or any of the JV Transaction Agreements to which the Company is a party or is subject or the breach, termination or validity thereof, the Committee Representatives designated by the other Member shall control (on behalf of the Company) the conduct or settlement of any such disagreement, dispute or controversy or any proceedings relating thereto.

SECTION 6 ROLE OF MEMBERS

6.1 Rights or Powers. The Members in their capacity as Members shall not have any right or power to take part in the management or control of the Company or its business and affairs or to act for or bind the Company in any way. Notwithstanding the foregoing, the Members have all the rights and powers specifically set forth in this Agreement and, to the extent not inconsistent with this Agreement, in the Act. A Member shall cease to be a Member at the time such Member ceases to own any Membership Interests.

6.2 Voting Rights. No Member has any voting right except with respect to those matters specifically reserved for a Member vote which are set forth in this Agreement and as required in the Act.

6.3 Meetings of the Members.

(a) Meetings of the Members may be called upon the written request of any Member. The call shall state the location of the meeting and the nature of the business to be transacted. Notice of any such meeting, including any meeting that has been adjourned, shall be given to each Member not less than fifteen (15) Business Days (or four (4) Business Days if delivered personally or by telephone, email or facsimile) nor more than forty-five (45) days prior to the date of such meeting. Members may vote in person, by proxy or by telephone at such

meeting and may waive advance notice of such meeting. Whenever the vote or consent of Members is permitted or required under the Agreement, such vote or consent may be given at a meeting of the Members or may be given in accordance with the procedure prescribed in Section 6.3(f). No business other than that stated in the notice shall be transacted at any meeting without the unanimous consent of all of the Members entitled to vote thereat.

(b) For the purpose of determining the Members entitled to vote on, or to vote at, any meeting of the Members or any adjournment thereof, the Management Committee or the Member requesting such meeting may fix, in advance, a date as the record date for any such determination. Such date shall not be more than thirty (30) days nor less than ten (10) days before any such meeting.

(c) Each Member may authorize any Person or Persons to act for it by proxy on all matters in which a Member is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by the Member or its attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Member executing it.

(d) Each meeting of Members shall be conducted by an individual Person selected by the Members holding a majority Membership Interest. Except as otherwise required by law, the presence in person or by proxy of Members holding Membership Interests of more than seventy-five percent (75%) shall constitute a quorum for the transaction of business at a meeting of the Members duly called in accordance with Section 6.3(a). In case a quorum shall not be present at any meeting, Members holding a majority of the Membership Interests held by Members represented thereat, in person or by proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until the requisite number of Members shall be present. After two adjournments for lack of quorum, if written notice has been given to each Member, then the quorum requirement set forth in this Section 6.3(d) for any such adjourned meeting at which no Major Decision (or any other decision that requires the unanimous agreement of the Members, as provided herein) is proposed to be made shall be reduced from seventy-five percent (75%) to fifty-one percent (51%). At any such adjourned meeting at which the requisite number of Members shall be represented, any business may be transacted that might have been transacted at the meeting as originally noticed.

(e) At a meeting, any proposal shall be approved if it receives the affirmative vote of a majority of the Membership Interests unless such a proposal would involve a Major Decision, in which event approval requires an affirmative vote of each of the Members.

(f) Notwithstanding this Section 6.3, any action required or permitted to be taken at any meeting of the Members may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by each Member.

6.4 Required Member Consents. Notwithstanding any other provision of this Agreement, no action may be taken by the Company (whether by the Management Committee,

or otherwise) in connection with any of the following matters without the written consent of all of the Members:

- (a) Any act in contravention of this Agreement; or
- (b) Any transaction to liquidate or dissolve the Company.

6.5 Member Compensation. No Member shall receive any interest, salary or drawing with respect to its Capital Contributions or its Capital Account or for services rendered on behalf of the Company, or otherwise, in its capacity as a Member, except as otherwise provided in this Agreement, any of the JV Transaction Agreements or in another agreement among the Company and a Member that received approval by the Management Committee in accordance with Section 5.5.

6.6 Members' Liability. No Member shall be liable under a judgment, decree or order of a court, or in any other manner for the debts or any other obligations or liabilities of the Company. A Member shall be liable only to make its Capital Contributions and shall not be required to restore a deficit balance in its Capital Account or to lend any funds to the Company or, after its Capital Contributions have been made, to make any additional contributions, assessments or payments to the Company, provided that a Member may be required to repay distributions made to it as provided in Section 4 or the Act. A Committee Representative shall not have any personal liability for the repayment of any Capital Contributions of any Member.

6.7 Partition. While the Company remains in effect or is continued, each Member agrees and waives its rights to have any Company Property partitioned, or to file a complaint or to institute any suit, action or proceeding at law or in equity to have any Company Property partitioned, and each Member, on behalf of itself, its successors and its assigns hereby waives any such right.

6.8 Transactions Between a Member and the Company. Except as otherwise provided by applicable law and the provisions of this Agreement, subject to the Management Committee's approval in accordance with Section 5.5, any Member may, but is not required to, enter into, directly or indirectly, any transaction, agreement, joint enterprise or arrangement, guarantee, loan, advance or investment with the Company provided the same is on an arms length basis and at fair market value. No Member may, without the approval of the other Member, enter into, directly or indirectly, any transaction, agreement, joint enterprise or arrangement, guarantee, loan, advance or investment with the Company other than on an arms length basis and at fair market value. The existence of these relationships and acting in such capacities will not result in the Member being deemed to be participating in the control of the business of the Company or otherwise affect the limited liability of the Member.

6.9 Other Instruments. Each Member hereby agrees to execute and deliver to the Company within five days after receipt of a written request therefor, such other and further documents and instruments, statements of interest and holdings, designations, powers of attorney and other instruments and to take such other action as the Management Committee deems necessary, useful or appropriate to comply with any laws, rules or relations as may be necessary to enable the Company to fulfill its responsibilities under this Agreement.

6.10 Advise of Changes. Each Member hereby agrees to notify the other Members as soon as practicable of any event, circumstance or fact of which it has knowledge which has had, or is reasonably likely to have, a material adverse effect on such Member's ability to fulfill its obligations under this Agreement.

SECTION 7 ACCOUNTING BOOKS AND RECORDS

7.1 Accounting Books and Records.

(a) The Company shall keep on site at its principal place of business, or in such other place as the Management Committee may determine from time to time (which such location shall be immediately communicated to each Committee Representative) each of the following:

(i) Separate books of account for the Company which shall show a true and accurate record of all costs and expenses incurred, all charges made, all credits made and received, and all income derived in connection with the conduct of the Company and the operation of the Business in accordance with this Agreement,

(ii) A current list of the full name and last known business, residence or mailing address of each Member and Committee Representative, both past and present,

(iii) A copy of the Certificate of Formation and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any amendment has been executed,

(iv) Copies of the Company's federal, state, and local income tax returns and reports, if any, until one year after the period of limitations for auditing the return by the federal government or by any applicable state or local government expires,

(v) A copy of this Agreement,

(vi) Copies of any writings permitted or required under the Act regarding the obligation of a Member to perform any enforceable promise to contribute cash or property or to perform services as consideration for such Member's Capital Contribution, and

(vii) Any written consents obtained from Members pursuant to the Act regarding action taken by Members without a meeting.

(b) The Company shall use the accrual method of accounting in preparation of its financial reports and for tax purposes and shall keep its books and records accordingly. Any Member or its designated representative has the right to access and audit, inspect and copy the contents of such books or records and shall also have access during normal

business hours to such additional financial information, documents, books and records as may be reasonably requested (including in order to comply with any reporting requirements of such Member under applicable laws or stock exchange regulations). The rights granted to a Member pursuant to this Section 7.1 are expressly subject to compliance by such Member with the safety, security and confidentiality procedures and guidelines of the Company, as such procedures and guidelines may be established from time to time.

(c) The accounting period of the Company shall be the Fiscal Year.

7.2 Reports. The Company shall cause to be delivered to each Member the financial statements listed in clauses (i) and (ii) below, prepared, in each case (other than with respect to Member's Capital Accounts, which shall be prepared in accordance with this Agreement) in accordance with GAAP consistently applied (and, if required by any Member or its Controlled Affiliates for purposes of reporting under the Exchange Act Regulation S-X), including any reports as may be required in accordance with the Company's or any of its Members' status as a rail carrier, and such other reports, representations and certifications as any Member may reasonably request from time to time, provided that, if the Management Committee so determines within thirty (30) days thereof, such other reports shall be provided at such requesting Member's sole cost and expense. The monthly and quarterly financial statements referred to in clause (ii) below may be subject to normal year-end audit adjustments.

(i) As soon as practicable following the end of each Fiscal Year (and in any event not later than sixty (60) days after the end of such Fiscal Year) the Company shall cause to be delivered to each Member, a balance sheet of the Company as of the end of such Fiscal Year and the related statements of operations, Members' equity and changes therein, and cash flows for such Fiscal Year, together with appropriate notes to such financial statements and, if applicable, supporting schedules, all of which shall be audited and certified by the Auditors, and in each case, to the extent the Company was in existence, setting forth in comparative form the corresponding figures for the immediately preceding Fiscal Year end (in the case of the balance sheet) and the two immediately preceding Fiscal Years (in the case of the statements), and

(ii) As soon as practicable following the end of month (and in any event not later than thirty (30) days after the end of each such month), the Company shall cause to be delivered to each Member, a balance sheet of the Company as of the end of such month and the related statements of operations and cash flows for such month and for the Fiscal Year to date, in each case, to the extent the Company was in existence, setting forth in comparative form the corresponding figures for the prior year's month and Fiscal Year to date.

The periodic statements described in clause (ii) above shall be accompanied by a written certification of the Chief Financial Officer of the Company or such other individual performing a similar function (or any Person designated by the Management Committee in accordance with Section 5.5) that such statements have been prepared in accordance with GAAP consistently applied or this Agreement, as the case may be. The Company and the Management Committee shall also distribute to all Members, at the same time such reports are circulated, delivered or distributed internally, each and every internal management report prepared by, for or

circulated among senior management of the Company relating to the business or financial performance of the Company.

7.3 Tax Matters.

(a) Partnership Status. It is the intent of the Members that the Company be classified as a partnership for U.S. federal, state and local income tax purposes. The Members hereby agree not to elect to be excluded from the application of Subchapter K of Chapter 1 of Subtitle A of the Code or any similar state statute.

(b) Company Tax Returns. The Tax Matters Partner (as defined in Section 7.3(d)) shall prepare (or cause to be prepared) the U.S. federal and state income tax returns and information returns (including, but not limited to, employment tax returns and various Forms 1099) and all other tax and information returns of the Company in a manner consistent with this Agreement. The federal income tax return shall contain an election under Section 6231(a)(1)(B)(ii) of the Code and the regulations thereunder to treat the Company as a partnership to which the provisions of Sections 6221 through 6234 of the Code, inclusive, apply. The Tax Matters Partner shall cause the Company's accountants to prepare and review the necessary federal and state income tax returns and information returns for the Company. Each Member shall provide such information, if any, as may be needed by the Company for purposes of preparing such tax and information returns, provided that such information is readily available from regularly maintained accounting records. On or prior to May 15th of each year, or sooner as applicable, the Tax Matters Partner shall deliver to the other Member for its review a copy of the Company's federal and state income tax returns and information returns in the form proposed to be filed for each Fiscal Year, and shall reasonably consider and take into account all reasonable comments to such proposed tax returns and information returns provided by the other Member at least ten (10) days prior to the filing date for such returns. After taking into account any such comments, the Tax Matters Partner shall cause the Company to timely file such tax returns. Within two (2) Business Days after filing such federal and state income tax returns and information returns related to such federal and state income tax returns, the Tax Matters Partner shall cause the Company to deliver to each Member a copy of the Company's federal and state income tax returns and information returns as filed for each Fiscal Year, together with any additional tax-related information in the possession of the Company that such Member may reasonably and timely request in order to properly prepare its own income tax returns.

(c) Tax Information. The U.S. federal and state income tax returns for the Company (and other tax information if reasonably required by a Member, including a detailed calculation of each Member's Adjusted Capital Account for purposes of section 704(b) of the Code) shall be delivered to each Member as soon as practicable after the end of each Fiscal Year of the Company but not later than five months after the end of each Fiscal Year. Tax information needed by each Member for financial reporting purposes shall be delivered to each Member within three (3) days after the end of each Fiscal Quarter.

(d) Tax Audits.

(i) The Watco Member is hereby designated as the "tax matters partner," as that term is defined in Section 6231(a)(7) of the Code (the "Tax

Matters Partner") of the Company, with all of the rights, duties and powers provided for in Sections 6221 through 6234 of the Code, inclusive. The Tax Matters Partner is hereby directed and authorized to take whatever steps the Tax Matters Partner, in its sole discretion, deems necessary or desirable to perfect such designation, including, without limitation, filing any forms or documents with the IRS and taking such other action as from time to time is required under the Treasury Regulations.

(ii) The Tax Matters Partner, in consultation with the other Member, shall direct the defense of any claims made by the IRS (or by any other taxing authority) to the extent that such claims relate to the adjustment of Company items at the Company level and, in connection therewith, shall cause the Company to retain and to pay the fees and expenses of counsel and other advisors chosen by the Tax Matters Partner with the consent of the other Member. The Tax Matters Partner shall promptly deliver to each other Member a copy of all notices, communications, reports and writings received from the IRS relating to or potentially resulting in an adjustment of Company income tax items, shall promptly advise the other Member of the substance of any conversations with the IRS in connection therewith, and shall keep the other Member advised of all developments with respect to any proposed adjustments which come to its attention. In addition, the Tax Matters Partner shall (A) provide in a timely manner the other Member with a draft copy of any correspondence or filing to be submitted by the Company in connection with any administrative or judicial proceedings relating to the determination of Company items at the Company level reasonably in advance of such submission, (B) incorporate all reasonable changes or comments to such correspondence or filing requested by the other Member and (C) provide the other Member with a final copy of correspondence or filing. The Tax Matters Partner will provide the other Member with notice reasonably in advance of any meetings or conferences with respect to any administrative or judicial proceedings relating to the determination of Company items at the Company level (including any meetings or conferences with counsel or advisors to the Company with respect to such proceedings), and the other Member shall have the right to participate, at its sole cost and expense, in any such meetings or conferences.

(iii) Notwithstanding anything in this Section 7.3, the Tax Matters Partner shall not (A) extend the period of limitations for any tax year for Federal, state, and local income tax purposes, (B) enter into any settlement agreement that is binding upon the Members with respect to the determination of Company items at the Company level, (C) file a petition under Section 6226(a) of the Code for the readjustment of Company items, or (D) appeal any judicial decision with respect to any Company item, without the prior consent of the other Member which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 8 AMENDMENTS

8.1 Amendments. Amendments to this Agreement may be proposed by any Committee Representative or any Member. Following such proposal, the Management Committee shall submit to the Members a verbatim statement of any proposed amendment, and

the Management Committee shall include in any such submission a recommendation as to the proposed amendment. The Management Committee shall seek the written consent of the Members pursuant to Section 6.3(f) on the proposed amendment or shall call a meeting to vote thereon and to transact any other business that it may deem appropriate. A proposed amendment shall be adopted and be effective as an amendment hereto only if it receives the affirmative vote of each of the Members.

SECTION 9 TRANSFERS AND CALL RIGHT

9.1 Restrictions on Transfers. Except as provided in Section 9.2 of this Agreement, no Member shall Transfer all or any portion of its Membership Interest.

9.2 Permitted Transfers. Subject to the conditions and restrictions set forth in Section 9.3, a Member may at any time Transfer all or any portion of its Membership Interest to (a) any Person that (i) is the surviving Person as a result of any merger or consolidation of the NS Parent, Watco or the Watco Parent with or into any such Person or (ii) acquires all or substantially all of the assets of the NS Parent, Watco or the Watco Parent, (b) any other Member, (c) any Wholly-Owned Affiliate of either the NS Parent, Watco or the Watco Parent, (d) any administrator, trustee or other Person to whom such Membership Interest of any Member is transferred involuntarily by operation of law, or (e) subject to the prior written consent of all other Members, any Person (any such Transfer being referred to in this Agreement as a "Permitted Transfer").

9.3 Conditions to Permitted Transfers. A Transfer of a Membership Interest shall not be treated as a Permitted Transfer under Section 9.2 unless and until the following conditions are satisfied:

(a) Except in the case of a Transfer involuntarily by operation of law, the transferor and transferee shall execute and deliver to the Company such documents and instruments of conveyance as may be reasonably necessary or appropriate in the opinion of counsel to the Company to effect such Transfer. In the case of a Transfer of a Membership Interest involuntarily by operation of law, the Transfer shall be confirmed by presentation to the Company of legal evidence of such Transfer, in form and substance satisfactory to counsel to the Company. In all cases, the transferor and/or transferee shall reimburse the Company for all costs and expenses that the Company reasonably incurs in connection with such Transfer.

(b) The transferor and transferee shall furnish the Company with the transferee's taxpayer identification number and any other information reasonably necessary to permit the Company to file all required federal and state tax returns and other legally required information statements or returns. Without limiting the generality of the foregoing, the Company shall not be required to make any distribution otherwise provided for in this Agreement with respect to any transferred Membership Interest until it has received such information.

(c) Except in the case of a Transfer of a Membership Interest involuntarily by operation of law, either (i) such Membership Interest shall be registered under

the Securities Act and any applicable state securities laws or (ii) the transferor shall provide (unless waived by the Management Committee) an opinion of counsel which opinion and counsel shall be reasonably satisfactory to the Management Committee to the effect that such Transfer is exempt from all applicable registration requirements and that such Transfer will not violate any applicable laws regulating the Transfer of securities.

(d) Prior to any such transfer, the Transferee shall deliver to each Member a written commitment from such Transferee to be bound by this Agreement and complies with the applicable provisions of Section 9.6.

(e) The Transferee receives the prior written consent of each other Member if the transfer would cause the Company to terminate under Section 708(b)(1)(B) of the Code and the Regulations thereunder solely as a result of such Transfer.

9.4 Prohibited Transfers. Any purported Transfer of a Membership Interest that is not permitted by the terms of this Agreement shall be null and void and of no force or effect whatsoever; provided that, if the Company is required as a matter of law to recognize a Transfer that is not a Transfer permitted by the terms of this Agreement (unless the Management Committee, in its sole discretion and by unanimous action or consent, elects to recognize a Transfer that is not a Transfer permitted by the terms of this Agreement), the Membership Interest Transferred shall be strictly limited to the transferor's rights to allocations and distributions as provided by this Agreement with respect to the transferred Membership Interest, which allocations and distributions may be applied (without limiting any other legal or equitable rights of the Company) to satisfy any debts, obligations, or liabilities for damages that the transferor or transferee of such Membership Interest may have to the Company.

In the case of a Transfer or attempted Transfer of a Membership Interest that is not a Transfer permitted by the terms of this Agreement, the parties engaging or attempting to engage in such Transfer shall be liable to indemnify and hold harmless the Company and the other Members from all cost, liability, and damage that any such indemnified Person may incur (including, without limitation, incremental tax liabilities, attorneys' fees, fees of experts and accountants, and expenses) as a result of such Transfer or attempted Transfer and efforts to enforce the indemnity granted hereby.

9.5 Rights of Unadmitted Assignees. A Person who acquires a Membership Interest but who is not admitted as a substituted Member pursuant to Section 9.6 shall be entitled only to allocations and distributions with respect to such Membership Interest in accordance with this Agreement, and shall have no right to any information or accounting of the affairs of the Company, shall not be entitled to inspect the books or records of the Company, and shall not have any of the rights of a Member under the Act or this Agreement but shall succeed to all of the obligations of the Member who purported to transfer a Membership Interest in violation hereof, including without limitation the obligation of the transferee under this Section 9 with respect to any subsequent transfers.

9.6 Admission of New and Substituted Members. Subject to the other provisions of this Section 9, a transferee or acquiror of a Membership Interest shall be admitted

to the Company as a new or substituted Member upon satisfaction of the conditions set forth in this Section 9.6:

(a) The Membership Interest with respect to which the transferee is being admitted was acquired by means of a Transfer permitted by the terms of this Agreement.

(b) The transferee of the Membership Interest (other than, with respect to clauses (i) and (ii) below, a transferee that was a Member or a Wholly-Owned Affiliate of a Member prior to the Transfer) shall, by written instrument in form and substance reasonably satisfactory to the Management Committee (and, in the case of clause (iii) below, the transferring Member), (i) make customary representations and warranties to each non-transferring Member as to its due organization, authority to become a party to this Agreement, litigation and required consents, (ii) accept and adopt the terms and provisions of this Agreement, including without limitation this Section 9 and Section 10, and (iii) assume the obligations of the transferring Member under this Agreement with respect to the transferred Membership Interest. Upon unanimous agreement of all Members, a transferring Member transferring all but not less than all of its Membership Interest to any Permitted Transferee shall be released from all such assumed obligations except (x) those obligations or liabilities of the transferring Member arising out of a breach of this Agreement, and (y) in the case of a Transfer to any Person other than a Member or any of its Affiliates, those obligations or liabilities of the transferring Member based on events occurring, arising or maturing prior to the date of Transfer.

(c) A new Member acquiring a Membership Interest from the Company shall by written instrument in form and substance reasonably satisfactory to the Management Committee (i) make representations and warranties to the Members equivalent to those set forth in Section 9.6(b)(i) and (ii) accept and adopt the terms and provisions of this Agreement.

(d) The transferee or acquiree pays or reimburses the Company for all reasonable legal, filing, and publication costs that the Company incurs in connection with the admission of the transferee or acquiree as a Member with respect to the Transferred Membership Interest.

(e) Except in the case of a Transfer involuntarily by operation of law, if required by the Management Committee, the transferee (other than a transferee that was a Member or a Wholly-Owned Affiliate of a Member prior to the Transfer) shall deliver to the Company evidence of the authority of such Person to become a Member and to be bound by all of the terms and conditions of this Agreement, and the transferee and transferor shall each execute and deliver such other instruments as the Management Committee reasonably deems necessary or appropriate to effect, and as a condition to, such Transfer, including amendments to the Certificate of Formation or any other instrument filed with the State of Delaware or any other state or governmental authority. In the event of an involuntary Transfer by operation of law, the transferee shall succeed to all of the obligations of the transferring Member under this Agreement but shall not have any rights (including without limitation rights with respect to Management Committee membership or under Section 9) other than with respect to allocations or distributions under this Agreement.

9.7 Representations Regarding Transfers; Legend. Each Member hereby represents and warrants to the Company and the Members that such Member's acquisition of a Membership Interest hereunder is made as principal for such Member's own account and not for resale or distribution of such Membership Interest. Each Member further hereby agrees that the following legends may be placed upon any counterpart of this Agreement, the Certificate of Formation, or any other document or instrument evidencing ownership of a Membership Interest:

The Membership Interest represented by this document has not been registered under any securities laws and the transferability of such Membership Interest is restricted. Such Membership Interest may not be sold, assigned, or transferred, nor will any assignee, vendee, transferee, or endorsee thereof be recognized as having acquired any such Membership Interest by the issuer for any purposes, unless (1) a registration statement under the United States Securities Act of 1933, _____ as amended, with respect to such Membership Interest shall then be in effect and such transfer has been qualified under all applicable state securities laws or (2) the availability of an exemption from such registration and qualification shall be established to the satisfaction of counsel to the Company; and

The Membership Interest represented by this document is subject to, and is transferable only upon compliance with, the provisions of a limited liability company agreement, dated as of [], 2007. A copy of the above-referenced agreement is on file at the principal office of the Company.

9.8 Redemption Right.

(a) Notwithstanding anything to the contrary herein, the NS Member shall have the right (the "Redemption Right"), but not the obligation, to purchase and redeem the Watco Member's Membership Interest, whether held by Watco or any other person(s), exercisable following: (1) a change in control (as that term is used in 49 U.S.C. § 11321) of the holder of the Watco Member's Membership Interest; (2) the institution of a proceeding before the U.S. Surface Transportation Board or its successor ("STB") seeking or noticing approval, or exemption from the requirement to obtain approval, for the change in control of the holder of the Watco Member's Membership Interest, the Watco Member's Membership Interest or the Company; (3) a ruling by any arbitrator, arbitration panel or court that the work performed by the Company within any portion of the Line must be performed by NSR under the then applicable labor agreements; or (4) any strike or work stoppage which is not enjoined by a court by a preliminary or permanent injunction, which strike or work stoppage arising from, or relates to the consummation or implementation of the Transaction. The Redemption Right may be assigned in whole or in part by the NS Member without limitation (any such assignee an "Assignee"), and, if so assigned, references to "NS Member" in this Section 9.8 shall be deemed to mean any such Assignee as and to the extent the context requires.

(b) The Redemption Right shall be exercised and effective immediately upon the service by the NS Member of written notice of the exercise of the Redemption Right (the date of such service the "Redemption Date") to the holder(s) of the Watco Member's Membership Interest. Only the NS Member, in its sole discretion, shall have the right to determine whether conditions exist that would permit its exercise of the Redemption

Right. As of the Redemption Date, the Watco Member's Membership Interest shall be immediately transferred to the NS Member without requirement of any further action, with the Membership Interest FMV, as defined in Section 9.8(c), to be paid to the holder(s) of the Watco Member's Membership Interest once determined as contemplated by Section 9.8(c).

(c) The amount and type of consideration for the redemption of the Watco Member's Membership Interest (the "Membership Interest FMV") shall be determined by the NS Member and the holder(s) of the Watco Member's Membership Interest following the exercise (and effectiveness) of the Redemption Right. Should the NS Member and the holder(s) of the Watco Member's Membership Interest fail, within thirty (30) days of the Redemption Date, to mutually determine the Membership Interest FMV, either or both of the NS Member and the holder(s) of the Watco Member's Membership Interest may refer the determination to binding arbitration pursuant to the process set forth in Section 12.15 hereof, except as set forth in this Section 9.8. In the event that the matter is referred to arbitration for final determination, any amount of consideration not in dispute shall be paid within the above thirty (30) day period and only the amount in controversy shall be submitted to arbitration. The holder(s) of the Watco Member's Membership Interest shall not have a right to in-kind distribution of the Line in consideration of the redemption, nor shall it or they have the right to compel the Company to liquidate the Line for any reason upon redemption. All payments of the Membership Interest FMV shall be made by wire transfer of immediately available funds to an account or accounts specified by the intended recipients. Upon the request of the NS Member, the Watco Member shall cause the Committee Representatives appointed by it to resign from the Management Committee. The Membership Interest of the Watco Member shall be conveyed to the NS Member subject only to Permitted Liens (as defined in the Transaction Agreement), and: (1) the Watco Member shall be responsible for the payment of all transfer, filing and recording taxes in connection with the exercise of the Redemption Right pursuant to Section 9.8(a)(1) or (2) and the conveyance of the Membership Interest of the Watco Member, and (2) the NS Member shall be responsible for the payment of all transfer, filing and recording taxes in connection with the exercise of the Redemption Right pursuant to Section 9.8(a)(3) or (4) and the conveyance of the Membership Interest of the Watco Member.

(d) Following the exercise of the Redemption Right, the Members shall enter into of a transaction agreement documenting the redemption of the Watco Member's Membership Interest (the "Redemption Agreement") as contemplated by this Section 9.8 and otherwise containing representations, warranties, covenants and indemnities with respect to the Membership Interest of the Watco Member with terms at least as favorable to the NS Member as are set forth in the Transaction Agreement with respect to the Line.

SECTION 10 EVENTS OF DEFAULT

10.1 Events of Default. The following acts shall constitute an Event of Default hereunder:

(a) A Transfer by any Member that is not a Permitted Transfer;

(b) Failure of any Member to materially comply with any material covenant or agreement hereunder in accordance with its terms within thirty (30) days after receipt of notice thereof; or

(c) The Bankruptcy of any Member.

(d) The failure of Watco to pay on the short-term installment note described in Section 3.2(b) of the Transaction Agreement.

10.2 Remedies Upon an Event of Default. If an Event of Default has occurred and is continuing:

(a) The non-defaulting Members may seek specific performance of any covenant or agreement contained herein, or seek to enjoin the breach of any covenant or agreement. It is acknowledged that in such event it would be impossible to measure in money the damages that would be suffered if the parties hereto fail to comply with any of the obligations imposed herein on them and that, in the event of any such failure, an aggrieved party hereto will be irreparably damaged and will not have an adequate remedy at law. In addition to being entitled to exercise all rights granted by law, any such party shall therefore, be entitled to equitable relief from any court having jurisdiction over such dispute, and if any action should be brought in equity to enforce any of the provisions of this Agreement, none of the parties shall raise the defense that there is an inadequate remedy at law; and

(b) Each non-defaulting Member shall be entitled (and in the case of a breach described in Section 10.1(d), on behalf of the Company) to recover from the defaulting Member in an appropriate proceeding any and all claims, damages, losses, liabilities and expenses of whatever nature (including reasonable attorneys' fees and disbursements) (collectively, "Damages") suffered or incurred by the Company or the non-defaulting Members as a result of such Event of Default. No special, exemplary, consequential or punitive damages shall be awarded as a result of an Event of Default hereunder.

(c) If the Event of Default arises from the Bankruptcy of a Member, no less than five (5) Business Days after the commencement of a Bankruptcy proceeding, whether Voluntary or Involuntary, such Member shall provide notice of its offer to sell to all non-defaulting Members (the "Default Sale Notice") all but not less than all of the Membership Interest held by such defaulting Member. Each non-defaulting Member shall have the option within forty-five (45) days of receiving the Default Sale Notice (the "Acceptance Period") to purchase all, but not less than all, of its pro rata share (based on the Membership Interest held by such non-defaulting Member as compared to the total Membership Interest held by all non-defaulting Members) of the Membership Interest offered. The price of the Membership Interest offered by the defaulting Member shall be the Fair Value of such Membership Interest less any Damages incurred by the non-defaulting Member that are recoverable pursuant to Section 10.2(b). If such offer to purchase is accepted, and at least two Members remain, such Bankruptcy shall not be a Dissolution Event.

(d) Each non-defaulting Member shall if it so desires, exercise its rights under Section 10.2(c) by delivering to the defaulting Member written notice of election

(the "Acceptance Agreement") prior to 5:00 p.m., Eastern time, on or before the last day of the Acceptance Period. By delivering the Acceptance Agreement, the non-defaulting Member agrees to purchase, and the defaulting Member agrees to sell, that portion of the defaulting Member's Membership Interest which corresponds to the non-defaulting Member's pro rata share. The Acceptance Agreement shall identify the committed source of financing for such purchase or provide evidence that the non-defaulting Member is able to effect the purchase.

The completion of the sale pursuant to Section 10.2(c) shall occur on a date to be mutually agreed between the defaulting Member and the non-defaulting Member, but in no event later than five (5) Business Days after the latter of (i) the delivery date of the Acceptance Agreement or (ii) the date on which the last of any required regulatory approvals in connection with such transaction is received. All payments of the purchase price for a transaction pursuant to Section 10.2(c) shall be made by wire transfer of immediately available funds to an account or accounts designated by the defaulting Member for such purpose.

(e) If the Event of Default arises from a Transfer that is not a Permitted Transfer, the transferring Member shall take or cause to be taken all action necessary to reverse such Transfer.

(f) In addition to the foregoing remedies, each defaulting Member hereby agrees to indemnify, defend and hold harmless each non-defaulting Member, its Affiliates and their respective partners, officers, directors, agents, representatives, employees and trustees ("Indemnified Parties") from and against all Damages arising out of or related to such Event of Default.

SECTION 11 DISSOLUTION AND WINDING UP

11.1 Dissolution Events. The Company shall dissolve and shall commence winding up and liquidating upon the first to occur of any of the following (each a "Dissolution Event"):

(i) The unanimous vote of the Members to dissolve, wind up, and liquidate the Company; or

(ii) A judicial dissolution under Section 18-802 of the Act.

The Members hereby agree that, notwithstanding any provision of the Act, the Company shall not dissolve prior to the occurrence of a Dissolution Event.

11.2 Winding Up. Upon the occurrence of a Dissolution Event, the Company shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors and Members, and no Member shall take any action that is inconsistent with, or not necessary to or appropriate for, the winding up of the Company's business and affairs, provided that all covenants contained in this Agreement and obligations provided for in this Agreement shall continue to be fully binding upon the Members until such time as the Property has been distributed pursuant to this Section 11.2 and the

Certificate of Formation has been canceled pursuant to the Act. The Liquidator shall be responsible for overseeing the winding up and dissolution of the Company, which winding up and dissolution shall be completed within ninety (90) days of the occurrence of the Dissolution Event. The Liquidator shall take full account of the Company's liabilities and Property and shall cause the Property or the proceeds from the sale thereof, to the extent sufficient therefor, to be applied and distributed, to the maximum extent permitted by law, in the following order:

(a) First, to creditors (including Members and Committee Representatives who are creditors, to the extent otherwise permitted by law) in satisfaction of all of the Company's debts and other liabilities (whether by payment or the making of reasonable provision for payment thereof), other than liabilities for which reasonable provision for payment has been made;

(b) Second, except as provided in this Agreement, to Members and former Members of the Company in satisfaction of liabilities for distribution under the Act;

(c) The balance, if any, to the Members in accordance with their positive Capital Account balances (after taking into account all adjustments thereto for contributions, distributions and allocations for the year of dissolution and all prior periods) to the extent thereof.

Members or Committee Representatives may receive reasonable compensation for any services performed pursuant to this Section 11.

11.3 Compliance With Certain Requirements of Regulations; Deficit Capital Accounts. In the event the Company is "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), and any Member has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all Fiscal Years, including the Fiscal Year during which such liquidation occurs), such Member shall have no obligation to make any contribution to the capital of the Company with respect to such deficit, and such deficit shall not be considered a debt owed to the company or to any other Person for any purpose whatsoever. In the discretion of the Liquidator, a pro rata portion of the distributions that would otherwise be made to the Members pursuant to this Section 11 may be:

(a) Distributed to a trust established for the benefit of the Members for the purposes of liquidating Company assets, collecting amounts owed to the Company, and paying any contingent or unforeseen liabilities or obligations of the Company. The assets of any such trust shall be distributed to the Members from time to time, in the reasonable discretion of the Liquidator, in the same proportions as the amount distributed to such trust by the Company would otherwise have been distributed to the Members pursuant to Section 11.2; or

(b) Withheld to provide a reasonable reserve for Company liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Company, provided that such withheld amounts shall be distributed to the Members as soon as practicable.

11.4 Distributions in Kind. Any non-cash asset distributed to one or more Members shall first be valued at its Fair Value to determine Profit and Loss that would have

resulted if such asset were sold for such value. Such Profit or Loss shall then be allocated to reflect such allocation.

11.5 Rights of Members. In the event of any distribution of Property in accordance with this Section 11, each Member shall have no right or power to demand or receive Property other than cash from the Company, except as specifically provided in this Section 11.5. In the event of any distribution of Property in accordance with this Section 11, NSR shall have the right, but not the obligation, to demand and receive as part of its distribution, the distribution to it or its assignee of the Line as constituted at the time of distribution (the "NSR In-Kind Distribution"), and Watco shall have the right, but not the obligation, to demand and receive as part of its distribution, the distribution to it or its assignee of that portion of Property comprised of locomotive equipment and spare parts (the "Watco In-Kind Distribution"). If the value of the NSR In-Kind Distribution is in excess of the value of the distribution that NSR otherwise would receive pursuant to Section 11.2, NSR may demand and receive the NSR In-Kind Distribution if NSR contributes to the Company an amount equaling the difference between the value of the NSR In-Kind Distribution and the value of the distribution that NSR otherwise would receive pursuant to Section 11.2. If the value of the Watco In-Kind Distribution is in excess of the value of the distribution that Watco otherwise would receive pursuant to Section 11.2, Watco may demand and receive the Watco In-Kind Distribution if Watco contributes to the Company an amount equaling the difference between the value of the Watco In-Kind Distribution and the value of the distribution that Watco otherwise would receive pursuant to Section 11.2. If the assets of the Company remaining after payment or discharge of the debts or liabilities of the Company are insufficient to return the Members' respective Capital Contributions, the Members shall have no recourse against the Company or any other Member or Committee Representative.

11.6 Notice of Dissolution/Termination.

(a) In the event a Dissolution Event occurs, the Management Committee shall promptly, but in no event later than seven (7) days thereafter, provide written notice thereof to each of the Members.

(b) Upon completion of the distribution of the Company's Property as provided in this Section 11, the Company shall be terminated, and the Liquidator shall cause the filing of the Certificate of Cancellation pursuant to the Act and shall take all such other actions as may be necessary to terminate the Company.

11.7 Allocations During Period of Liquidation. During the period commencing on the first day of the Fiscal Year during which a Dissolution Event occurs and ending on the date on which all of the assets of the Company have been distributed to the Members pursuant to Section 11.2 (the "Liquidation Period"), the Members shall continue to share Profits, Losses, gain, loss and other items of Company income, gain, loss or deduction in the manner provided in Section 3.

11.8 Character of Liquidating Distributions. All payments made in liquidation of the interest of a Member in the Company shall be made in exchange for the interest of such Member in Property pursuant to Section 736(b)(1) of the Code, including the interest of such Member in Company goodwill.

11.9 The Liquidator.

(a) Definition. The "Liquidator" shall mean a Person appointed by the unanimous vote of the Members to oversee the liquidation of the Company.

(b) Fees. The Company is authorized to pay a reasonable fee to the Liquidator for its services performed pursuant to this Section 11 and to reimburse the Liquidator for its reasonable costs and expenses incurred in performing those services.

(c) Indemnification. The Company shall indemnify, save harmless, and pay all judgments and claims against such Liquidator or any officers, directors, agents or employees of the Liquidator relating to any liability or damage incurred by reason of any act performed or omitted to be performed by the Liquidator, or any officers, directors, agents or employees of the Liquidator in connection with the liquidation of the Company, including reasonable attorneys' fees incurred by the Liquidator, officer, director, agent or employee in connection with the defense of any action based on any such act or omission, which attorneys' fees may be paid as incurred, except to the extent such liability or damage is caused by the fraud, intentional misconduct of, or a knowing violation of the laws by the Liquidator which was material to the cause of action.

SECTION 12
MISCELLANEOUS

12.1 Notices. Any notice, payment, demand, or communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be deemed to have been delivered, given, and received for all purposes (i) if delivered personally to the Person or to an officer of the Person to whom the same is directed or (ii) when the same is actually received, if sent either by express delivery service or registered or certified mail, postage and charges prepaid and return receipt requested, or by facsimile, if such facsimile is followed by a hard copy of the facsimile communication sent promptly thereafter by registered or certified mail, postage and charges prepaid, addressed as follows or to such other address as such Person may from time to time specify, by notice to the Members and Committee Representatives:

If to the Company: President
 Michigan Central Railway, LLC
 315 W. 3rd Street
 Pittsburg, Kansas 66762

With a copy to the
NS Member and the

Watco Member

If to NS Member: Vice President Planning
Norfolk Southern Railway Company
c/o Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510

With a copy to: Vice President Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510
Facsimile: 757-533-4872

If to the Watco Member: Ed McKechnie
Chief Commercial Officer
Watco Transportation Services, Inc.
315 W. 3rd Street
Pittsburg, Kansas 66762

With a copy to: Watco Transportation Services, Inc.
315 W. 3rd Street
Pittsburg, Kansas 66762
Attention: General Counsel
Facsimile: ()

12.2 Certificates.

(a) Right of the Management Committee to Issue Certificates. If at any time the Management Committee determines that it is in the best interests of the Company to issue certificates attesting to the ownership of Membership Interest in the Company by its Members, the provisions of this Section shall thereafter apply (and prior to such determination by the Management Committee, if any, this Section shall have no force or effect).

(b) Form of Certificates. Certificates attesting to the ownership of interests in the Company shall be in such form as shall be approved unanimously by the Management Committee and shall state that the Company is a limited liability company formed under the laws of the State of Delaware, the name of the Member to whom such certificate is issued and that the certificates represent limited liability company interests within the meaning of the Act. Each such certificate shall be signed by one Committee Representative appointed by the Watco Member and one Committee Representative appointed by the NS Member and shall include the legends referred to in Section 9.7.

(c) Register. The transfer register or transfer books and blank share certificates shall be kept by the Secretary of the Company, if any, or by any transfer agent or registrar designated by the Management Committee for that purpose.

(d) Issuance. The certificates of the Company shall be numbered and registered in the share register or transfer books of the Company as they are issued.

(e) Transfer. Subject to all provisions hereof relating to Transfers of Membership Interest, if the Company shall issue certificates in accordance with the provisions of this Section, Transfers of Membership Interests shall be made on the register or transfer books of the Company upon surrender of the certificate therefor, endorsed by the Person named in the certificate or by an attorney lawfully constituted in writing.

(f) Record Holder. Except to the extent that the Company shall have received written notice of an assignment of a Membership Interest in the Company, the Company shall be entitled to treat the Person in whose name any certificates issued by the Company stand on the books of the Company as the absolute owner thereof, and shall not be bound to recognize any equitable or other claim to, or interest in, such Membership Interest on the part of any other Person.

(g) Lost Destroyed or Mutilated Certificates. The holder of any certificates issued by the Company shall promptly notify the Company of any loss, destruction or mutilation of such certificates, and the Management Committee may cause a new certificate or certificates to be issued to such holder, in case of mutilation of the certificate upon the surrender of the mutilated certificate or, in case of loss or destruction of the certificate, upon satisfactory proof of such loss or destruction and, if the Management Committee shall so determine, the granting of an indemnity and/or the deposit of a bond in such form and in such sum, and with such surety or sureties, as the Management Committee may direct.

12.3 Binding Effect. Except as otherwise provided in this Agreement every covenant, term and provision of this Agreement shall be binding upon and inure to the benefit of the Members and their respective successors, transferees and assigns.

12.4 Time. In computing any period of time pursuant to this Agreement, the day of the act, event or default from which the designated period of time begins to run shall not be included, but the time shall begin to run on the next succeeding day. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which

event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday.

12.5 Headings. Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof.

12.6 Prior Agreements. This Agreement, the JV Transaction Agreements and the Certificate of Formation supersede all prior agreements among the parties hereto, written or oral, with respect to the operation of the Company or the transactions referred to herein and specifically any and all term sheets prepared in respect of such transactions.

12.7 Severability. Except as otherwise provided in the succeeding sentence, every provision of this Agreement is intended to be severable, and, if any term or provision of this Agreement is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Agreement. The preceding sentence of this Section 12.7 shall be of no force or effect if the consequence of enforcing the remainder of this Agreement without such illegal or invalid term or provision would be to cause any Member to lose the material benefit of its economic bargain.

12.8 Incorporation by Reference. Every exhibit and other appendix attached to this Agreement and referred to herein is incorporated in this Agreement by reference unless this Agreement expressly otherwise provides.

12.9 Variation of Terms. All terms and any variations thereof shall be deemed to refer to masculine, feminine, or neuter, similar or plural, as the identity of the Person or Persons may require.

12.10 Waiver. Waiver of any right conferred by this Agreement shall be set forth in writing and shall be signed by the Member whose waiver is intended to be given thereby. Unless otherwise explicitly set forth in such writing, neither waiver of a right conferred by this Agreement by a Member in one instance nor waiver of such right in multiple instances shall be construed as a waiver or relinquishment of such Member's right to assert or rely on such right in the future.

12.11 Counterpart Execution. This Agreement may be executed in any number of counterparts with the same effect as if all of the Members had signed the same document. All counterparts shall be construed together and shall constitute one agreement.

12.12 Third Party Beneficiaries. Except for Indemnified Persons and any Assignee, this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the parties hereto.

12.13 GOVERNING LAW. THE LAWS OF THE STATE OF DELAWARE SHALL GOVERN THE VALIDITY OF THIS AGREEMENT, THE CONSTRUCTION OF ITS TERMS AND THE INTERPRETATION OF THE RIGHTS AND DUTIES ARISING HEREUNDER WITHOUT REGARD TO CONFLICT OF LAWS PROVISIONS.

12.14 Submission to Jurisdiction. Subject to Section 12.15 herein, each of the parties hereto hereby (i) consents to submit itself to the exclusive jurisdiction of any Federal or state court located in the State of Delaware (the "Delaware Courts") in any action to enforce or in aid of the agreement to arbitrate in Section 12.15 herein or for provisional relief to maintain the status quo or prevent irreparable harm pending the appointment of the arbitrators, and to the non-exclusive jurisdiction of the Delaware Courts for enforcement of any award issued hereunder (ii) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, and (iii) waives any objection based on forum non conveniens or any other objection to venue thereof.

12.15 Dispute Resolution.

(a) Except as provided in Section 10.2, all disputes with respect to this Agreement shall be resolved first through discussions among the Members' Committee Representatives, then through discussions between the chief executive officers, or other designated member of the senior management, of each of the Members, in each case seeking a mutually-acceptable consensus resolution. If the Members have not resolved a dispute within thirty (30) days following reference of the dispute to the Members' chief executive officers or other designated member of the senior management, either Member may refer the dispute to binding arbitration before a panel of three independent arbitrators sitting in Washington, D.C., and acting under the American Arbitration Association under its commercial arbitration rules. The decision of a majority of the panel of arbitrators shall be final and conclusive upon the Members. Each Member to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel, and one-half of the compensation, costs and expenses of the three arbitrators and the arbitration filing fees. The arbitrators shall not have the power to award special, consequential or punitive damages or to determine violations of criminal or antitrust laws. Pending the award of the arbitrators, there shall be no interruption in the transaction of business under this Agreement, and all payments in respect thereto shall be made in the same manner as prior to the arising of the dispute until the matter in dispute shall have been fully determined by arbitration, and thereupon such payment or restitution shall be made as required by the decision of the panel of arbitrators.

(b) Temporary Equitable Relief. By agreeing to arbitration, the parties do not intend to deprive any Delaware Court of its jurisdiction to issue a pre-arbitral injunction, pre-arbitral attachment, or other order in aid of arbitration proceedings and the enforcement of any award. Without prejudice to such provisional remedies as may be available under the jurisdiction of a Delaware Court, the arbitral tribunal shall have full authority to grant provisional remedies and to direct the parties to request that any court modify or vacate any temporary or preliminary relief issued by such court, and to award Damages for the failure of any party to respect the arbitral tribunal's orders to that effect.

(c) Consolidation. If one or more disputes arises under this Agreement, such disputes may be brought in a single arbitration. If more than one arbitration is brought with respect to disputes under this Agreement, then any Party may request that any arbitration or any new dispute arising under this Agreement be consolidated into any prior arbitration. The new dispute or arbitration shall be so consolidated, provided that the arbitral tribunal for the prior (or first filed) arbitration determines that (i) the new dispute or arbitration presents significant issues of

law or fact common with those in the pending arbitration; (ii) no Party would be unduly prejudiced and (iii) consolidation under such circumstances would not result in undue delay for the prior arbitration. Any order of consolidation issued by such arbitral tribunal shall be final and binding upon the parties. Unless the parties otherwise agree, the arbitral tribunal appointed first in time shall serve as the arbitral tribunal for the consolidated arbitration. The Parties waive any right they have to appeal or to seek interpretation, revision or annulment of such order of consolidation under the Rules or in any court. The Parties agree that upon such an order of consolidation, they will promptly dismiss any arbitration brought under this Agreement, the subject of which has been consolidated into another arbitral proceeding.

(d) Baseball Arbitration.

In the event that the NS Member exercises the Redemption Right, and either or _____ both the NS Member and the holder(s) of the Watco Member's Membership Interest refer, pursuant to Section 12.15(a) of this Agreement, the determination the consideration for the redemption to arbitration, then the Members shall engage in so-called "Baseball Arbitration" to set the consideration of the redemption. All parties entitled, or purportedly entitled, to consideration shall be given notice by the party or parties referring the determination to arbitration. Within thirty (30) days of the issuance of notice of the reference to arbitration, each party shall submit to the arbitrators and to the other party(ies) a written proposal embodying its last best offer for agreement concerning consideration, including detailed information concerning the timing of, method of payment for, and any conditions or contingencies to the payment of that consideration. The parties shall have an additional fourteen (14) day period to discuss the proposals in order to reach agreement. The arbitrators shall not be a party to said discussions. At the conclusion of the fourteen (14) day period, the parties, or any one of them, shall notify the arbitrators whether the parties have reached a mutual agreement. The arbitrators shall, within three (3) days, render a decision selecting, without modification, one of the written proposals and shall promptly submit such decision to the parties.

12.16 Confidentiality. Any information obtained by any Member, its respective Affiliates and respective employees in connection with this Agreement or the JV Transaction Agreements shall be subject to the confidentiality provision set forth in Section 10.2(a) of the Transaction Agreement. Notwithstanding anything to the contrary, any Member may disclose this Agreement in connection with an audit by its external auditors, the Internal Revenue Service, or other tax authority.

IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as of the day first above set forth.

NORFOLK SOUTHERN RAILWAY COMPANY
a Virginia corporation

By: _____

Name:

Title: _____

WATCO TRANSPORTATION SERVICES, INC.
a Kansas corporation

By: _____

Name:

Title:

EXHIBIT A

The Line

Segment	Description	Milepost Limits	Segment Length (miles)
Elkhart - Grand Rapids	Kalamazoo Branch	KH 1.4 – 27.4 FB 27.3 - FB 100.6	99.3
Elkhart - Grand Rapids	Airline Extension (@ Three Rivers)	AZ 69.6 – 70.4	0.8
Elkhart - Grand Rapids	Quincy Secondary (@ White Pigeon)	QY 421.2 – 421.3	0.1
Grand Rapids	Hughart RT (@Grand Rapids)	FB 100.6 - 102.3	1.7
Grand Rapids	Kalamazoo IT (Grand Rapids)	KZ 94.25 - 95.0	0.8
Grand Rapids	Plainwell IT	OW 66.6 – 70.24	3.6
Grand Rapids	Hastings RT (@Grand Rapids)	XH 88.1 – 92.4	4.3
Grand Rapids	Comstock IT	VW 106 – 106.9	0.9
Lansing Branch	Lansing Secondary	LZ 0 – 36.8	36.8
Lansing Branch	Meadows IT (@ Lansing via CSXT)	LZ 38 – 38.3	0.3
Lansing Branch	Lansing IT (@Lansing via CSXT)	UA 60.7 - 61.4	0.7
Lansing Branch	Lansing Manufacturers RR	XF 0 – 5.1	5.1
Lansing Branch	Lansing IT (@Lansing)	XM 57.1 – 58.9	1.8
Michigan Line	Michigan Line	MH 28.0 – 119.5 MH 121.4 – 143.3	113.4
Michigan Line – Albion	Lansing IT (@Albion)	VP 21.6 - 23.4	1.8
Michigan Line – Jackson	Jackson IT (@Jackson)	JJ 96.5 - 97.4	0.9
Michigan Line – Jackson	Northern IT (@Jackson)	VJ 0.7 – 4.2	3.5
Michigan Line – Kalamazoo	CK&S IT (@Kalamazoo)	CQ 42.7 - CQ 43.9 IJ 44.3 – 44.7	1.6
Michigan Line – Kalamazoo	B O Secondary (@Kalamazoo)	KY 0 – 3.2	3.2
Michigan Line – Kalamazoo	Upjohn Secondary (@Kalamazoo)	UP 0 – 6.7	6.7
Amtrak Line	Niles IT (@Niles)	QQ 0.5 - 1.0	0.5
Michigan Line -Battle Creek	Old Moscow Branch (@ Battle Creek)	VU 0 – 1.6	1.6
Trackage rights over CN	Baron – Gord (@Battle Creek)	176.7 – 175.5	1.2
Trackage rights over CSXT	CP MA – CP North Lansing – CP Grand @ Lansing	LZ 36.8 – 37.9	1.1

Trackage rights over CSXT	CP North Lansing – Turner St. (Ensel Yard) (@ Lansing)	0.0 – 2.2 HZ	2.2
Trackage rights over CSXT	Pleasant Avenue – Fuller Jct. @ Grand Rapids	0.0 – 1.0 M9	1.0
Local Trackage rights over Amtrak (MP 143.3 – 145.1 leased to Amtrak)	Kalamazoo – MI/IN State Line	143.3 – 222.8	79.5
Line leased to CSXT @ Grand Rapids	Plaster Mill Spur	YV 232.4 – 232.8	0.4
Line Leased to CN @ Kalamazoo	Pavilion Jct. (Kalamazoo) – Pavilion, MI	9.5 – 0.4	9.1
		Total Miles:	384.0

Exhibit 2.2

Capital Accounts of the Members

<u>Member</u>	<u>Capital Account</u>
Watco Member	\$
NS Member	\$

Exhibit 5.1(b)

Initial Committee Representatives

Exhibit 5.2(b)(i)

Initial Members of Capital Project Committee

Exhibit 5.6

Annual Operating Plan for First Fiscal Year

Exhibit 5.7

General Manager Duties

The General Manager shall, without limitation:

1. ensure sufficient staffing and personnel to assist the General Manager as appropriate to assure the safe, timely and efficient operations of the Line;
2. hire, supervise, terminate or discipline employees of the Company and enter into negotiations with representatives as may be required by the Railway Labor Act;
3. negotiate, revise and modify tariffs and rates and perform all customer service functions for customers and with interline railroads;
4. obtain all legal services on behalf of the Company, either through in-house counsel or outside counsel;
5. act as liaison with customers, other rail carriers, service providers, vendors and other third parties;
6. identify available grants and governmental subsidies available to the Company and the Line, and take all steps necessary to attempt to obtain the same for the Company and the Line pursuant to authority granted by the Management Committee;
7. create a marketing and sales program, which shall be submitted to the Management Committee for approval;
8. expeditiously implement said marketing and sales program;
9. develop and supervise a maintenance schedule for equipment and rolling stock, bridges, track and related structures; maintain the Line and other capital assets of the Company for safe and efficient rail operations;
10. track (via EDI) daily railcars, provide all accounting and other financial support functions for day-to-day operations such as payroll, billings, accounts receivable; accounts payable, interchange reports, dispatch reports, demurrage, inbound and outbound freight, reports to the Federal Railroad Administration and other regulators, employee attendance and payroll records, car hire/reclaim, financial reports necessary to comply with independent auditor's review, and other reports from time to time as may be necessary or desirable;
11. draft and submit all filings, notices, submissions, reports, tax documents, and other similar documents that may be necessary or desirable;
12. represent the Company before Federal, state and local governments; and
13. maintain such insurance (including FELA Employer's Liability) as is necessary and appropriate for the railroad operations contemplated over the Line.

Appendix E –Joint Use Agreement

CONFIDENTIAL
JOINT USE AGREEMENT

THIS AGREEMENT (the "Agreement") is entered into as of this ____ day of _____, 2007, by and between Michigan Central Railway, LLC ("Landlord"), a Delaware limited liability company, and Norfolk Southern Railway Company, a Virginia corporation ("NSR"). Landlord and NSR are referred to individually herein as a "Party" and collectively as the "Parties".

RECITALS:

WHEREAS, on [_____], 2007, NSR, Watco Transportation Services, Inc. ("Watco"), and Landlord have entered into a transaction agreement (the "Transaction Agreement") that, among other things, provides generally for the transfer, subject to the retention of certain rights, from NSR to Landlord of the Subject Trackage, as defined in the Transaction Agreement; and

WHEREAS, NSR currently uses the Subject Trackage to interchange directly with three short line companies with which it has a handling line relationship, specifically the Michigan Southern Railroad Company ("MSO"), the Grand Rapids Eastern Railroad ("GRE"), and the Mid-Michigan Railroad ("MMR", and, together with MSO and GRE, the "Three Handling Lines"); and

WHEREAS, NSR currently uses the Subject Trackage to reach an intermediate switch location for a CSX Transportation, Inc. ("CSXT") intermediate switch of traffic between NSR and Marquette Rail LLC ("Marquette"); and

WHEREAS, NSR currently performs haulage services for the movement between White Pigeon, MI and Fort Wayne, IN of traffic ("MSO Haulage Traffic") in the revenue account of MSO between MSO and CSX Transportation, Inc. ("CSXT") pursuant to an agreement between NSR and MSO, dated as of June 1, 1999, and having a term of ninety-nine (99) years for the transport of traffic in MSO's revenue waybill account to be interchanged with CSX Transportation, Inc. (the "MSO Haulage Agreement"); and

WHEREAS, Landlord desires to provide, and NSR desires to receive, haulage services ("Haulage Services") for the movement of MSO Haulage Traffic and other traffic in NSR's revenue waybill account bridged between NSR and one of the Three Handling Lines, or between NSR and Marquette; and

WHEREAS, pursuant to the Transaction Agreement, NSR retains the right to serve, pursuant to trackage rights, General Motors at Grand Rapids and Lansing, MI, (as well as any subsequent occupant(s) of the General Motors property at Grand Rapids and Lansing, MI, the "GM Property") and Holt RSDC at Holt, MI (as well as any subsequent occupant(s) of such property, the "Holt Property"), but although the Parties intend for the trackage rights to be immediately effective, the Parties desire the trackage rights to be exercisable with respect to the

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GM Property or the Holt Property only upon the occurrence of a Service Standard Failure, as hereinafter described; and

WHEREAS, the Parties desire to set forth the terms and conditions upon which Landlord shall provide such Haulage Services, and upon which Landlord shall grant such Trackage Rights, to NSR; and

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

SECTION 1. DEFINITIONS AND INTERPRETATION

(a) Interpretation Generally.

(i) Unless otherwise defined herein, all words, terms and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.

(ii) Each definition in this Agreement includes the singular and the plural, and references in this Agreement to the neuter gender include the masculine and feminine where appropriate. References herein to any agreement or contract mean such agreement or contract as amended. As used in this Agreement, the word "including" means "without limitation", and the words "herein", "hereof" and "hereunder" refer to this Agreement as a whole. All dollar amounts stated herein are in United States currency.

(iii) The Party from which traffic will be received shall be referred to as the "delivering carrier" and the Party to which traffic is delivered shall be referred to as the "receiving carrier." A "train" consists of at least one locomotive connected to at least one Interchange Car.

(b) Capitalized Terms.

In addition to terms and words defined in this Agreement, the following capitalized terms shall have the defined meaning set forth below:

"AAR" shall mean the Association of American Railroads, or any successor organization.

"Cars" means each loaded or empty railroad freight car (including platform and well rail cars) or similar equipment, each of which will be referred to as a **"Car."**

"Equipment" shall mean and be confined to hi-rail vehicles, track inspection equipment and other non-revenue vehicles and machinery (other than locomotives) capable of being operated on railroad tracks that, at the time of an occurrence, are (i) being operated on the trackage upon which such occurrence takes place, or (ii) are on the trackage upon which such

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occurrence takes place, or on the adjoining right-of-way, for the purpose of maintenance or repair thereof or the clearing of wrecks thereon.

“Foreign Railroad” shall mean a railroad that is not a party to this Agreement.

“Governmental Entity” shall mean any federal, state, local or foreign court, administrative agency or commission or other governmental or regulatory authority or commission or any arbitration tribunal.

“Landlord’s Cars,” except when used in Section 8 hereof, shall mean Cars and Equipment in the revenue and/or car hire account of Landlord or a Foreign Railroad.

“Landlord’s Equipment,” except when used in Section 8 hereof, mean Equipment operated by or in the account of Landlord or a Foreign Railroad.

“NSR Cars” shall mean Cars and Equipment in the revenue and/or car hire account, inclusive of NSR.

“NSR Haulage Cars” shall mean NSR Cars being transported pursuant to NSR Haulage Rights.

“NSR Transportation Agreement” shall mean a Transportation Agreement involving NSR.

“Rule 11 Rate” shall mean any rate whereby NSR separately bills and collects from the customer for its portion of the transportation.

“STB” shall mean the Surface Transportation Board or any successor entity thereto.

“Third Party Traffic” shall mean freight rail service provided for a Foreign Railroad.

“Track Geometry Vehicle” shall mean Equipment or non-revenue Car that inspects track gage, surface, alignment or other physical attributes of track or clearances, generally in order to locate problematic conditions that are difficult to detect using conventional methods such as visual inspection.

“Transportation Rate” shall mean a transportation rate in whatever form, including without limitation a joint line rate, a proportionate rate, a Rule 11 Rate or a haulage rate, inclusive of any rebates or refunds to any person or party.

“Transportation Agreement” shall mean an agreement, whether a signatory agreement, rate quote or other form of agreement, providing for a Transportation Rate for the movement of loaded or empty rail cars between locations.

(c) Successor Laws.

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A reference to any particular statute or regulation shall include a reference to any successor statute or regulation.

(d) Railroad Industry.

All words, terms and phrases used in this Agreement, and not otherwise defined, shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.

SECTION 2. TRACKAGE RIGHTS

(a) Grant of Trackage Rights.

On the terms and subject to the conditions herein provided, Landlord hereby grants to NSR the right to operate its trains, locomotives, cars and Equipment with its own crews (such rights being referred to hereinafter as the "Trackage Rights") over the following Landlord's railroad lines (the "Subject Trackage"), generally as depicted on Appendix A - Map to this Agreement, and more specifically stated as follows:

- Between Milepost KH 1.4 at Elkhart, IN and Milepost KH 27.4 at Three Rivers, MI;
- Between Milepost FB 27.3 at Three Rivers and Milepost FB 101.5 at Grand Rapids, MI;
- Between Milepost KY 0.0 at Gibson, MI and Milepost KY 0.3 at CP BO in Kalamazoo, MI;
- Between Milepost MH 143.03 at CP BO in Kalamazoo, MI and Milepost MH28 at CP Ypsi; and
- Between Milepost LZ 0.0 at Jackson, MI and Milepost LZ 35.0 at Holt, MI.

(b) Use of the Subject Trackage.

(i) NSR shall have the right, but not the obligation, to exercise trackage rights in the event of a Major Service Standard Failure, as determined in a manner as set forth in Section 5(d).

(ii) NSR's use of Subject Trackage shall be in common with Landlord, and, other than explicitly set forth herein, Landlord's right to use the Subject Trackage shall not be diminished by this Agreement.

(iii) NSR may operate trains in either direction over the Subject Trackage.

(iv) NSR may use the trackage rights granted herein solely for the purposes of moving empty and loaded cars between a point of connection between NSR and Landlord (in each case, the respective Party's rail lines or rights) near Willow Run, MI and Elkhart Yard, IN, on the one hand, and the GM Property or the Holt Property, on the other hand.

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(v) NSR locomotives and crews operating over the Subject Trackage shall be equipped to communicate with Landlord on radio frequencies normally used by Landlord in directing train movements on the Subject Trackage.

(vi) NSR's operations over the Subject Trackage shall at all times be subject to the direction and control of Landlord's operating officer in charge of the Subject Trackage and to applicable provisions of Landlord's safety and operating rules.

(c) Restrictions on Use.

(i) Except as may otherwise be permitted by this Agreement, NSR shall not use any part of the Subject Trackage for the purpose of switching, storage or servicing cars or Equipment, or the making or breaking up of trains, except as necessary for the handling of locomotives or cars bad ordered en route, provided, that NSR shall use such auxiliary Subject Trackage as may be designated by Landlord for such purposes.

(ii) NSR may not, pursuant to this Agreement, grant haulage rights or trackage or other operating rights of any nature on the Subject Trackage to other parties.

(d) Training of NSR Crews.

NSR shall make such arrangements with Landlord as may be required to have all of its employees who shall operate its trains, locomotives, cars and Equipment over the Subject Trackage qualified for operation thereover. Landlord shall provide reasonable cooperation and assistance in the qualification of NSR operating (train and engine) crews for service over the Subject Trackage upon receipt of the Trackage Rights Notice. NSR shall pay to Landlord, upon receipt of bills therefor, any cost incurred by Landlord in connection with the qualification of such employees of NSR, as well as the cost of pilots furnished by Landlord, until such time as such NSR employees are deemed by the appropriate examining officer of Landlord to be properly qualified for operation as herein contemplated. NSR supervisory personnel who have been qualified to operate over the Subject Trackage by an appropriate examining officer of Landlord may qualify other NSR employees for operation of trains over the Subject Trackage.

(e) Compensation.

NSR shall compensate Landlord for the use of the Subject Trackage pursuant to this Section 2 in accordance with Appendix B – Trackage Rights Compensation.

(f) Mileage and Car Hire.

All mileage and car hire charges accruing on cars in NSR's trackage rights trains on the Subject Trackage shall be assumed by NSR and reported and paid by it directly.

SECTION 3. HAULAGE SERVICES

(a) Haulage Services Generally.

(i) Landlord shall provide, upon request by NSR, the "Haulage Services," which shall consist of, as applicable, (i) the transportation of rail cars; (ii) movement of bad order NSR Haulage cars and MSO Haulage Cars to or from repair tracks, provided, that NSR will be billed separately for repairs to such Equipment performed by Landlord pursuant to Section 3(b)(vi) of this Agreement; (iii) such mechanical or other inspection of NSR Haulage Cars as may be prescribed by regulation or Landlord's operating practices; (iv) provision of supervision as required; and (v) the physical interchange of traffic with NSR, all for the purposes of the movement of loaded and empty cars between an interchange between NSR and Landlord in Elkhart Yard, on the one hand, and: (1) an interchange between Landlord and one of the Three Handling Lines, and (2) an interchange between Landlord and CSXT as intermediate switcher between Landlord and Marquette, on the other hand.

(ii) Landlord shall provide NSR Haulage Cars and MSO Haulage Cars substantially the same type and levels of service for the protection of freight (such as inspections, other than 1000-mile inspections, load shifting and security) as Landlord does for Landlord's traffic.

(iii) NSR Haulage Cars shall at all times remain in the revenue waybill and car hire accounts of NSR while moving in Haulage Service on Landlord's lines. MSO Haulage Cars shall at all times remain in the revenue waybill and car hire accounts of MSO while moving in Haulage Service on Landlord's lines. Landlord shall not be entitled to any line haul revenue for the handling of NSR Haulage Cars or MSO Haulage Cars, nor shall Landlord participate in the routing of, nor appear in tariffs, waybills or other shipping documents as a participating carrier in connection with, the movement of NSR Haulage Cars or MSO Haulage Cars. As between Landlord and NSR, NSR shall be responsible for all mileage and car hire charges accruing on NSR Haulage Cars and MSO Haulage Cars (although the Parties recognize that, as between NSR and MSO and pursuant to the MSO Haulage Agreement all mileage and car hire charges accruing on MSO Haulage Cars shall be the responsibility of MSO), and NSR shall report and pay, or arrange to have reported and paid, all appropriate allowances and charges directly to the owner(s) of such cars.

(b) Management and Operations.

(i) For Haulage Services between NSR and MSO, Landlord shall deliver to NSR, and NSR shall deliver to Landlord, NSR Haulage Cars and MSO Haulage Cars in Elkhart Yard, IN, and Landlord shall deliver to MSO, and receive from MSO, NSR Haulage Cars and MSO Haulage Cars in White Pigeon, MI, in each case on such track(s) as shall be designated from time to time by local operating personnel or other designated representative in charge of such track(s).

(ii) For Haulage Services between NSR and GRE, Landlord shall deliver to NSR, and NSR shall deliver to Landlord, NSR Haulage Cars in Elkhart Yard, IN, and Landlord shall deliver to GRE, and receive from GRE, NSR Haulage Cars in Grand Rapids, MI, in each case on such track(s) as shall be designated from time to time by local operating personnel or other designated representative in charge of such track(s).

(iii) For Haulage Services between NSR and MMR, Landlord shall deliver to NSR, and NSR shall deliver to Landlord, NSR Haulage Cars in Elkhart Yard, IN, and Landlord shall deliver to MMR, and receive from MMR, NSR Haulage Cars in Grand Rapids, MI, in each case on such track(s) as shall be designated from time to time by local operating personnel or other designated representative in charge of such track(s).

(iv) For Haulage Services between NSR and Marquette, Landlord shall deliver to NSR, and NSR shall deliver to Landlord, NSR Haulage Cars in Elkhart Yard, IN, and Landlord shall deliver to CSXT, and receive from CSXT, in each case as intermediate switcher, NSR Haulage Cars in Grand Rapids, MI, in each case on such track(s) as shall be designated from time to time by local operating personnel or other designated representative in charge of such track(s).

(v) NSR and Landlord shall provide to the other, via EDI transmission (or by such other means as may be mutually agreed by the Parties), information necessary for the further handling and movement of NSR Haulage Cars and MSO Haulage Cars that are delivered by one Party to the other Party. Landlord shall provide this information to each of MSO, GRE and MMR for all NSR Haulage Cars and MSO Haulage Cars that are to be interchanged with the same. NSR shall attempt to cause each of the Three Handling Lines to provide this information to Landlord for NSR Haulage Cars and MSO Haulage Cars that each interchange with Landlord. Such information shall include, for each car:

(A) Car initial and number.

(B) Loaded or empty.

(C) All required hazardous materials information.

(D) Such other information as Parties may agree to be necessary or convenient for the safe and efficient exchange and further movement of such cars.

(v) Landlord shall have exclusive management and control over the movement of trains containing NSR Haulage Cars and MSO Haulage Cars while on Landlord's lines.

(vi) Landlord may arrange for such repairs to NSR Haulage Cars, and adjustments to or transfers of lading from bad ordered, defective or overloaded NSR Haulage Cars, as in Landlord's judgment may be necessary to move such NSR Haulage Cars safely. NSR shall reimburse Landlord for the cost of such work at rates prescribed

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in, and submitted pursuant to, the Field and Office Manuals of the Interchange Rules of the Association of American Railroads.

(c) Compensation.

NSR shall compensate Landlord for the provision of Haulage Services pursuant to this Section 3 in accordance with Appendix C – Haulage Compensation

SECTION 4. MAINTENANCE AND INFRASTRUCTURE

(a) Landlord shall be solely responsible for the maintenance, repair and renewal of the Subject Trackage. Landlord shall keep and maintain the Subject Trackage in reasonably good condition for the use herein contemplated, but Landlord does not guarantee the condition of the Subject Trackage or that operations thereover will not be interrupted. Landlord shall take reasonable steps to ensure that any interruptions will be kept to a minimum and shall use commercially reasonable efforts to avoid such interruptions.

(b) Existing connections or facilities, which are jointly used by the Parties hereto under existing agreements, shall continue to be maintained, repaired and renewed by and at the expense of the party or parties responsible for such maintenance, repair and renewal under such agreements.

(c) Landlord, from time to time and at its sole cost and expense, may make changes in, additions and betterments to, or retirements from, the Subject Trackage as shall, in its judgment, be necessary or desirable for the economical or safe operation of the Subject Trackage or as shall be required by any law, rule, regulation, or ordinance promulgated by any Governmental Entity having jurisdiction, provided that no such retirement shall materially affect operations over the Subject Trackage. Such additions and betterments shall become a part of the Subject Trackage and such retirements shall be excluded from the Subject Trackage.

(d) NSR may request facility changes, additions and betterments to the Subject Trackage. NSR and Landlord in good faith shall determine the proportion of benefit to each of them of facility changes, additions and betterments proposed by NSR and if such determination can be agreed to by NSR and Landlord, each of them shall bear their proportionate cost of such facility changes, additions and betterments. If Landlord, in the exercise of its best business judgment, determines that its proportionate benefit from any such facility change, addition or betterment is less than the amount of the cost thereof which NSR believes should be borne by Landlord, Landlord shall nonetheless make such facility change, addition or betterment at NSR's cost and expense if requested in writing by NSR.

SECTION 5. MANAGEMENT OF THE SUBJECT LINE

(a) Management and Operations.

(i) Landlord shall have exclusive control of the management and operation (including dispatching) of the Subject Trackage. Operation and control, including

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dispatching, of the Subject Trackage shall be conducted in a manner as to afford each of the Parties, and any other present or future user of the Subject Trackage (or any portion thereof) the most economical and efficient movement of its traffic over the line.

(ii) For the purposes of dispatching, NSR's trains and Landlord's trains of the same class, shall be treated with equal priority, with the four (4) classes of trains being:

(A) Premium intermodal such as UPS;

(B) Other intermodal and automotive;

(C) General Merchandise (all freight trains and solid trains not scheduled to set off/pick up en route); and

(D) Other (includes trains and Equipment that must operate at restricted speeds, i.e., local, work, or other such Equipment movements);

provided, that in the event of a conflict, the Landlord dispatcher shall be empowered to employ best practices to efficiently move all trains.

(b) The maximum length of NSR trains (including locomotives and other motive power units) operating pursuant to this Agreement, whether pursuant to Section 2 or Section 3, shall be the maximum length of Landlord's trains permitted over the Subject Trackage.

(c) Loss of Use of the Line.

(i) Other than as specifically set forth in this Agreement, NSR shall not have, pursuant to this Agreement, any claim against Landlord for liability on account of loss or damage of any kind in the event the use of the Subject Trackage by NSR is interrupted or delayed at any time from any cause.

(ii) If the Subject Trackage is unavailable for service due to a derailment, line outage or other interruption of service, then Landlord shall cooperate and consult with NSR in order to address any resulting backlog of trains over a period of time following the resolution of such derailment as may be required to reduce such backlog of NSR traffic or trains.

(d) Service Standards.

(i) There is hereby established a committee (the "Service Standards Committee") which shall consist of the President of Landlord and the Division Superintendent of NSR's Dearborn Division.

(ii) The Service Standards Committee shall develop a Report Card for service performance on the Landlord's lines. The term "Report Card" shall mean a report that:
(A) sets forth train schedules (including departure schedules) for trains moving pursuant to this Agreement and, in the case of service to the GM Property and the Holt Property,

trains moving in interline service to the GM Property and the Holt Property; and (B) defines and sets standards for haulage service performed by Landlord for NSR, and for interline service to the GM Property and the Holt Property, including, at a minimum, crew availability, adherence to and deviation from departure schedules, and adherence to and deviation from transit time metrics, all taking into consideration any and all then-existing NSR Transportation Agreements. The Service Standards Committee shall develop a specific process for: (1) the resolution of disputes on an ongoing basis (which shall include, at a minimum, elevation of the dispute to the Chief Operating Officers); (2) the issuance of notices from NSR to Landlord of actual or purported failures under the Report Card; (3) the joint development of a corrective action plan (with a timetable for the development and implementation of the same); and (4) a specified time period for cures available with regard to actual or purported failures under the Report Card (without admission as to fault or responsibility for such failures).

(iii) The Service Standards Committee will meet on a quarterly basis, or more frequently if required, to modify the Report Card to reflect changes in train schedules (including departure schedules and transit times) in response to added or discontinued Transportation Agreements. The Service Standards Committee will also monitor service performance and address other operational and service issues as they arise. The Service Standards Committee shall discuss and, if possible, resolve all operational and service issues involving the Haulage Services, and to measure Landlord's performance in providing the Haulage Services against the standards defined in the Report Card.

(iv) Landlord's performance against the Report Card standards will be used to determine whether there is a Major Service Standard Failure. If Report Card service standards are not being met, the Committee shall determine if the cause is due to failures that either are: (A) the result of actions or omissions of Landlord or could be addressed by commercially reasonable actions of Landlord ("Landlord Failures"); (B) failures on the part of NSR; or (C) failures on the part of shippers, receivers, or other parties (including but not limited to one of the Three Handling Lines) which failures could not be addressed by commercially reasonable actions of Landlord. The Service Standards Committee shall also determine if the failure is a recurring failure or short term in nature. If the failure is recurring and a Landlord Failure, the Service Standard Committee shall declare that a Major Service Standard Failure exists. If the failure is not recurring, or is recurring and is not a Landlord Failure, the Service Standards Committee shall develop methods, and the Parties shall implement, methods of mitigating the failures and the damage arising therefrom.

(v) If the Service Standards Committee cannot agree on any of the following, that dispute will be resolved through an expedited arbitration process, generally governed by the process defined in Section 15, provided, however, the Parties shall submit to the Arbitrator a joint document reflecting each element upon which there is agreement, and each of the Parties shall submit to the Arbitrator a single proposal containing that Party's proposal as to each element to which there is disagreement, and the Arbitrator shall be obligated to choose between the entire proposal presented by each Party: (1) the Report Card; (2) the fault to which the failure is attributable; or (3) that a Major Service Standard

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Failure exists, this dispute shall be resolved through the arbitration process defined in Section 15.

SECTION 6. COMPLIANCE WITH APPLICABLE LAWS AND RULES

(a) Compliance Generally.

Each Party hereto shall comply with all applicable federal, state and local laws, rules, regulations and orders promulgated by any Government Entity that relate to the operations contemplated hereunder. If any fine, penalty, cost or charge is imposed or assessed on or against either Party hereto by reason of the other Party's non-compliance with any such laws, rules, regulations or orders, such non-complying Party shall reimburse and indemnify the other Party for or on account of any such fine, penalty, cost, or charge, and all expenses and attorney's fees incurred in connection therewith, and, to the extent feasible, such non-complying Party shall defend the interests of that other Party in any related legal proceeding free of cost, charge or expense to that other Party.

(b) Federal Locomotive Inspection Act and Federal Safety Appliance Act.

Without affecting the generality of the foregoing Section 6(a), the Parties shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and any other federal and state and local laws, regulations and rules respecting the operation, condition, inspection and safety of its trains, locomotives, cars and Equipment while such trains, locomotives, cars, and Equipment are being operated over the Subject Trackage. Each Party shall indemnify, protect, defend, and save harmless the other Party and their respective Indemnified Persons from and against all fines, penalties and liabilities imposed upon such Party or its respective Indemnified Persons under such laws, rules, and regulations by any public authority or court having jurisdiction, when attributable solely to the failure of indemnifying Party to comply with its obligations in this regard.

(c) Compliance with Landlord's Safety and Operating Rules and Practices.

(i) NSR, in its physical use of the Subject Trackage, shall comply in all respects with the safety rules, operating rules and other regulations of Landlord, and the movement of NSR's trains, locomotives, cars, and Equipment over the Subject Trackage shall at all times be subject to the orders of the transportation officers of Landlord.

(ii) NSR's trains shall not include locomotives, cars or Equipment which exceed the width, height, weight or other restrictions or capacities of the Subject Trackage as published in Railway Line Clearances, and no train shall contain locomotives, cars or Equipment which require speed restrictions or other movement restrictions below the maximum authorized freight speeds as provided by Landlord's operating rules and regulations, without the prior consent of Landlord. Landlord shall make proper accommodation for exceptions, should that be reasonable, necessary and practicable. All NSR trains shall be operated by locomotives with horsepower sufficient to permit operation at posted speeds.

(iii) If any employee of NSR shall neglect, refuse or fail to abide by Landlord's rules, instructions and restrictions governing the operation on or along Landlord's property, such employee shall, upon written request of Landlord, be prohibited by NSR from working on Landlord's property. If any party shall deem it necessary to hold a formal investigation to establish such neglect, refusal or failure on the part of any employee of NSR, then upon such notice presented in writing, NSR shall promptly hold an investigation in which all parties concerned shall participate and bear the expense for its officers, counsel, witnesses and employees. Notice of such investigations to NSR's employees shall be given by NSR's officers, and such investigation shall be conducted in accordance with the terms and conditions of schedule agreements between NSR and its employees. If the result of such investigation warrants, such employee shall, upon written request by Landlord, be withdrawn by NSR from service on Landlord's property, and NSR shall release and indemnify Landlord from and against any and all claims and expenses because of such withdrawal.

SECTION 7. INVOICES AND PAYMENT OF BILLS

(a) Generally.

On or before the 30th day of each calendar month during the term of this Agreement, NSR shall prepare and deliver to Landlord a statement setting forth the number of Railcars operated pursuant to Section 2, or NSR Haulage Cars moved by Landlord pursuant to Section 3, during the next to immediately preceding month (the "Monthly Statement"). The Monthly Statement shall be delivered to Landlord's designee in electronic format, and shall contain a detailed list of the cars that moved during the subject month, which list shall include, for each car, the following information: (1) car initial and number, (2) the entry and exit point along the Subject Trackage over which the car moved, and (3) any other information relating to such cars that Landlord may reasonably request in connection with accounting for the use of the services and rights provided hereunder. Landlord shall develop and present to NSR an invoice (the "Use Invoice") calculated upon the Monthly Statement information provided by NSR. NSR shall make reasonable efforts to make payment to Landlord within thirty (30) days, but in any event shall make payment within sixty (60) days, after the date of such Use Invoice.

(b) Disputes.

Any dispute regarding the amount of a Monthly Statement or Use Invoice shall be reconciled between the Parties, and any adjustment resulting from such reconciliation shall be reflected in a subsequent Use Invoice. If NSR disputes any portion of an Use Invoice, it shall nevertheless pay such Use Invoice in full (unless such dispute involves a material amount in relation to the total amount of such Use Invoice), subject to adjustment upon resolution of the dispute; provided, however, that (i) no exception to any charge in a Use Invoice shall be honored, recognized or considered if filed after the expiration of three (3) years from the date of the Use Invoice, and (ii) no invoice shall be rendered more than three (3) years (a) after the last day of the calendar month in which the expense covered thereby is incurred, or (b) in the case of charges disputed as to amount or liability, after the amount owed or liability therefore is

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established. Any claim for the adjustment of a Monthly Statement or Use Invoice shall be deemed to be waived if not made in writing within three (3) years after the date of the relevant Monthly Statement for statement adjustments and the date of the relevant Use Invoice for invoice adjustments.

(c) Audits.

Landlord and NSR shall each have the right, at its own expense, to audit the records of the other Party pertaining to the use of the Subject Trackage under this Agreement, and any Monthly Statement, Use Invoice or other invoice issued by Landlord or NSR, respectively, pursuant to this Agreement, provided such audit is initiated at any time within three (3) years of the date of the relevant Use Invoice or other invoice (as applicable) relating to this Agreement. All such audits shall be conducted at reasonable intervals, locations and times. All such audits shall be prosecuted with reasonable due diligence. Each Party agrees that all information disclosed to it or its representatives in connection with such an audit will be held in strictest confidence and will not be disclosed to any third party (other than to an arbitrator in connection with an arbitration conducted pursuant this Agreement or as required by applicable law). Any adjustment resulting from an audit conducted pursuant to this Section 7(c) with respect to which the Parties are in concurrence shall be reflected in a subsequent Use Invoice.

(d) Labor and Material.

Invoices rendered pursuant to the provisions of this Agreement, other than Use Invoices, shall include direct labor and material costs, together with the surcharges, overhead percentages and Equipment rentals as specified by Landlord at the time any work is performed by Landlord for NSR, or shall include actual costs and expenses, upon mutual agreement of the Parties.

SECTION 8. LIABILITY

As between the Parties hereto, responsibility for any loss or destruction of, or damage to, any property whatsoever, and any injury to or death of any person or persons whomever (including employees of NSR or Landlord), resulting from, arising out of, incidental to or occurring in connection with this Agreement ("Loss or Damage"), shall be allocated as follows, without regard to considerations of fault or negligence (except as otherwise specifically provided for hereinafter):

(a) Whenever Loss or Damage occurs with more than one train being involved, and one or more of the involved trains is a Landlord train containing NSR Haulage Cars and one or more of the involved trains is a train of a Foreign Railroad ("Foreign Railroad Train"), the responsibility of the Parties, as between themselves, for such Loss or Damage shall be determined as follows:

first, Loss or Damage shall be allocated between or among the involved train(s) containing NSR Haulage Cars and the trains not containing NSR Haulage Cars in accordance with the provisions of any applicable agreement between Landlord and the Foreign Railroad; and

then, any Loss or Damage allocated to a Landlord train handling NSR Haulage Cars shall be allocated as between the Parties in accordance with Section 8(b)(i) as if the Landlord train handling NSR Haulage Cars was the only train involved.

(b) Whenever Loss or Damage occurs with one or more trains being involved, and a Foreign Train is not involved, the responsibility of the Parties, as between themselves, for such Loss or Damage shall be determined as follows:

(i) Whenever Loss or Damage occurs with only one train being involved, and that train is handling (A) only NSR Cars or (B) both NSR Cars and Landlord Cars, then NSR shall assume and bear all liability for Loss or Damage to NSR Cars moving in such train, and Landlord shall assume and bear all liability for Landlord Cars moving in such train. In such event, any other Loss or Damage, including without limitation Loss or Damage to employees or locomotives of the Parties (which employees and locomotives are hereby specifically excluded from the allocation provided for in the immediately preceding sentence) and any Loss or Damage to third party rail cars and Equipment, to trackage or to property, and any injury to or death of any other person or persons, so occurring shall be: (A) borne solely by NSR if the involved train is handling only NSR Cars, or (B) borne by each of Landlord and NSR in proportion to the number of Cars in such train that are moving in that Party's revenue waybill or car hire account, if the train is handling both NSR Cars and Landlord Cars.

(ii) Whenever Loss or Damage occurs with more than one train, and one or more of such trains is handling (A) only NSR Traffic or (B) both NSR Cars and Landlord's Cars, then NSR shall assume and bear all liability for Loss or Damage to NSR Cars moving in such Landlord's train(s), and Landlord shall assume all liability for Landlord's Cars moving in such train(s). In such event, any other Loss or Damage, including without limitation Loss or Damage to employees or locomotives of the Parties (which employees and locomotives are hereby specifically excluded from the allocation provided for in the immediately preceding sentence) and any Loss or Damage to third party Cars and Equipment, to trackage or to property, and any injury to or death of any other person or persons, so occurring shall be allocated between the Parties in the following manner:

first, the total amount of such other Loss or Damage shall be allocated equally among the trains involved; and

then (A) all such Loss or Damage allocated to any train(s) which is (are) handling cars only Landlord's Cars shall be borne solely by Landlord, (B) all such Loss or Damage allocated to any train(s) which is (are) handling only NSR Cars shall be borne solely by NSR, and (C) all such Loss or Damage which is allocated to any train(s) handling both NSR Cars and Landlord Cars shall be shared and

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borne by each of NSR and Landlord in proportion to the number of Cars in such train that are moving in that Party's revenue waybill or car hire account.

(c) Notwithstanding anything to the contrary in Section 8(a) and Section 8(b) above, when any damage to or destruction of the environment, including without limitation land, air, water, wildlife, and vegetation, or to third parties from substances in cars or contained in locomotives occurs with one or more trains handling NSR Cars being involved, then, as between themselves, (i) Landlord shall be solely responsible for any damage or destruction to the environment and to third parties which results solely from a substance transported in Landlord's Cars and/or contained in a Landlord locomotive which was released, (ii) NSR shall be solely responsible for any damage or destruction to the environment and to third parties which results solely from a substance transported in NSR Cars and/or contained in a NSR locomotive which was released, and (iii) responsibility for damage or destruction to the environment and to third parties which results from one or more substances which was (or were) being transported in Cars, Equipment or locomotives in the revenue waybill and car hire accounts of both NSR and Landlord which was (or were) released shall be shared by the Parties in proportion to the total number of such Cars, Equipment or locomotives in the revenue waybill and car hire account of each Party from which there was such a release.

(d) Except as otherwise provided in Section 8(a), for the purposes of assigning responsibility for Loss or Damage under this Section 8 (including but not limited to Section 8(c)) as between the Parties hereto, the trains, Cars and Equipment of a Foreign Railroad shall be considered to be the trains, Cars and Equipment of Landlord.

(e) Notwithstanding anything to the contrary in this Section 8, if: (i) Loss or Damage occurs with one or more trains being involved; (ii) one or more of the involved trains is handling (A) only NSR Cars or (B) both NSR Cars and Landlord Cars; (iii) such Loss or Damage is attributable solely to the Gross Negligence or Willful or Wanton Misconduct of only one of the Parties to this Agreement; and (iv) such Gross Negligence or Willful or Wanton Misconduct is the direct or proximate cause of such Loss or Damage, then the Party to which such Gross Negligence or Willful or Wanton Misconduct is attributable shall assume all liability, cost and expense in connection with such Loss or Damage. The Parties agree that, for purposes of this Section 8(e), "Gross Negligence or Willful or Wanton Misconduct" shall be defined as "the intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another; such a gross want of care and regard for the rights of others as to justify the presumption of willfulness and wantonness" and shall include, by definition, acts or omissions of any its employees while under the influence of drugs or alcohol.

(f) If any suit or action shall be brought against any Party for Loss or Damage which under the provisions of this Agreement are in whole or in part the responsibility of the other Party, said responsible Party shall be notified in writing by the Party sued, and the Party so notified shall have the right and be obligated to take part in the defense of such suit and shall pay its share of the judgment and the costs and expense incurred in such suit in accordance with the terms of this Section 8.

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(g) In every case of death or injury suffered by an employee of NSR or Landlord, when compensation to such employee or employee's dependents is required to be paid under any present or future state or federal worker's compensation, occupational disease, employers' liability or other law, and one or more of the Parties under provisions of this Agreement is/are required to pay same or a portion of same in installments over a period of time, said Party or Parties shall not be released from paying any such future installment(s) by reason of the expiration or other termination of this Agreement prior to any of the respective date(s) upon which any such future installments are to be paid.

(h) Whenever any liability, cost or expense is assumed by or allocated to a Party under this Section 8, that Party shall (i) forever protect, defend, indemnify and save harmless the other Party from and against that liability, cost and expense, regardless of whether such liability, cost and expense was caused in whole or in part by the fault, failure, negligence, misconduct, malfeasance or misfeasance of the Party indemnified, or their directors, officers, agents or employees, and (ii) defend such Party against such claims with counsel selected by the responsible Party and reasonably acceptable to the indemnified Party.

(i) Each Party shall investigate, adjust and defend all cargo related claims filed with it in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract entered into pursuant to 49 U.S.C. Section 10709.

(j) All costs and expenses in connection with the investigation, adjustment and defense of any claim or suit (other than cargo-related claims made against a Party by a customer whose traffic was moving in the revenue and/or car hire account of such Party) under this Agreement shall be included as costs and expenses in applying the liability provisions of this Section 8, provided, however, that salaries or wages of full-time agents, full-time attorneys and other full-time employees of any Party engaged directly or indirectly in such work shall be borne by such Party.

(k) No Party shall settle or compromise any claim, demand, suit or cause of action (other than a cargo-related claim filed with it in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract entered into pursuant to 49 U.S.C. Section 10709) for which the other Party has any liability under this Agreement without the concurrence of such other Party if the consideration for such settlement or compromise exceeds Thirty-Five Thousand Dollars (US) (\$35,000). The foregoing amount of Thirty-Five Thousand Dollars (\$35,000) shall be adjusted annually in accordance with the provisions of Section 2(b) and Section 2(c) of Appendix B.

SECTION 9. RERAILING, WRECKING, BAD ORDERS AND REPAIRS

(a) Whenever one or more cars and/or locomotives in the account of NSR requires rerailing, wrecking service or wrecking train service, Landlord shall arrange for the provision of such service, including the repair and restoration of roadbed, the Subject Trackage and structures. Landlord shall promptly inform NSR of its intent to proceed with wrecking service or wrecking train service, and shall permit a NSR representative to be present on the scene, to work in concert with Landlord employees to manage such wrecking service or wrecking train service.

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The reasonable cost, liability and expense of the foregoing, including without limitation loss of, damage to, or destruction of any property whatsoever and injury to and death of any person or persons whomsoever or any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, resulting therefrom shall be apportioned in accordance with the provisions of Section 8 hereof. All locomotives, cars, Equipment and salvage from the same so picked up and removed which is owned by or under the management and control of or used by NSR at the time of such wreck, shall be promptly delivered to it.

(b) If any cars or locomotives of NSR are bad ordered en route on the Subject Trackage and it is necessary that they be set out, those cars or locomotives may, after being repaired, be transported by Landlord to be picked up by NSR. Landlord may, upon request of NSR and at the expense of NSR, unless otherwise provided for in the Field and Office Manuals of the Interchange Rules of the AAR, furnish required labor and material to perform light repairs required to make such bad ordered Equipment safe and lawful for movement, and billing for this work shall be at rates prescribed in, and submitted pursuant to, the Field and Office Manuals of the Interchange Rules of the AAR.

SECTION 10. FORCE MAJEURE

The obligations, other than payment obligations, of the Parties to this Agreement shall be subject to force majeure (including flood, earthquake, hurricane, tornado, or other such severe weather or climatic condition, riot, accident, wreck, derailment, washout, explosion, Acts of God, act of terrorism and public enemy, war, blockage, insurrection, vandalism or sabotage, fire, strike, lockout or labor dispute, embargoes or AAR service orders, or governmental laws, orders or regulations, and other causes or circumstances beyond the control of the Party invoking such force majeure as an excuse for nonperformance), but only as long as, and to the extent that, such force majeure shall reasonably prevent performance of such obligations by the affected Party. In the event that an event of force majeure impairs either Party's ability to fulfill its obligations to the other Party under this Agreement, said Party shall take all commercially reasonable measures to restore performance of its obligations in a timely manner.

SECTION 11. TRACK GEOMETRY VEHICLE

Notwithstanding anything herein to the contrary, NSR shall have the right, but not the obligation, to operate a Track Geometry Vehicle over the Subject Lines up to two times each calendar year, at times mutually agreed upon by the parties. Landlord shall provide crews and power for the operation of the Track Geometry Vehicle upon request of NSR, the costs of which NSR shall reimburse to Landlord.

SECTION 12. TERM AND TERMINATION

(a) This Agreement shall become effective following the latest date of: (i) the date first written above; (ii) following receipt of any required regulatory approvals or exemptions; and (iii) following the expiration of any time periods required by the issuance of labor notices by

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NSR and/or Landlord, should such labor notices be required ("Effective Date"). The Parties shall determine the Effective Date through an exchange of written correspondence.

(b) This Agreement shall commence on the Effective Date, and shall continue for an initial term ("Initial Term") of twenty-five (25) years from the Effective Date.

(c) This Agreement shall automatically renew for additional terms of ten (10) years (each a "Renewal Term") unless NSR gives Landlord written notice during a window period beginning twelve (12) months before the end of the then-current term and ending six (6) months before the end of the then-current term.

(d) Termination or expiration of this Agreement shall not relieve or release any Party hereto from any obligations assumed or from any liability which may have arisen or been incurred by such Party under the terms of this Agreement prior to termination or expiration hereof, nor shall it terminate any underlying right, or contingent right, of movement pursuant to the trackage rights grant.

SECTION 13. SUCCESSORS AND ASSIGNS

(a) This Agreement shall inure to the benefit of and be binding upon each of the Parties and their respective successors and permitted assigns.

(b) Except as otherwise specifically provided hereinafter, neither Party may assign this Agreement, or any of its rights, interests or obligations hereunder, including by operation of law, without the prior consent in writing of the other Party, which consent may be withheld at the discretion of such other Party.

(c) In the event of a sale of substantially all of the assets or business of NSR, or the merger or consolidation of NSR, NSR may, without the prior consent of Landlord, assign this Agreement to such firm or corporation acquiring substantially all of the assets or business of NSR, or merging or consolidating with NSR; provided, however, that such assignment shall not transfer or extinguish any liability or obligation to or of Landlord under this Agreement that existed prior to such assignment. Furthermore, NSR may assign this Agreement to any NSR Affiliate without the prior consent of Landlord, provided that such assignment shall not transfer or extinguish any liability or obligation to or of Landlord under this Agreement that existed prior to such assignment. The term "NSR Affiliate" shall mean any entity that directly or indirectly controls, is controlled by, or is under common control with NSR.

(d) In the event of a sale of substantially all of the assets or business of Landlord, or the merger or consolidation of Landlord, Landlord may, without the prior consent of NSR, assign this Agreement to such firm or corporation acquiring substantially all of the assets or business of Landlord, or merging or consolidating with Landlord; provided, however, that such assignment shall not transfer or extinguish any liability or obligation to or of NSR under this Agreement that existed prior to such assignment. Furthermore, Landlord may assign this Agreement to any Landlord Affiliate that controls all of the Subject Trackage without the prior consent of NSR, provided that such assignment shall not transfer or extinguish any liability or obligation to

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or of Landlord under this Agreement that existed prior to such assignment. The term "Landlord Affiliate" shall mean any entity that directly or indirectly controls, is controlled by, or is under common control with Landlord. The term "control" as used in the immediately preceding sentence shall mean exercising day-to-day control over the rail operations of the Subject Trackage.

SECTION 14. NOTICE

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

(i) If to Landlord:

President
Michigan Central Railway, LLC
315 W. 3rd Street
Pittsburg, Kansas 66762

with a copy to:

Ed McKechnie
Chief Commercial Officer
Watco Transportation Services, Inc.
315 W. 3rd Street
Pittsburg, Kansas 66762

with a copy to:

Craig Richey
General Counsel
Watco Transportation Services, Inc.
315 W. 3rd Street
Pittsburg, Kansas 66762

(ii) If to NSR:

Executive Vice President Operations
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

with a copy to:

Senior Director – Joint Facilities
Norfolk Southern Corporation

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1200 Peachtree Street, N.E., Box 158
Atlanta, Georgia 30309

with a copy to:

Vice President Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

Either Party may provide notice of changes in the above addressees to the other Party by personal service or certified mail.

SECTION 15. ARBITRATION

(a) Any dispute, controversy or claim arising out of or otherwise with respect to this Agreement (a "Dispute") shall be referred to their respective senior operating officers for resolution. In the event such officers are unable to resolve the Dispute, either party may submit the Dispute for binding arbitration by a sole, disinterested arbitrator in accordance with the Delaware Uniform Arbitration Act (the "Act") and the Commercial Arbitration Rules of the American Arbitration Association (the "Rules"). In the event of any inconsistency between this Article, the Act and/or the Rules, this Article shall take precedence over the Act and the Rules, and the Act shall take precedence over the Rules. The arbitrator shall be jointly selected by the parties and shall have not less than ten (10) years of experience in railroad operations. The arbitrator shall have the power to require, and shall require, the performance of acts found to be required by this Agreement and the cessation or nonperformance of acts found to be prohibited by this Agreement. The arbitrator shall not have the power to award damages that are inconsistent with this Agreement or special, consequential or punitive damages or to determine violations of criminal or antitrust laws. The arbitrator shall render a written decision on the Dispute that shall include findings of fact and conclusions of law and shall be final and conclusive upon the parties. Judgment upon the award rendered may be entered in any court of competent jurisdiction, which court may order appropriate relief at law or equity. Notwithstanding the foregoing, each party shall have the right to seek vacation or modification of any award that is based, in whole or in part, on an incorrect or erroneous ruling of law by appeal to a court of competent jurisdiction, with any such application for vacation or modification to be filed with such court within thirty (30) days from the date the award is rendered.

(b) Each party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expenses of the arbitrator, if any, shall be borne by NSR and Landlord, with each paying fifty percent (50%) of such compensation, costs and expenses. Pending the written decision of the arbitrator, there shall be no interruption in the transaction of business under this Agreement, and all obligations in respect thereto shall be fulfilled in the same manner as prior to the arising of the Dispute until the matter in dispute shall have been fully determined by arbitration, and thereupon such remedy shall be made as required by the written decision of the arbitrator. In the event either party fails

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in its obligations under the preceding sentence, the other party is entitled to apply to the arbitrator seeking interim or provisional relief until the arbitration award is rendered or the Dispute is otherwise resolved, and the arbitrator shall have the authority to issue orders granting interim or provisional relief.

(c) No provision of, nor the exercise of any rights under, this Agreement regarding arbitration shall limit the right of either party to seek provisional or ancillary judicial remedies with respect to any Dispute, such as preliminary injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction before, during or after the pendency of any arbitration. The institution and maintenance of an action for such judicial remedies shall not constitute a waiver of the right of any party, including the claimant in such action, to submit to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

(d) No provision of, nor the exercise of any rights under, this Agreement regarding arbitration shall limit the right of either party to join the other party in litigation in the event of any litigation or proceeding commenced by any third party against a party to this Agreement in which the other party is an indispensable party or potential third party defendant (e.g., where such other party may be obligated to indemnify the defendant in such third party action).

SECTION 16. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement, or as may be necessary or appropriate for a Party hereto to enforce its rights under this Agreement, during the term of this Agreement (including any extensions thereof), and for a period of three (3) years after termination or expiration of this Agreement, the terms and provisions of this Agreement and all information to which access is provided or which is obtained hereunder will be kept confidential and will not be disclosed by either Party to any person other than members, officers, employees, and attorneys, without the prior written approval of the other Party. Notwithstanding anything to the contrary, either party may disclose this Agreement in connection with an audit by its external auditors, the Internal Revenue Service or other tax authority.

SECTION 17. INDEMNITY COVERAGE

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

(b) Each of Landlord and NSR shall indemnify and hold harmless the other Party against any and all costs and payments, including benefits, allowances, and arbitration, administrative and litigation expenses, arising out of lawsuits, claims or grievances brought by or on behalf of its own employees or their collective bargaining representatives, either pursuant to employee protective conditions imposed by a governmental agency upon the agency's approval or exemption of this Agreement and operations hereunder or pursuant to a collective bargaining agreement. It is the Parties' intention that Landlord and NSR each shall bear the full costs of

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protection of its own employees under employee protective conditions that may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

SECTION 18. CLAIMS

The Parties shall agree between themselves on the most fair, practical and efficient arrangements for handling and administering freight loss and damage claims with the intent that (i) each Party shall be responsible for losses occurring to lading in its possession for the account of such Party and (ii) the Parties shall follow applicable AAR rules and formulas in providing for the allocation of losses which are either of undetermined origin or in cars handled in interline service by or for the account of the Parties.

SECTION 19. ABANDONMENT

(a) Landlord shall have the right, subject to securing any necessary regulatory approval or exemption, to abandon the Subject Trackage or any portion thereof (the "Abandonment Segment") during the term of this Agreement.

(b) Landlord shall provide NSR no less than ninety (90) days prior notice of its intention to seek to abandon any Abandonment Segment.

(c) If Landlord elects to abandon the Subject Trackage (or any portion thereof), this Agreement shall continue to apply in all respects to any remaining portion of the Subject Trackage not abandoned by Landlord. Upon request, NSR shall promptly prepare and, on or after the date that Landlord has filed its own application or petition with respect to said abandonment, file any required application or petition to obtain regulatory authorization or exemption for the discontinuance of NSR's trackage rights over the relevant Abandonment Segment.

(d) Subject to rights of third parties existing as of the date first appearing above, Landlord shall, not less than 90 days prior to any submission to the Surface Transportation Board (or successor agency having jurisdiction over said abandonment) of an application or exemption for authority to abandon an Abandonment Segment(s), offer NSR the first right to purchase such Abandonment Segment(s) for the fair market value of such Abandonment Segment(s) at the time of purchase, and on such other terms and conditions as are customary with respect to line sales by Landlord at the time. NSR shall have sixty (60) days ("Abandonment Notice Period") within which to advise Landlord that it will exercise its right to purchase ("Exercise Notice"). If the Parties are unable to agree upon the fair market value of the Abandonment Segment(s) that NSR wishes to purchase, either Party may refer the issue to arbitration pursuant to Section 15, which arbitration shall determine all other issues relating to terms and conditions for the sale not then (at the time of the initiation of the arbitration) agreed to by the Parties. Such arbitration shall be conducted on an expedited basis, with selection of the arbitrators within forty-five (45) days of the initiation of arbitration, all submissions to be made by the Parties within ninety (90) days of the initiation of arbitration, and a decision to be rendered within thirty (30) days following the final submissions of the Parties.

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(e) The Parties shall consummate the sale contemplated by Section 19(d) within forty-five (45) days of the latest of: (a) the rendering of an arbitration decision, should issues related to the sale proceed to arbitration; (b) the execution of a purchase and sale agreement, should the Parties execute the same; and (c) the grant of authority, or exemption from the need to obtain a grant of authority, from any regulatory body having jurisdiction over the same.

(f) If NSR elects not to purchase the Abandonment Segment, it shall so advise Landlord within the same sixty (60) day Abandonment Notice Period by delivering to Landlord a notice of waiver of right to purchase said segment ("Waiver Notice"). Failure of NSR to provide Landlord with either an Exercise Notice or a Waiver Notice within the aforesaid sixty (60) day period shall constitute a Waiver Notice.

(g) In the event of a Waiver Notice, NSR shall promptly file such application, petition or exemption notice as may then be required to obtain regulatory authority or exemption for the discontinuance of its trackage rights over the Abandonment Segment.

SECTION 20. MISCELLANEOUS PROVISIONS

(a) This Agreement and each and every provision hereof is for the exclusive benefit of the Parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of damages or otherwise against any of the Parties hereto.

(b) This Agreement contains the entire understanding of the Parties hereto with respect to the subject matter hereof and supersedes any and all oral understandings between the Parties.

(c) No term or provision of this Agreement may be changed, waived, discharged or terminated except by an instrument in writing and signed by all Parties.

(d) The division of this Agreement into articles, sections and subsections and the insertion of headings and references are for convenience of reference only, and shall not affect the construction or interpretation of this Agreement. Unless the context otherwise requires, all references to articles, sections or subsections are to articles, sections or subsections of this Agreement.

(e) As used in this Agreement, whenever reference is made to the trains, locomotives, cars or Equipment of, or in the account of, one of the Parties hereto, such expression means the trains, locomotives, cars and Equipment in the possession of or operated by such Party and includes such trains, locomotives, cars and Equipment which are owned by, leased to, or in the account of such Party.

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

(g) No consent or waiver, expressed or implied, by a Party of any breach or default by the other Party in the performance by such other Party of its obligations hereunder shall be

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deemed or construed to be a consent to or waiver of any other breach or default in the performance hereunder by such other Party. Failure on the part of a Party to complain of any act or failure of the other Party or to declare the other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such first mentioned Party of its rights hereunder.

(h) If any provision of this Agreement or the application thereof to any Party hereto or to any circumstance shall be determined by a court of competent jurisdiction to be invalid or unenforceable to any extent or for any reason, the remainder of this Agreement or the application of the provisions thereof to such Party or circumstance, other than those determined to be invalid or unenforceable, shall not be affected thereby and shall be enforced to the fullest extent permitted by law, and the Parties shall promptly enter into such other agreement(s) as their respective legal counsel may deem appropriate in order to replace such invalid or unenforceable provisions in a manner that produces a result which is substantially equivalent to the terms of this Agreement in all material respects.

(i) Nothing herein shall be interpreted as creating an association, partnership, joint venture or other joint undertaking between Landlord and NSR.

(j) This Agreement shall be governed and interpreted in accordance with the laws of the State of Delaware, without regard to application of the choice of law principles thereof.

(k) This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same instrument.

(l) The Parties do not intend that the execution or administration of this Agreement shall be a default or, with the elapse of time, shall become an event of default of any other agreement to which Landlord is a party and which is effective as of the Effective Date ("Other Agreement"). If, subsequent to the execution of this Agreement, the Parties discover that the execution or administration of this Agreement is a default or, with the elapse of time, shall become an event of default of any Other Agreement, then the Parties agree to immediately take such further action and execute such further instruments as may be reasonable and necessary in order to both: (1) effectuate the intent of the Parties to this Agreement; and (2) modify the Agreement in such a manner as to cause the execution or administration of the Agreement no longer to be a default or, with the elapse of time, become an event of default of such Other Agreement.

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

WITNESS:

MICHIGAN LINES LLC

As to LANDLORD

By: _____

WITNESS:

NORFOLK SOUTHERN RAILWAY COMPANY

As to NSR

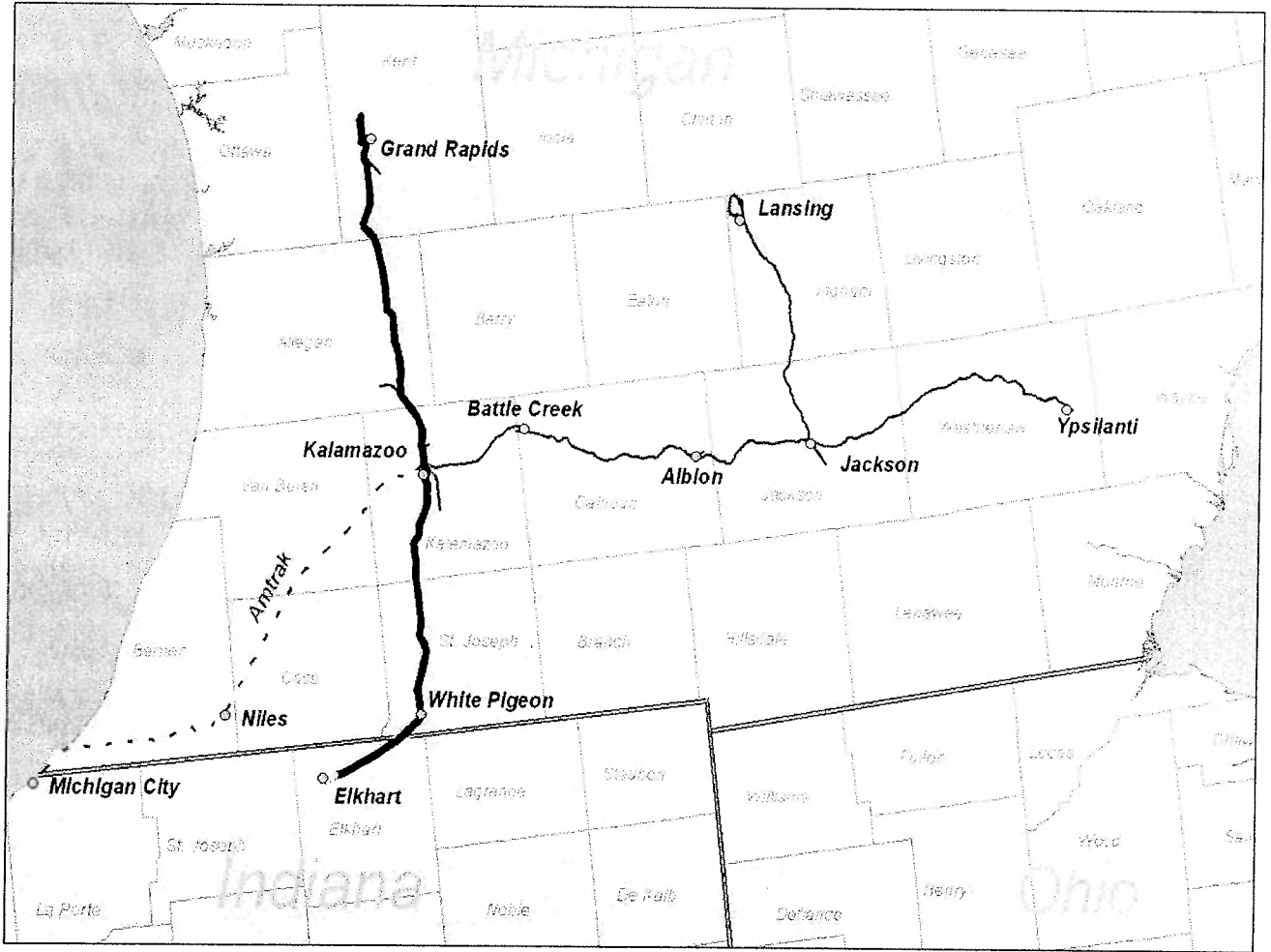
By: _____

Appendix A – Map to this Agreement

(Joint Use Agreement)

Appendix A-1

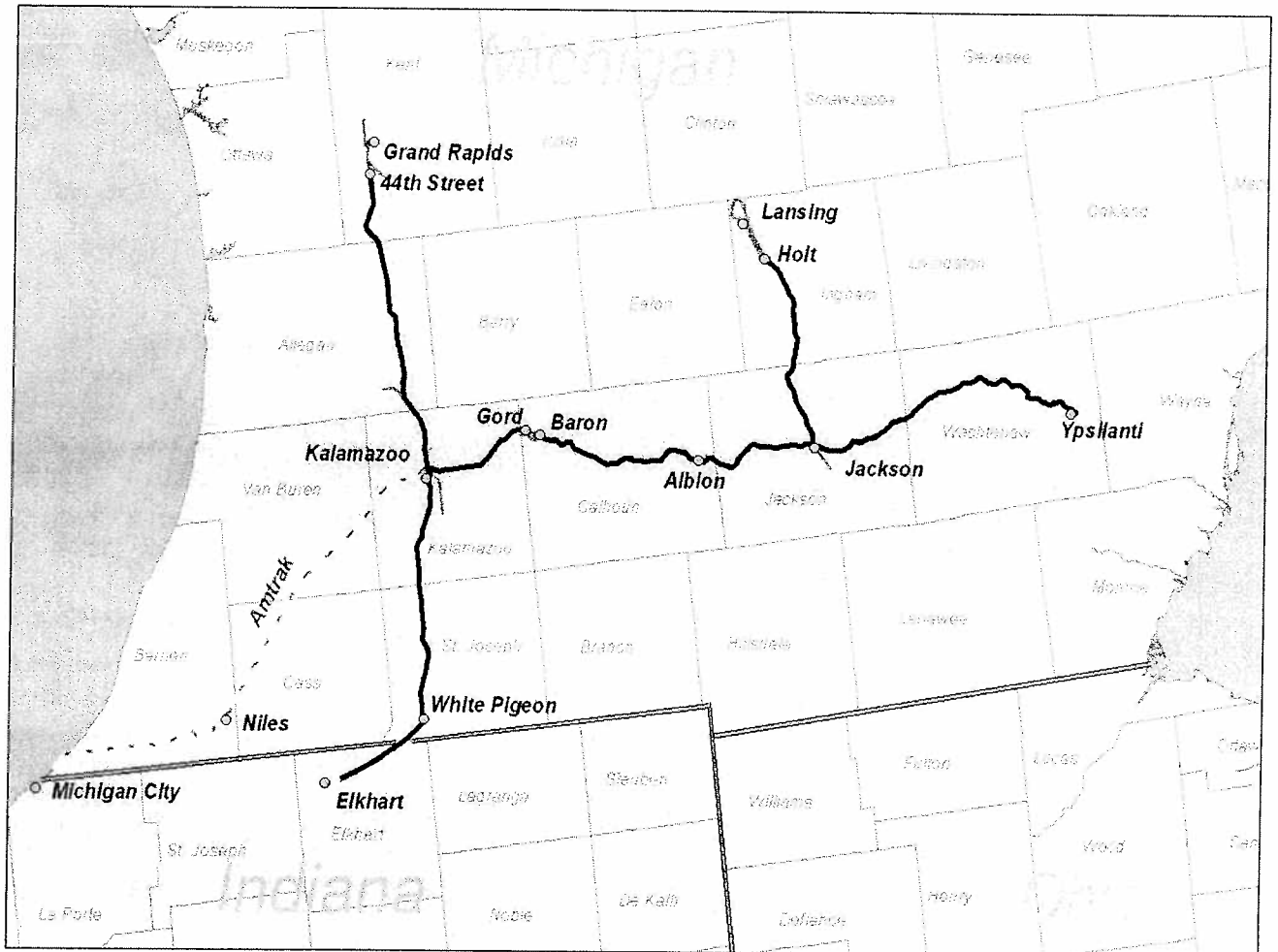
Haulage Map



(Joint Use Agreement)

Appendix A-2

Trackage Rights Map



Appendix B – Trackage Rights Compensation

Section 1. Compensation

(a) The factor to be used in calculating payments to be made by NSR for the Trackage Rights governed by this Agreement shall be [REDACTED] (hereinafter referred to as the “Current Charge”).

(b) NSR will pay Landlord a sum computed by multiplying (i) the Current Charge, as may be revised in Section 2 of this Appendix B by (ii) the number of cars (loaded and empty), locomotive and caboose units moved by NSR with its own crews and power over the Subject Trackage by (iii) the miles of Subject Trackage used. Each locomotive unit and caboose, for the purpose of this Appendix B, shall be counted as one (1) car. With respect to articulated units, the number of cars shall be determined by the AAR Car Type code as defined in the UMLER Specification Manual. The second numeric in the Car Type Code field covering codes “Q” and “S” will be the factor in determining the car count for an articulated unit. For example, AAR Car Type code “S566” would equate to a five (5) car count as these type cars have five (5) wells capable of handling forty-foot (40’) to fifty-foot (50’) containers in each well. Each well shall count as one-half (1/2) of a car. A single unit of RoadRailer® equipment (or comparable bimodal freight hauling equipment in either NSR’s or Landlord’s account) shall count as one-half (1/2) of a car.

Section 2. Revision of Current Charge

(a) The Current Charge shall be subject to change to reflect any increases or decreases in labor, material and other costs as hereinafter provided.

(b) The Current Charge shall be revised upward or downward each year, beginning with the bill rendered for the month of July first following the “Effective Date” of this Agreement, to compensate for the increase or decrease in the cost of labor and material, excluding fuel, as reflected in 50% of the change from one year to the next year in the Rail Cost Adjustment Factor (Unadjusted) (“RCAFU”) as approved by the Surface Transportation Board. The Current Charge shall be revised by calculating the percent of increase or decrease in the index for the latest calendar year as related to the index for the previous calendar year and applying that percentage to the Current Charge. In computing the adjusted Current Charge, any fraction of a cent less than one-half shall be dropped, and any fraction equal to or greater than one-half of a cent shall be increased to the next whole cent.

(c) In the event the base for the RCAFU shall be changed from that in effect at the Effective Date of this Agreement, an appropriate revision shall be made. If the STB or any successor organization discontinues publication of the RCAFU, an appropriate substitute for determining the percentage of increase or decrease shall be negotiated by the parties hereto. In the absence of agreement, the parties shall submit the matter to binding arbitration under terms of Section 15 of the Agreement.

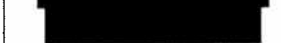
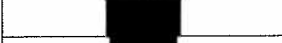
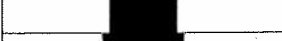
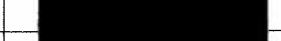
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(d) At the option of either Landlord or NSR, the compensation provided for in this Appendix B shall be open for renegotiation every ten (10) years from the Effective Date of the Agreement. In the event the parties fail to reach agreement upon such renegotiation, such failure shall not constitute a breach of this Agreement, and the parties shall continue to be bound by the terms of compensation provided in this Appendix B until the matter is settled or submitted to binding arbitration.

[Appendix C – Haulage Compensation]

Section 1. Compensation

The Current Charge for each loaded railcar shall be as follows:

NSR will pay Landlord a sum computed by multiplying (i) the Current Charge, as set forth above and as may be revised in Section 2 of Appendix B, including but not limited to, Section 2(d) of Appendix B, by (ii) the number of loaded cars (not counting locomotives or other power units) moved in Haulage Service over the Subject Trackage. With respect to articulated units, the number of cars shall be determined by the AAR Car Type code as defined in the UMLER Specification Manual. The second numeric in the Car Type Code field covering codes "Q" and "S" will be the factor in determining the car count for an articulated unit. For example, AAR Car Type code "S566" would equate to a five (5) car count as these type cars have five (5) wells capable of handling forty-foot (40') to fifty-foot (50') containers in each well. Each well shall count as one-half (1/2) of a car. A single unit of RoadRailer® equipment (or comparable bimodal freight hauling equipment in either NSR's or Landlord's account) shall count as one-half (1/2) of a car.

Section 2. Revision of the Current Charge

The Current Charge shall be escalated in the same manner as is set forth in Section 2 of Appendix B.

Appendix F –Master Interchange Agreement

MICHIGAN LINES MASTER INTERCHANGE AGREEMENT

THIS AGREEMENT (the "Master Interchange Agreement" or "Agreement") is entered into as of this ____ day of _____, 200 __, by and between MICHIGAN CENTRAL RAILWAY, LLC, a Delaware limited liability company ("MCR"), and NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation ("NSR"). MCR and NSR are referred to individually herein as a "Party" and collectively as the "Parties".

RECITALS:

WHEREAS, on [_____], 2007, NSR, Watco Transportation Services, Inc. ("Watco") and MCR entered into a transaction agreement (the "Transaction Agreement") that, among other things, provides for the creation of MCR, the transfer, subject to the retention of certain rights, from NSR to MCR of the Subject Trackage, as defined in the Transaction Agreement; and

WHEREAS, pursuant to the Transaction Agreement, the Parties have determined to interchange traffic at Elkhart Yard, IN and Willow Run Yard; and

WHEREAS, existing interchange points (together with interchange with NSR at Elkhart Yard and Willow Run Yard, "Interchange Points") and the carriers with interchange rights thereat consist entirely of Lansing (Canadian National ("CN") and CSX Transportation, Inc. ("CSXT")), Kalamazoo (CN), Grand Rapids (CSXT, Grand Rapids Eastern Railroad ("GRE"), Mid-Michigan Railroad (via GRE intermediate switch), and Marquette Rail LLC (via CSXT intermediate switch)), Battle Creek (CN), and White Pigeon (Michigan Southern Railroad); and

WHEREAS, pursuant to the Locomotive Fuel and Service Agreement between NSR and MCR, dated as of the date hereof, the Parties have agreed to the use of Elkhart Yard as a possible fueling location ("Fueling Agreement"); and

WHEREAS, there exists an automatic equipment identification reader ("AEI Reader") located at MP KH-0.2 outside of Elkhart Yard ("Existing AEI Reader"); and

WHEREAS, the Parties have determined that MCR will establish, at its sole risk and expense, a new AEI Reader ("New AEI Reader") between MP KH-1.5 and MP KH-6.5; and

WHEREAS, the Parties desire to set forth, among other things, the method for the physical interchange of traffic between NSR and MCR;

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

SECTION 1. DEFINITIONS AND INTERPRETATION

(a) Interpretation Generally.

(i) Unless otherwise defined herein, all words, terms and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.

(ii) Each definition in this Agreement includes the singular and the plural, and references in this Agreement to the neuter gender include the masculine and feminine where appropriate. References herein to any agreement or contract mean such agreement or contract as amended. As used in this Agreement, the word "including" means "without limitation", and the words "herein", "hereof" and "hereunder" refer to this Agreement as a whole. All dollar amounts stated herein are in United States currency.

(iii) In each case, the Party that owns or controls the relevant Interchange Tracks shall hereinafter be referred to as the "owner" of said Interchange Tracks, and the other Party shall hereinafter be referred to as the "user" of said Interchange Tracks. The Party from which traffic will be received shall be referred to as the "delivering carrier" and the Party to which traffic is delivered shall be referred to as the "receiving carrier." A "train" consists of at least one locomotive connected to at least one Interchange Car.

(b) Capitalized Terms.

All terms defined in this Agreement shall have the defined meanings when used in this Agreement, unless otherwise defined or the context otherwise requires. The following terms shall have the following meanings:

"AAR" shall mean the Association of American Railroads, or any successor organization.

"Ancillary Agreements" shall have the meaning given to that term in the Transaction Agreement.

"Cars" means each loaded or empty railroad freight car (including platform and well rail cars) or similar equipment.

"Equipment" shall mean and be confined to hi-rail vehicles, track inspection equipment and other non-revenue vehicles and machinery (other than locomotives) capable of being operated on railroad tracks that, at the time of an occurrence, are (i) being operated on the trackage upon which such occurrence takes place, or (ii) are on the trackage upon which such occurrence takes place, or on the adjoining right-of-way, for the purpose of maintenance or repair thereof or the clearing of wrecks thereon.

"Foreign Railroad" shall mean a railroad that is not a Party to this Agreement.

“Management Committee” shall mean the Management Committee of MCR as provided in the LLC Agreement.

“NSR Cars” shall mean Cars and Equipment in the revenue and/or car hire account of NSR.

“NSR Haulage Cars” shall mean NSR Cars being transported pursuant to NSR Haulage Rights.

“STB” shall mean the Surface Transportation Board or any successor entity thereto.

“Third Party Traffic” shall mean freight rail service provided for a Foreign Railroad.

(c) Successor Laws.

A reference to any particular statute or regulation shall include a reference to any successor statute or regulation.

(d) Railroad Industry.

All words, terms and phrases used in this Agreement, and not otherwise defined, shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.

SECTION 2. INTERCHANGE LOCATIONS

(a) The Parties hereby designate as the two primary locations for interchange of traffic between NSR and MCR as: (1) Elkhart Yard, IN and (2) Willow Run Yard, MI. The designation of Elkhart Yard and Willow Run as the two primary locations shall not preclude any mutual agreement to relocate these primary locations, nor shall it preclude the interchange of traffic from time to time at locations other than the designated two primary locations.

(b) Each Party shall deliver railroad cars and intermodal platforms, loaded and empty (“Interchange Cars”), and all other equipment and locomotives to be interchanged between the Parties (“Run-Through Equipment”), to the other Party, to tracks that the owner will, at the time, designate as the location for interchange (the “Interchange Tracks”).

SECTION 3. USE AND RESTRICTION OF USE OF INTERCHANGE TRACKS

(a) Generally.

(i) NSR's and MCR's use of the Interchange Tracks shall be in common with each other and neither Party's right to use the Interchange Tracks shall be diminished by this Agreement.

(ii) Neither Party shall use any part of the Interchange Tracks for the purpose of switching, storage of cars, locomotives or equipment, or the making or breaking up of trains, except as necessary for interchange purposes, provided, however, that nothing contained herein shall preclude the emergency use by either Party, upon prior approval of the other Party, of such auxiliary tracks as may be designated by for that purpose.

(iii) Each Party hereby grants to the other Party the right to use so much of the Interchange Tracks and connecting trackage as may be necessary to accomplish such interchange between the Parties hereto.

(iv) No compensation shall be payable by either NSR or MCR to the other for use of the Interchange Tracks granted pursuant to this Interchange Agreement.

(b) Elkhart Yard Fluidity.

NSR shall provide MCR with reasonable notice of the placement for interchange from NSR to MCR of Interchange Cars and/or Run-Through Equipment in Elkhart Yard. "Time of Placement" of said Interchange Cars and/or Run-Through Equipment for the purpose of this Section 3(b) shall be the time of the transmittal of said notice of placement. MCR shall use all reasonable efforts to promptly pull said Interchange Cars and/or Run-Through Equipment. For each twenty-four (24) hour period or portion thereof, except the first twenty-four (24) hour period, and further except any period in which failure to promptly pull said Interchange Cars and/or Run-Through Equipment results directly from a declared force majeure event, as described in Section 11 but only for the duration of such declared force majeure event, that such Interchange Cars and/or Run-Through Equipment between the Time of Placement and the Time of Interchange, as hereinafter defined, MCR shall pay to NSR an "Elkhart Yard Fluidity Payment" of \$30.00 per car day, indexed annually by the Consumer Price Index.

SECTION 4. INTERCHANGE

(a) Except with regard to interchange taking place in Elkhart Yard, Interchange Cars not accompanied by Run-Through Equipment shall be deemed interchanged from the delivering carrier to the receiving carrier when the locomotive consist is uncoupled from such Interchange Cars after such Interchange Cars are placed on the Interchange Tracks by the delivering carrier and proper notification and documentation sufficient to permit further movement of said Interchange Cars is delivered to the receiving carrier.

(b) Run-Through Equipment and Interchange Cars accompanied by Run-Through Equipment (in each case, a "Run-Through Train") shall be deemed interchanged when the Run-Through Train is placed on the interchange tracks and the delivering crew has disembarked from the Run-Through Train.

(c) Except as may be provided in the NSR Haulage Agreement or the MSO Haulage Agreement, once an Interchange Car or Run-Through Equipment is interchanged onto Interchange Tracks, it shall transfer to the account of the receiving carrier for, as may be relevant for said particular Interchange Car or Run-Through Equipment, the purpose of determining liability for car hire charges, except as set forth in the immediately following sentence, and liability under the provisions of Section 6. With regard to interchange taking place in Elkhart Yard, Interchange Cars shall be deemed interchanged for the purpose of determining liability for car hire charges at the time that the last car is recorded by the Existing AEI Reader at MP KH-0.2 as having passed said Existing AEI Reader or, after installation of the New AEI Reader, as having passed said New AEI Reader (in either event, the "Time of Interchange"), provided, however, that whenever the Time of Interchange is determined with regard to the New AEI Reader, one half hour per car of car hire charges will be subtracted from NSR's obligation, and one half hour per car of car hire charges will be added, in the case of Interchange Cars delivered by MCR to NSR in Elkhart Yard, in order to compensate for the time and distance it takes to travel between the New AEI Reader and Elkhart Yard. The interchange of Interchange Cars also shall be subject to the interchange rules adopted by the AAR, as the same shall be amended from time to time (the "AAR Interchange Rules"). To the extent that the terms of this Agreement conflict with the AAR Interchange Rules, the terms of this Agreement shall control.

(d) Neither NSR nor MCR shall have the right to permit or admit any third party to the use of all or any portion of the other Party's Interchange Tracks without the prior written approval of the other Party, which may be withheld in said other Party's sole discretion.

SECTION 5. MANAGEMENT AND OPERATIONS

(a) The locomotives and crews of the user when operating over the Interchange Tracks shall be equipped to communicate with owner of the Interchange Tracks on radio frequencies normally used by the owner in directing train movements on the Interchange Tracks.

(b) Procedures for qualification and occupancy of the Interchange Tracks by the user shall be arranged by the local supervisors of NSR and MCR. The user's operations over the Interchange Tracks shall at all times be subject to the direction and control of the owner's operating officer in charge of the Interchange Tracks and to applicable provisions of owner's safety and operating rules.

(c) Locomotives providing the power as Run-Through Equipment shall be in good running order, properly serviced and equipped, and adequately fuelled.

(d) Interchange Cars and Run-Through Equipment shall not exceed the width, height, weight or other restrictions or capacities on the Interchange Tracks.

(e) The owner shall have exclusive control of the management and operation (including dispatching) of the Interchange Trackage. The owner shall exercise control over the Interchange Tracks in a fair, equitable and impartial manner in order to promote the most economical and efficient movement of all traffic over the Interchange Tracks.

(f) The owner shall be solely responsible for the maintenance, repair and renewal of the Interchange Tracks. The owner shall keep and maintain the Interchange Tracks in reasonably good condition for the use herein contemplated, but the owner does not guarantee the condition of the Interchange Tracks or that operations thereover will not be interrupted. The owner shall take reasonable steps to ensure that any interruptions will be kept to a minimum and shall use its best efforts to avoid such interruptions.

(g) The user shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and any other federal and state and local laws, regulations and rules respecting the operation, condition, inspection and safety of the its trains, Interchange Cars and Run-Through Equipment while such trains, Interchange Cars and Run-Through Equipment are being operated over the Interchange Tracks.

(h) The user in its use of the Interchange Tracks shall comply in all respects with the safety rules, operating rules and other regulations of the owner, and the movement of the user's trains, Interchange Cars and Run-Through Equipment over the Interchange Tracks shall at all times be subject to the orders of the transportation officers of the owner; provided, however, that such safety rules, operating rules, other regulations and orders of the transportation officers of the owner shall not discriminate between the Parties.

(i) If any employee of the user shall neglect, refuse or fail to abide by the owner's rules, the instructions and restrictions governing the operation on or along the Interchange Tracks or the associated owner's property, such employee shall, upon written request of the owner, be promptly withheld from working on the owner's property pending the results of a formal investigation of the alleged neglect, refusal or failure. After the foregoing request is given to the user, the user shall promptly hold an investigation, in which all parties concerned shall participate and bear the expense for its officers, counsel, employees and witnesses. Notice of such investigation to the user's employees shall be given by the user's officers. The investigation shall be conducted in accordance with any applicable terms and conditions of schedule agreements between the user and its employees. If the result of such investigation warrants, such employee shall, upon written request by the owner, be restricted by the user from service on the Interchange Tracks.

(j) The user shall not have any claim against the owner for liability account of loss or damage of any kind in the event the use of the Interchange Tracks by the user is temporarily interrupted or delayed at any time from any cause.

SECTION 6. LIABILITY

As between the Parties hereto, and except as provided in the NSR Haulage Agreement and the MSO Haulage Agreement, responsibility for any loss or destruction of, or damage to, any property whatsoever, and any injury to or death of any person or persons whomever (including employees of NSR or MCR), resulting from, arising out of, incidental to or occurring in connection with this Agreement ("Loss or Damage"), shall be allocated as follows, without regard to considerations of fault or negligence (except as otherwise specifically provided for hereinafter):

(a) Whenever Loss or Damage occurs with one or more trains being involved, the responsibility of the Parties, as between themselves, for such Loss or Damage shall be determined as follows:

(i) Whenever Loss or Damage occurs with only one train being involved, and that train is handling (A) only the user's cars or (B) both the user's cars and the owner's cars, then the user shall assume and bear all liability for Loss or Damage to the user's cars moving in such train, and the owner shall assume and bear all liability for the owner's cars moving in such train. In such event, any other Loss or Damage, including without limitation Loss or Damage to employees or locomotives of the Parties (which employees and locomotives are hereby specifically excluded from the allocation provided for in the immediately preceding sentence) and any Loss or Damage to third party rail cars and Equipment, to trackage or to property, and any injury to or death of any other person or persons, so occurring shall be: (A) borne solely by the user if the involved train is handling only the user's cars, or (B) borne by each of the user and the owner in proportion to the number of cars in such train that are moving in that Party's revenue waybill or car hire account, if the train is handling both the user's cars and the owner's cars.

(ii) Whenever Loss or Damage occurs with more than one train, and one or more of such trains is handling (A) only the user's cars or (B) both the user's cars and the owner's cars, then the user shall assume and bear all liability for Loss or Damage to the user's cars moving in such train(s), and the owner shall assume all liability for the owner's cars moving in such train(s). In such event, any other Loss or Damage, including without limitation Loss or Damage to employees or locomotives of the Parties (which employees and locomotives are hereby specifically excluded from the allocation provided for in the immediately preceding sentence) and any Loss or Damage to third party cars and Equipment, to trackage or to property, and any injury to or death of any other person or persons, so occurring shall be allocated between the Parties in the following manner:

first, the total amount of such other Loss or Damage shall be allocated equally among the trains involved; and

then (A) all such Loss or Damage allocated to any train(s) which is (are) handling cars only the user's cars shall be borne solely by the user, (B) all such Loss or Damage allocated to any train(s) which is (are) handling only the owner's cars shall be borne solely by the owner, and (C) all such Loss or Damage which is allocated to any train(s) handling both the user's cars and the owner's cars shall be shared and borne by each of the user and the owner in proportion to the number of cars in such train that are moving in that Party's revenue waybill or car hire account.

(b) Notwithstanding anything to the contrary in Section 6(a)(i) and Section 6(a)(ii) above, when any damage to or destruction of the environment, including without limitation land, air, water, wildlife, and vegetation, or to third parties from substances in cars or contained in locomotives occurs with one or more trains handling the user's cars being involved, then, as between themselves, (i) the owner shall be solely responsible for any damage or destruction to the environment and to third parties which results solely from a substance transported in the owner and/or contained in an owner's locomotive which was released, (ii) the user shall be solely responsible for any damage or destruction to the environment and to third parties which results solely from a substance transported in the user's cars and/or contained in a user's locomotive which was released, and (iii) responsibility for damage or destruction to the environment and to third parties which results from one or more substances which was (or were) being transported in cars, Equipment or locomotives in the revenue waybill and car hire accounts of both the user and the owner which was (or were) released shall be shared by the Parties in proportion to the total number of such cars, Equipment or locomotives in the revenue waybill and car hire account of each Party from which there was such a release.

(c) For the purposes of assigning responsibility for Loss and Damage under this Section 6 as between the Parties hereto, the trains, cars and Equipment of a carrier not a party to this Agreement (a "Foreign Railroad") shall be considered to be the trains, Cars and Equipment of the owner.

(d) Notwithstanding anything to the contrary in this Section 6, if: (i) Loss or Damage occurs with one or more trains being involved; (ii) one or more of the involved trains is handling (A) only user's cars or (B) both user's cars and owner's cars; (iii) such Loss or Damage is attributable solely to the gross negligence or willful or wanton misconduct of only one of the Parties to this Agreement; and (iv) such gross negligence or willful or wanton misconduct is the direct or proximate cause of such Loss or Damage, then the Party to which such gross negligence or willful or wanton misconduct is attributable shall assume all liability, cost and expense in connection with such Loss or Damage. The Parties agree that, for purposes of this Section 6(d), "gross negligence or willful or wanton misconduct" shall be defined as "the intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another; such a gross want of care and regard for the rights of others as to justify the presumption of willfulness and wantonness" and shall include, by definition, acts or omissions of any its employees while under the influence of drugs or alcohol.

(d) If any suit or action shall be brought against any Party for Loss or Damage which under the provisions of this Agreement are in whole or in part the responsibility of the other Party, said responsible Party shall be notified in writing by the Party sued, and the Party so notified shall have the right and be obligated to take part in the defense of such suit and shall pay its share of the judgment and the costs and expense incurred in such suit in accordance with the terms of this Section 6.

(e) In every case of death or injury suffered by an employee of the user or the owner, when compensation to such employee or employee's dependents is required to be paid under any present or future state or federal worker's compensation, occupational disease, employers' liability or other law, and one or more of the Parties under provisions of this Agreement is/are required to pay same or a portion of same in installments over a period of time, said Party or Parties shall not be released from paying any such future installment(s) by reason of the expiration or other termination of this Agreement prior to any of the respective date(s) upon which any such future installments are to be paid.

(f) Whenever any liability, cost or expense is assumed by or allocated to a Party under this Section 6, that Party shall (i) forever protect, defend, indemnify and save harmless the other Party from and against that liability, cost and expense, regardless of whether such liability, cost and expense was caused in whole or in part by the fault, failure, negligence, misconduct, malfeasance or misfeasance of the Party indemnified, or their directors, officers, agents or employees, and (ii) defend such Party against such claims with counsel selected by the responsible Party and reasonably acceptable to the indemnified Party.

(g) Each Party shall investigate, adjust and defend all cargo related claims filed with it in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract entered into pursuant to 49 U.S.C. Section 10709.

(h) All costs and expenses in connection with the investigation, adjustment and defense of any claim or suit (other than cargo-related claims made against a Party by a customer whose traffic was moving in the revenue and/or car hire account of such Party) under this Agreement shall be included as costs and expenses in applying the liability provisions of this Section 6; provided, however, that salaries or wages of full-time agents, full-time attorneys and other full-time employees of any Party engaged directly or indirectly in such work shall be borne by such Party.

(i) No Party shall settle or compromise any claim, demand, suit or cause of action (other than a cargo-related claim filed with it in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract entered into pursuant to 49 U.S.C. Section 10709) for which the other Party has any liability under this Agreement without the concurrence of such other Party if the consideration for such settlement or compromise exceeds Thirty-Five Thousand Dollars

(US) (\$35,000). The foregoing amount of Thirty-Five Thousand Dollars (\$35,000) shall be adjusted from time to time by agreement of the Parties.

SECTION 7. INDEMNITY COVERAGE

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

(b) Each of MCR and NSR shall indemnify and hold harmless the other Party against any and all costs and payments, including benefits, allowances, and arbitration, administrative and litigation expenses, arising out of lawsuits, claims or grievances brought by or on behalf of its own employees or their collective bargaining representatives, either pursuant to employee protective conditions imposed by a governmental agency upon the agency's approval or exemption of this Agreement and operations hereunder or pursuant to a collective bargaining agreement. It is the Parties' intention that MCR and NSR each shall bear the full costs of protection of its own employees under employee protective conditions that may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

SECTION 8. TERM

(a) Effective Date.

This Agreement shall become effective following the latest date of: (i) the date first written above; (ii) following receipt of any required regulatory approvals or exemptions of the Transaction Agreement or any of the Ancillary Agreements; and (iii) following the expiration of any time periods required by the issuance of labor notices by NSR and/or MCR, should such labor notices be required ("Effective Date"). The Parties will determine the Effective Date through an exchange of written correspondence.

(b) Initial Term.

This Agreement shall commence on the Effective Date, and shall continue until terminated by mutual agreement of the Parties.

(c) Termination.

Termination of this Agreement shall not relieve or release either Party hereto from any obligations assumed or from any liability which may have arisen or been incurred by such Party under the terms of this Agreement prior to termination hereof.

SECTION 9. ARBITRATION

Any dispute arising among the Parties with respect to this Agreement shall be referred to their respective senior operating officers. In the event such officers are unable to resolve the dispute, any Party may submit the dispute for binding arbitration by an independent arbitrator before the American Arbitration Association under the Commercial Arbitration Rules, who shall render a written decision on the controversy. The written decision of the arbitrator shall be final and conclusive upon the Parties. Each Party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator, if any, shall be borne by the Parties, with each Party paying fifty percent of such costs. The arbitrator shall not have the power to award consequential or punitive damages or to determine violations of criminal or antitrust laws. Pending the written decision of the arbitrator, there shall be no interruption in the transaction of business under this Interchange Agreement, and all payments in respect thereto shall be made in the same manner as prior to the arising of the dispute until the matter in dispute shall have been fully determined by arbitration, and thereupon such payment or restitution shall be made as required by the decision of the arbitrator.

SECTION 10. NOTICES

Any notice required or permitted to be given by one Party to another under this Interchange Agreement shall be sent to each of MCR and NSR, and deemed given on the date sent by certified mail, or by such other means as the Parties may agree, and shall be addressed as follows:

If to MCR:

President
Michigan Central Railway, LLC
315 W. 3rd Street
Pittsburg, Kansas 66762

with a copy to:

Mr. Ed McKechnie
Chief Commercial Officer
Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

With a copy to:

Mr. Craig Richie
General Counsel

Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

If to NSR:

Executive Vice President Operations
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

With a copy to:

Senior Director – Joint Facilities
Norfolk Southern Corporation
1200 Peachtree Street, N.E., Box 158
Atlanta, Georgia 30309

with a copy to:

Vice President Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

MCR or NSR may provide changes in the above addresses to the other Party by personal service or certified mail.

SECTION 11. FORCE MAJEURE

The obligations, other than payment obligations, of the Parties to this Agreement shall be subject to force majeure (including flood, earthquake, hurricane, tornado, or other such severe weather or climatic condition, riot, accident, wreck, derailment, washout, explosion, Acts of God, act of terrorism and public enemy, war, blockage, insurrection, vandalism or sabotage, fire, strike, lockout or labor dispute, embargoes or AAR service orders, or governmental laws, orders or regulations, and other causes or circumstances beyond the control of the Party invoking such force majeure as an excuse for nonperformance), but only as long as, and to the extent that, such force majeure shall reasonably prevent performance of such obligations by the affected Party. In the event that an event of force majeure impairs either Party's ability to fulfill its obligations to the other Party under this Agreement, said Party shall take all commercially reasonable measures to restore performance of its obligations in a timely manner.

SECTION 12. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement, or as may be necessary or appropriate for a Party hereto to enforce its rights under this Agreement, during the term of this Agreement (including any extensions thereof), and for a period of three (3) years after termination or expiration of this Agreement, the terms and provisions of this Agreement and all information to which access is provided or which is obtained hereunder will be kept confidential and will not be disclosed by either Party to any person other than members, officers, employees, and attorneys, without the prior written approval of the other Party. Notwithstanding anything to the contrary, either Party may disclose this Agreement in connection with an audit by its external auditors, the Internal Revenue Service or other tax authority.

SECTION 13. SUCCESSORS AND ASSIGNS

(a) This Agreement shall inure to the benefit of and be binding upon each of the Parties and their respective successors and permitted assigns.

(b) Neither Party may assign this Agreement, or any of its rights, interests or obligations hereunder, including by operation of law, without the prior consent in writing of the other Party, which consent may be withheld at the discretion of such other Party.

SECTION 14. GENERAL

(a) This Agreement and each and every provision hereof is for the exclusive benefit of the Parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of damages or otherwise against either of the Parties hereto.

(b) This Agreement contains the entire understanding of the Parties hereto with respect to the subject matter hereof and supersedes any and all oral understandings between the Parties.

(c) No term or provision of this Agreement may be changed, waived, discharged or terminated except by an instrument in writing and signed by both Parties.

(d) All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

(e) This Agreement is the result of mutual negotiations between the Parties hereto, none of whom shall be considered the drafter for purposes of contract construction.

(f) If any provision of this Agreement or the application thereof to any Party hereto or to any circumstance shall be determined by a court of competent jurisdiction to be invalid or unenforceable to any extent or for any reason, the remainder of this Agreement or the application of the provisions thereof to such Party or circumstance, other than those determined to be invalid or unenforceable, shall not be affected thereby and shall be enforced to the fullest extent permitted by law, and the Parties shall promptly enter into such other agreement(s) as their respective legal counsel may deem appropriate in order to replace such invalid or unenforceable provisions in a manner that produces a result which is substantially equivalent to the terms of this Agreement in all material respects.

(g) Nothing herein shall be interpreted as creating an association, partnership, joint venture or other joint undertaking between MCR and NSR. Each Party shall indemnify and hold harmless the other Party against any and all costs and payments, including benefits, allowances, and arbitration, administrative and litigation expenses, arising out of claims or grievances made, or lawsuits brought, by or on behalf of its own employees or their collective bargaining representatives, either pursuant to employee protective conditions imposed by a governmental agency or pursuant to a collective bargaining agreement. It is the Parties' intention that each Party shall bear the full costs of protection of its own employees under employee protective conditions that may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

(h) This Agreement shall be governed and interpreted in accordance with the laws of the State of Delaware, without regard to application of the choice of law principles thereof.

(i) This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

MICHIGAN LINES LLC

NORFOLK SOUTHERN
RAILWAY COMPANY

Per: _____

Per: _____

Appendix G –Assignment and Assumption Agreement – Amtrak-NSR Michigan Lines
Agreements

Execution Copy -- Redacted

ASSIGNMENT AND ASSUMPTION AGREEMENT
AMTRAK-NSR MICHIGAN LINES AGREEMENTS

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement") is dated as of the ____ day of _____, 2007 by and between Norfolk Southern Railway Company, a Virginia corporation ("NSR" or "Assignor") and Michigan Central Railway, LLC, a Delaware limited liability company ("Assignee"). All capitalized terms used but not otherwise defined in this Agreement shall have the meaning ascribed to such terms in the Transaction Agreement by and among Watco Transportation Services, Inc., Assignee and Assignor, dated _____, 2007 (the "Transaction Agreement").

RECITALS:

WHEREAS, pursuant to an Agreement of Purchase dated March 31, 1976, Consolidated Rail Corporation ("Conrail") conveyed to the National Railroad Passenger Corporation ("Amtrak") certain real property interests and appurtenances in the States of Michigan and Indiana that comprise a line of railroad between Milepost MH 145.06 at or near Kalamazoo, MI and Milepost 240.58 near Porter, IN, subject to certain reservations, exceptions and easements (collectively referred to herein as "Easements"),

WHEREAS, Assignor NSR has succeeded to Conrail's right, title and interests in the Easements;

WHEREAS, by assignment to NSR, NSR is the lessor and Amtrak is the lessee of a line of railroad between Milepost MH 143.26 and Milepost MH 145.06 at or near Kalamazoo, MI, under a lease from Conrail to Amtrak effective April 1, 1995, as it may have been amended from time to time ("the Kalamazoo, MI Track Lease"),

WHEREAS, by assignment to NSR, NSR and Amtrak are parties to a Maintenance Agreement, dated March 1, 1995, between Conrail and Amtrak, that pertains to the line of railroad that is the subject of the Kalamazoo, MI Track Lease, as it may have been amended from time to time (the "Maintenance Agreement");

WHEREAS, by assignment to NSR, NSR and Amtrak are parties to that certain trackage rights agreement, effective as of April 1, 1976, as it has been from time to time amended (the "Michigan Line Trackage Rights Agreement") that provides the terms and conditions for the use by NSR of Amtrak's line of railroad between approximately Milepost MH 143.26 near Kalamazoo, MI and Milepost 240.58 near Porter, IN, including that segment of the line between Milepost MH 143.26 at or near Kalamazoo, MI and Milepost 222.8 at the Michigan-Indiana State Line;

WHEREAS, by assignment to NSR, NSR and Amtrak are parties to the Agreement for Installation and Connection of Private Sidetracks Servicing Conrail Industries Along Amtrak Right of Way dated April 25, 1980, effective May 19, 1976, as amended ("Sidetrack Agreement");

WHEREAS, NSR and Amtrak are parties to that certain Amended and Restated Off-Corridor Operating Agreement between Norfolk Southern Railway Company ("NSR") and National Railroad Passenger Corporation ("Amtrak"), dated February 1, 2006, as amended (the "Off-Corridor Agreement"), that provides the terms and conditions for the use by Amtrak of NSR's lines of railroad, including that line of railroad between approximately Milepost MH 28.0 near Ypsilanti (Willow Run), MI and Milepost MH 143.26 near Kalamazoo, MI;

WHEREAS, Assignee shall become a participating railroad and signatory to the National Railroad Passenger Corporation Arbitration Agreement dated April 16, 1971 among Amtrak and certain other railroads, as amended, as it is incorporated by reference in certain agreements to be assigned to Assignee;

WHEREAS, on the terms and subject to the conditions set forth in the Transaction Agreement, Assignor has agreed to assign to Assignee all of Assignor's right, title, interest, responsibilities and duties in, to and under the Kalamazoo, MI Track Lease and the Maintenance Agreement and to assign to Assignee, in part, Assignor's rights, responsibilities, interests and duties in, to and under the Easements, the Michigan Line Trackage Rights Agreement, the Sidetrack Agreement and the Off-Corridor Agreement, to the extent specifically described herein, upon receiving consent from Amtrak for such assignments; and

WHEREAS, Amtrak has consented to the assignments; and

WHEREAS, Assignee desires to accept such assignments and to assume the subject Easements, agreements, leases and interests in whole or in part, subject to the terms and conditions in this Agreement;

NOW THEREFORE, for and in consideration of the premises, the mutual covenants and agreements contained herein and in the Transaction Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. Commencement Date. The Commencement Date of this Agreement shall be the Closing Date.

Section 2. Assignment. As of the Commencement Date, Assignor contributes,

assigns, sets over and transfers to Assignee, its successors and permitted assigns, (a) all of Assignor's right, title, interest, responsibilities and duties in, to and under (i) the Kalamazoo, MI Track Lease and (ii) the Maintenance Agreement and (b) that part of Assignor's right, title, interest, responsibilities and duties, in, to and under (i) the Easements to the extent they apply to the line of railroad between Milepost MH 145.06 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; (ii) the Michigan Line Trackage Rights Agreement to the extent it applies to the line of railroad between Milepost MH 143.3 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; (iii) the Sidetrack Agreement to the extent it applies to the line of railroad between Milepost MH 143.3 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; and (iv) the Off-Corridor Agreement to the extent it applies to the Assignee's lines in general and to the line of railroad between Milepost MH 28.0 near Ypsilanti (Willow Run), MI and Milepost MH 143.3 near Kalamazoo, MI in particular, except to the extent, if any, that those Easements, agreements and leases may be modified by this Agreement or the Transaction Agreement.

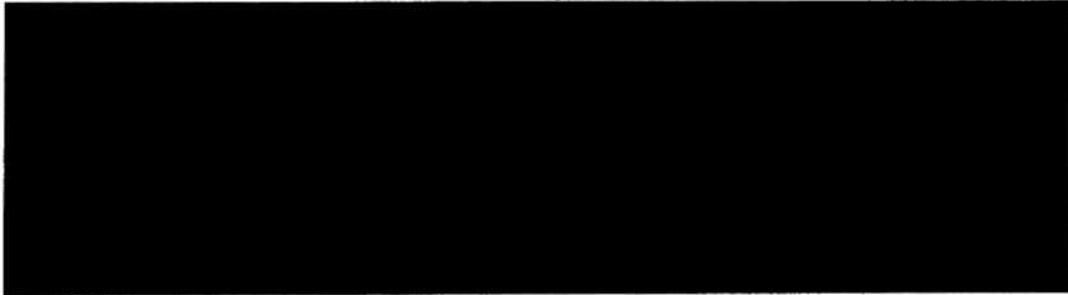
Section 3. Assumption. Subject to the terms and conditions of the Transaction Agreement, as of the Commencement Date, Assignee hereby accepts the assignment of (a) all of Assignor's right, title, interest, responsibilities and duties, in, to and under (i) the Kalamazoo, MI Track Lease and (ii) the Maintenance Agreement and (b) that part of Assignor's right, title, interest, responsibilities and duties, in, to and under (i) the Easements to the extent they apply to the line of railroad between Milepost MH 145.06 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; (ii) the Michigan Line Trackage Rights Agreement to the extent it applies to the line of railroad between Milepost MH 143.3 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line, (iii) the Sidetrack Agreement to the extent it applies to the line of railroad between Milepost MH 143.3 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; and (iv) the Off-Corridor Agreement to the extent it applies to the Assignee's lines in general and to the line of railroad between Milepost MH 28.0 near Ypsilanti (Willow Run), MI and Milepost MH 143.3 near Kalamazoo, MI in particular, except to the extent, if any, that those Easements, agreements and leases may be modified by this Agreement or the Transaction Agreement.

Section 4. Effective Date of Allocation of Right, Title, Interests, Responsibilities and Duties. (a) All of Assignor's right, title, interests, responsibilities and duties under (i) the Kalamazoo, MI Track Lease and (ii) the Maintenance Agreement and (b) that part of Assignor's right, title, interests, responsibilities and duties, in, to and under (i) the Easements to the extent they apply to the line of railroad between Milepost MH 145.06 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; (ii) the Michigan Line Trackage Rights Agreement to the extent it applies to the line of railroad between Milepost MH 143.3 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line, (iii) the Sidetrack Agreement to the extent it applies to the line of railroad between Milepost MH 143.3 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; and (iv) the Off-Corridor Agreement to the extent it

applies to the Assignee's lines in general and to the line of railroad between Milepost MH 28.0 near Ypsilanti (Willow Run), MI and Milepost MH 143.3 near Kalamazoo, MI in particular, except to the extent, if any, those Easements, agreements and leases may be modified by this Agreement or the Transaction Agreement, (A) accruing prior to the Commencement Date shall continue to be the right, title, interests, responsibilities and duties of Assignor and (B) accruing on or after the Commencement Date shall be the right, title, interests, responsibilities and duties of Assignee, except as may be modified by this Agreement or the Transaction Agreement.

Section 5. Allocation of Delay Threshold Minutes and Maximum Penalty Minutes Under Off-Corridor Agreement. With Amtrak's consent, after the Commencement Date, the delay threshold minutes and maximum penalty minutes in Appendix V, Table 1 of the Off-Corridor Agreement for Amtrak Trains 350, 351, 352, 353, 354, 355, 364 and 365 shall be allocated between Assignor NSR's Off-Corridor Agreement and Assignee Michigan Central Railway's Off-Corridor Agreement as follows:

Train	Direction	Current Minutes	NSR Minutes	Michigan Central Minutes
		Maximum	After Assignment	After Assignment
		Threshold Penalty	Threshold Penalty	Threshold Penalty



Section 6. No Assignment of Payments for General Administration Personnel and Transportation Supervision Under the Off-Corridor Agreement. Assignor does not assign to Assignee any part of the monthly payment by Amtrak to Assignor for General Administration Personnel and Transportation Supervision under Item 11 of Appendix IV of the Off-Corridor Agreement. To the extent Assignor shall allocate to Assignee any part of the amount of Amtrak's payment to Assignor under Item 11 of the Off-Corridor Agreement, Assignor and Assignee shall enter into a separate agreement concerning such allocation.

Section 7. No Assignment of Claims Service Handling Agreement in Off-Corridor Agreement. With Amtrak's consent, Assignor does not assign to Assignee any part of the Claims Service Agreement in Appendix VII of the Off-Corridor Agreement and does not assign to Assignee any part of the payments by Amtrak to NSR for claims service handling under Item 22 of Appendix IV of the Off-Corridor Agreement. Assignee and Amtrak shall make a separate agreement or arrangement for claims service or claims

handling with respect to claims related to or arising from Amtrak's Intercity Rail Passenger Service over Assignee's lines of railroad under the partially assigned Off-Corridor Agreement, if Amtrak and Assignee wish to enter into an agreement with respect to claims service or claims handling.

Section 8. Transaction Agreement Not Amended. Nothing herein shall be deemed to amend, modify, alter, expand or diminish the terms and conditions of the Transaction Agreement, including, without limitation, the covenants, representations, warranties and indemnification obligations contained therein. Except to the extent specifically provided herein, the warranties, allocations of liability and indemnification obligations contained in the Transaction Agreement shall apply to the terms of this Agreement.

Section 9. Further Assurances. Assignor shall, from time to time upon the reasonable request of Assignee, execute and deliver all such further deeds, agreements, documents and instruments, and take all such further acts as shall be necessary or desirable to give full effect to the intent and meaning of this Agreement.

Section 10. Further Assignments of Any Subsequently Identified Real Property Leases or Agreements. If any lease or agreement from Assignor or its predecessors to Amtrak for use of specifically identified real property along or adjacent to the lines that are subject to the assignments in this Agreement and which is included in the conveyances or transfers to Assignee under the Transaction Agreement remains in effect but has not yet been identified, upon discovery of that effective lease or agreement, Assignor assigns and Assignee accepts and assumes Assignor's right, title, interest, responsibilities and duties in, to and under the lease or agreement. Any such further assignment and assumption shall be effective upon written notification to Assignee and Amtrak of the continuing existence of the lease or agreement and of Assignor's assignment of its right, title, interest, responsibilities and duties under the lease or agreement in whole or in part to Assignee.

Section 11. Responsibility for Assignor Operations Under Assigned Michigan Trackage Rights Agreement. Except if otherwise specifically provided in the Transaction Agreement, if (a) Assignor provides any contract service or operation for Assignee, (b) Assignee provides haulage service for NSR or (c) NSR operates on an emergency or detour basis or under retained or subsequently granted trackage rights from Assignee over the line that is the subject of the partially assigned Michigan Trackage Rights Agreement, Assignee shall be and remain fully responsible and liable under the Michigan Trackage Rights Agreement with respect to such services or operations for all payments, liabilities, duties or responsibilities assigned to and assumed by Assignee under that agreement as the operator of freight operations over the segment of Amtrak's line in Michigan and as the freight railroad party to the Michigan Trackage Rights Agreement for that line segment. NSR shall be required to conduct any such services or operations over that Amtrak line under the operating

terms and conditions of the Michigan Trackage Rights Agreement.

Section 12. Return of Lines Subject to Assignments to NSR. Unless otherwise specifically provided for in the Transaction Agreement, if after the Commencement Date, all or any part of the lines subject to the assignments and assumptions in this Agreement are returned to or reclaimed by NSR, Assignee shall immediately reconvey the assigned Easements for the subject line segments to Assignor. The interests in the leases and agreements covered by this Agreement shall be assigned back to Assignor, in whole or in part as required, effective upon written notice from Assignor to Assignee that Assignor is resuming possession or operation over the line, without the need for further assignment or agreement by the parties and without further consideration.

Section 13. Liabilities Upon Termination. Termination of this Agreement in whole or in part or return to or reclaim by Assignor of all or any of the lines or interests that are the subject of Easements, leases or agreements that are assigned to and assumed by Assignee shall not release and shall not be construed to release either party from any cost, claim, obligation or liability incurred by or accruing to that party under this Agreement or the assigned Agreements prior to the time such termination becomes fully effective or the re-assignment of agreements to Assignor becomes effective or the lines or line segments are returned to the possession and operation of Assignor, whichever is later if both occur.

Section 14. Notices. Any notices required or given hereunder shall be given by one party to the other party in writing to the person or persons identified to receive notices for that party in the Transaction Agreement or to such different person identified in a written notification from one party to the other of the change in the person(s) designated to receive its notices. Each party may designate in writing to the other party an additional person to receive written notices under this Agreement.

Section 15. Amtrak Arbitration Agreement. Assignee shall become a participating railroad and signatory to the National Railroad Passenger Corporation Arbitration Agreement dated April 16, 1971 among Amtrak and certain other railroads, as amended, as it is incorporated by reference in certain agreements to be assigned to Assignee.

Section 16. Waiver, Amendment. No waiver of any breach of the terms of this Agreement and no instance of failure to enforce any of the terms of this Agreement shall be construed as a waiver of (a) any other or subsequent breach or (b) any right to receive performance of or to enforce a term of this Agreement. Any waiver of any term of this Agreement must be in a writing signed by an authorized representative of the party making the waiver and shall apply only to the instance of waiver identified in the writing. Unless otherwise provided for herein, this Agreement may be amended or modified only in a writing signed by an authorized representative of each party.

Section 17. Severability. If any part of this Agreement is determined by a court or governmental agency with jurisdiction to be invalid, illegal or unenforceable, such determination shall not affect the validity, legality or enforceability of any other part of this agreement and the remaining parts of this Agreement shall remain in effect and shall be enforced as if such invalid, illegal or unenforceable part were not contained herein. It is the intention of the parties that only the words determined to be invalid, illegal or unenforceable be stricken from the Agreement unless further words must be stricken to give the remaining provision meaning and to adhere as much as possible to the intent of the parties.

Section 18. Headings; Governing Law. The section headings in this Agreement are for convenience only and shall not affect the construction or interpretation of this Agreement. The laws of the state of Delaware shall govern the validity of this Agreement, the construction and the interpretation of the terms of this Agreement and of the rights and duties provided for or arising under this Agreement, without regard to the laws that might otherwise govern under the applicable principles of conflicts of law thereof.

Section 19. Successors and Assigns; No Third Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and their respective successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to confer or shall confer upon any other Person or party any rights, interests, benefits or remedies of any nature whatsoever under or by reason of this Agreement or any performance rendered or undertaken under this Agreement. This provision does not negate or supersede any requirements for further assignment included in the assigned Easements, leases or agreements except as provided in Section 12 above.

Section 20. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

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

NORFOLK SOUTHERN RAILWAY COMPANY

By: _____
Name:
Title:

MICHIGAN CENTRAL RAILWAY, LLC

By: _____
Name:
Title:

Appendix H – Amtrak Agreement and Consent to Assignment

AGREEMENT AND CONSENT TO ASSIGNMENT

This AGREEMENT (this "Agreement") is dated as of the ____ day of May, 2007 by and between National Railroad Passenger Corporation, a corporation organized under Part C of Subtitle V of Title 49 of the United States Code (formerly the Rail Passenger Service Act) and the laws of the District of Columbia, having offices at 60 Massachusetts Avenue, N.E., Washington, DC 20002 (hereafter referred to as "Amtrak"), and Norfolk Southern Railway Company, a Virginia corporation having offices at Three Commercial Place, Norfolk, VA 23510 (hereafter referred to as "NSR");

RECITALS:

WHEREAS, pursuant to an Agreement of Purchase dated March 31, 1976, Consolidated Rail Corporation ("Conrail") conveyed to the National Railroad Passenger Corporation ("Amtrak") certain real property interests and appurtenances in the States of Michigan and Indiana that comprise a line of railroad between Milepost MH 145.06 at or near Kalamazoo, MI and Milepost 240.58 near Porter, IN, subject to certain reservations, exceptions and easements (collectively referred to herein as "Easements"),

WHEREAS, NSR has succeeded to Conrail's right, title and interests in the Easements;

WHEREAS, by assignment to NSR, NSR is the lessor and Amtrak is the lessee of a line of railroad between Milepost MH 143.26 and Milepost MH 145.06 at or near Kalamazoo, MI, under a lease from Conrail to Amtrak effective April 1, 1995, as it may have been amended from time to time ("the Kalamazoo, MI Track Lease"),

WHEREAS, by assignment to NSR, NSR and Amtrak are parties to a Maintenance Agreement, dated March 1, 1995, between Conrail and Amtrak, that pertains to the line of railroad that is the subject of the Kalamazoo, MI Track Lease, as it may have been amended from time to time (the "Maintenance Agreement");

WHEREAS, by assignment to NSR, NSR and Amtrak are parties to that certain trackage rights agreement, effective as of April 1, 1976, as it has been amended from time to time (the "Michigan Line Trackage Rights Agreement"), that provides the terms and conditions for NSR's use of and operation over Amtrak's line of railroad between approximately Milepost MH 143.26 near Kalamazoo, MI and Milepost 240.58 near Porter, IN, including that segment of line between Milepost MH 143.26 at or near Kalamazoo, MI and Milepost 222.8 at the Michigan-Indiana State Line;

WHEREAS, by assignment to NSR, NSR and Amtrak are parties to the Agreement for Installation and Connection of Private Sidetracks Servicing Conrail Industries Along Amtrak Right of Way dated April 25, 1980, effective May 19, 1976, as amended ("Sidetrack Agreement");

WHEREAS, NSR and Amtrak are parties to that certain Amended and Restated Off-Corridor Operating Agreement between Norfolk Southern Railway Company ("NSR") and National Railroad Passenger Corporation ("Amtrak"), dated February 1, 2006, as amended (the "Off-Corridor Agreement"), that provides the terms and conditions for the use by Amtrak of Assignor NSR's lines of railroad, including that line of railroad between approximately Milepost MH 28.0 near Ypsilanti (Willow Run), MI and Milepost MH 143.26 near Kalamazoo, MI;

WHEREAS, on the terms and subject to the conditions set forth in a Transaction Agreement between NSR and Michigan Central Railway, LLC, a Delaware limited liability company ("Assignee") in which NSR shall have certain limited rights and economic interests but in which NSR shall have no day-to-day control and which shall be managed independently by its own management, NSR has agreed to assign to Assignee all of NSR's right, title, interest, responsibilities and duties in, to and under the Kalamazoo, MI Track Lease and the Maintenance Agreement and to assign to Assignee, in part, Assignor's right, title, interest, responsibilities and duties in, to and under the Easements, the Michigan Line Trackage Rights Agreement, the Sidetrack Agreement and the Off-Corridor Agreement, to the extent further described below, upon receiving consent from Amtrak for such assignments;

WHEREAS, Assignee shall become a participating railroad and signatory to the National Railroad Passenger Corporation Arbitration Agreement dated April 16, 1971 among Amtrak and certain other railroads, as amended, as it is incorporated by reference in certain agreements to be assigned to Assignee, and

WHEREAS, Amtrak is willing to consent to the assignment of the named Easements, leases and agreements to Assignee, in whole or in part, as further provided for in this Agreement; and

NOW THEREFORE, for and in consideration of the premises, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. Consent to Assignment. Amtrak consents to the assignment by NSR to Assignee, its successors and permitted assigns, of (a) all of NSR's right, title, interest, responsibilities and duties in, to and under (i) the Kalamazoo, MI Track Lease and (ii) the Maintenance Agreement and (b) that part of NSR's right, title, interest, responsibilities and duties, in, to and under (i) the Easements to the extent they apply to

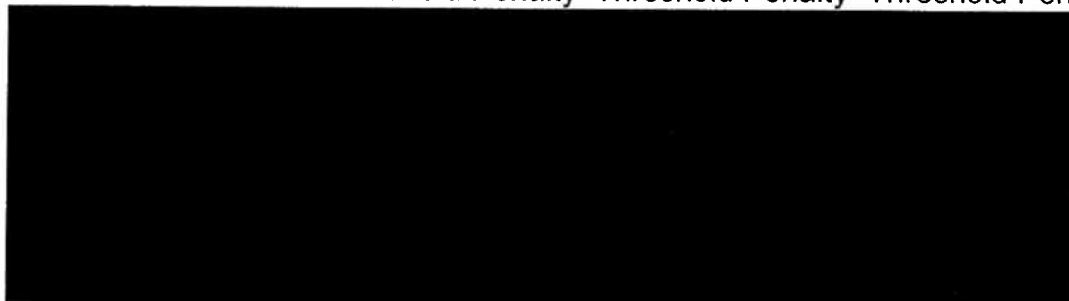
the line of railroad between Milepost MH 145.06 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; (ii) the Michigan Line Trackage Rights Agreement to the extent it applies to the line of railroad between Milepost MH 143.3 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; (iii) the Sidetrack Agreement to the extent it applies to the line of railroad between Milepost MH 143.3 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; and (iv) the Off-Corridor Agreement to the extent it applies to the Assignee's lines in general and to the line of railroad between Milepost MH 28.0 near Ypsilanti (Willow Run), MI and Milepost MH 143.3 near Kalamazoo, MI in particular, except to the extent provided for in this Agreement.

Section 2. Effective Date. The assignments and assumptions consented to herein shall be effective on the Closing Date.

Section 3. Allocation of Duties; Effect of the Assignment and Assumption. (a) All of NSR's right, title, interest, responsibilities and duties under (i) the Kalamazoo, MI Track Lease and (ii) the Maintenance Agreement and (b) that part of NSR's rights, title, interests, responsibilities and duties, in, to and under (i) the Easements to the extent they apply to the line of railroad between Milepost MH 145.06 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; (ii) the Michigan Line Trackage Rights Agreement to the extent it applies to the line of railroad between Milepost MH 143.3 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; (iii) the Sidetrack Agreement to the extent it applies to the line of railroad between Milepost MH 143.3 near Kalamazoo, MI and Milepost MH 222.8 at the Michigan-Indiana State Line; and (iv) the Off-Corridor Agreement to the extent it applies to the Assignee's lines in general and to the line of railroad between Milepost MH 28.0 near Ypsilanti (Willow Run), MI and Milepost MH 143.3 near Kalamazoo, MI in particular, except to the extent specifically provided for below, (A) accruing prior to the Commencement Date shall continue to be the right, title, interest, responsibilities and duties of NSR and (B) accruing after the Commencement Date shall be the right, title, interest, responsibilities and duties of Assignee, except as may be specifically provided for below.

Section 4. Allocation of Delay Minutes and Maximum Penalty Minutes. After the Commencement Date, the delay threshold minutes and maximum penalty minutes in Appendix V, Table 1 of the Off-Corridor Agreement for Amtrak Trains 350, 351, 352, 353, 354, 355, 364 and 365 shall be allocated between NSR's Off-Corridor Agreement and Assignee Michigan Central Railway's Off-Corridor Agreement as follows:

Train	Direction	Current Minutes Maximum Threshold Penalty	NSR Minutes After Assignment Maximum Threshold Penalty	Michigan Central Minutes After Assignment Maximum Threshold Penalty
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Section 5. No Assignment of Certain Appendix IV Item 11 Payments; Separate Handling. NSR will not assign to Assignee any part of the monthly payment by Amtrak to NSR for General Administration Personnel and Transportation Supervision under Item 11 of Appendix IV of the Off-Corridor Agreement with respect to Trains 350, 351, 352, 353, 354, 355, 364 and 365 or any Amtrak Train that replaces those trains over the same or shorter distance. To the extent Assignee shall receive a payment for its costs of the type covered by Item 11 of Appendix IV of the Off-Corridor Agreement with respect to Trains 350, 351, 352, 353, 354, 355, 364 and 365 or replacement Amtrak Trains that do not increase the number of Amtrak Trains or the mileage of Amtrak Trains operating on Assignee's line, and to the extent NSR shall allocate to Assignee any part of the amount of Amtrak's payment to NSR under Item 11 of the Off-Corridor Agreement, NSR and Assignee shall enter into a separate agreement concerning such allocation. As a consequence, Amtrak shall not be required to pay Assignee a separate amount for General Administration Personnel and Transportation Supervision with respect to General Administrative Personnel and Transportation Supervision for the operation between Milepost MH 28.0 near Ypsilanti (Willow Run), MI and Milepost MH 143.3 near Kalamazoo, MI of Amtrak Trains 350, 351, 352, 353, 354, 355, 364 and 365 or any Amtrak Train that replaces those trains and that does not increase the number of Amtrak Trains or the mileage of Amtrak Trains operating on the Assignee's lines.

Section 6. No Assignment of Appendix VII Claims Service Agreement. NSR will not assign to Assignee any part of the Claims Service Agreement in Appendix VII of the Off-Corridor Agreement, which previous to February 1, 2006 was a separate agreement that has been included in the Off-Corridor Agreement for administrative convenience of NSR and Amtrak and not because it was an integral part of a "Basic Agreement." NSR will not assign to Assignee the corresponding reference in Item 22 of Appendix IV of the Off-Corridor Agreement to payments under the Claims Service Agreement. Assignee and Amtrak shall make a separate agreement or arrangement for claims service or claims handling with respect to claims related to or arising from Amtrak's Intercity Rail Passenger Service over Assignee's lines of railroad under the partially assigned Off-Corridor Agreement, if Amtrak and Assignee wish to enter into an agreement with

respect to claims service or claims handling.

Section 7. Future Handling; Notification. Except to the extent specifically provided for in this Agreement, Amtrak shall handle all matters and further agreements concerning the lines to be operated by Assignee with the Assignee after the Commencement Date. Until Amtrak is notified in writing of a change in Assignee's notification party or address, for purposes of Section 8. 5 of the Off-Corridor Agreement and provisions of other agreements with respect to notification, Assignees notify party and address shall be:

President
Michigan Central Railway, LLC
315 W. 3rd Street
Pittsburg, Kansas 66762

with a copy to:

Mr. Ed McKechnie
Chief Commercial Officer
Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

with a copy to:

Mr. Craig Richey
General Counsel
Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

Section 8. NSR Services or Operations on or Over Michigan Line Subject to Assignment. NSR may provide services to Assignee under arms-length contracts. NSR may operate over Assignee's lines after the Commencement Date on an emergency or detour basis or under retained or future trackage rights from Assignee. Assignee shall remain fully responsible and liable under the Michigan Trackage Rights Agreement with respect to such services or operations for all payments, liabilities, duties or responsibilities assigned to and assumed by Assignee under that agreement as the operator of freight operations over the segment of Amtrak's line in Michigan and the freight railroad party to the Michigan Trackage Rights Agreement. Assignee shall require that NSR conduct any such services or operations over that Amtrak line under the terms and conditions of the Michigan Trackage Rights Agreement.

Section 9. Further Assignments of Any Subsequently Identified Real Property

Leases or Agreements. If there remains in effect any lease or agreement from NSR or its predecessors to Amtrak for use of specifically identified real property along or adjacent to the lines that subject to the assignments and that also shall be leased, conveyed or otherwise transferred to Assignee, Amtrak consents to the assignment of such leases or agreements by NSR to Assignee effective upon written notification to Amtrak of the continuing existence of the lease or agreement and of NSR's assignment of its rights, responsibilities, interests and duties under the lease or agreement to Assignee.

Section 10. Return of Lines Subject to Assignments to NSR. If after the Commencement Date, all or any part of the lines or the interests therein that are subject to the assignments and assumptions of Easements, leases or agreements identified in this Agreement are returned to or reclaimed by NSR, Assignee is required immediately to reconvey the assigned Easements for the subject line segments to NSR. Assignee is also required to assign back the interests in the leases and agreements covered by the Assignment and Assumption Agreement to NSR, in whole or in part as required due to the return or reclaim of the all or any part of the lines or the interests therein by NSR, effective upon written notice from NSR to Assignee that NSR is resuming possession or operation over the line or any part thereof without the need for further assignment or agreement by the parties. Amtrak consents to such possible future return, reclaim or re-assignment of the Easements or interests in the leases or agreements to NSR upon NSR's written notice to Amtrak without requirement for further agreement or consideration.

Section 11. Headings; Governing Law. The section headings herein are for convenience only and shall not affect the construction hereof. This Agreement shall be construed in accordance with and governed by the laws of the District of Columbia

Section 12. Severability. If any part of this Agreement is determined by a court, governmental agency or arbitration panel with jurisdiction to be invalid, illegal or unenforceable, such determination shall not affect the validity, legality or enforceability of any other part of this agreement and the remaining parts of this Agreement shall remain in effect and shall be enforced as if such invalid, illegal or unenforceable part were not contained herein. It is the intention of the parties that only the words determined to be invalid, illegal or unenforceable be stricken from the Agreement unless further words must be stricken to give the remaining provision meaning and to adhere as much as possible to the intent of the parties.

Section 13. Waiver, Amendment. Any waiver of any term of this Agreement must be in a writing signed by an authorized representative of the party making the waiver and shall apply only to the instance of waiver identified in the writing. Unless otherwise provided for herein, this Agreement may be amended or modified only in a writing signed by an authorized representative of each party.

Section 14. Successors and Assigns; No Third Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and their respective successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to confer or shall confer upon any other party or person any rights, interests, benefits or remedies of any nature whatsoever under or by reason of this Agreement except to the extent Assignee Michigan Central Railway, LLC is permitted to assume the agreements to be assigned to it by NSR as provided for in this Agreement, subject to the provisions of those agreements on further assignment and except to the extent provided for return of the lines or Easements, leases or agreements to NSR in Section 10 of this Agreement.

Section 15. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

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

NORFOLK SOUTHERN RAILWAY COMPANY

By:
Name:
Title:

NATIONAL RAILROAD PASSENGER CORPORATION
(AMTRAK)

By:
Name:
Title:

Appendix I – Assignment and Assumption Agreement

[TO BE COMPLETED]

Appendix J –Divisions Agreement

DIVISIONS AGREEMENT

THIS DIVISIONS AGREEMENT ("Agreement") is made and entered into this ____ day of _____, _____, by and between NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation on its own behalf and on behalf of its subsidiary railroad companies (all collectively and singularly called "NSR"), and MICHIGAN CENTRAL RAILWAY LLC ("MCR"). Each of NSR and MCR shall hereinafter be referred to as a "Party" and collectively as "Parties."

WITNESSETH:

WHEREAS, on [_____], 2007, NSR, MCR and Watco Transportation Services, Inc. ("Watco") entered into a transaction agreement (the "Transaction Agreement") that, among other things, provides for the transfer, subject to the retention of certain rights, from NSR to MCR of the Subject Trackage, as defined in the Transaction Agreement; and

WHEREAS, NSR, through contracts, exempt quotations and common carrier offerings ("Customer Transportation Agreements"), has undertaken, alone and in conjunction with other Persons other than MCR, to provide through rail transportation to shippers and receivers of rail freight ("Customers") with facilities physically located on or adjacent to the Subject Trackage which, prior to the Closing Date, as defined in the Transaction Agreement, NSR's railroad line, and after the Closing Date, will be MCR's railroad line; and

WHEREAS, NSR, through Customer Transportation Agreements in the future will undertake, alone and in conjunction with other Persons including MCR, to provide through rail transportation to Customers with facilities physically located on or adjacent to what will be MCR's railroad line; and

WHEREAS, MCR, in order to facilitate the continued provision of through rail transportation service pursuant to existing Customer Transportation Agreements, is willing to perform certain portions of the through transportation services pursuant to those agreements for a division, regardless of whether the Customer Transportation Agreement is a through contract, an exempt quotation or a common carrier offering, and regardless of whether the rate quoted is a so-called "joint line" or a so-called "Rule 11" rate;

WHEREAS, the Parties have determined that having coordinated fuel surcharge programs effectuate both the goal of complying with the mandates of the Surface Transportation Board concerning the implementation and application of a fuel surcharge program in both public and contract rates

WHEREAS, the Parties have entered into that Master Interchange Agreement of even date hereof; and

NOW, THEREFORE, in consideration of the premises, the mutual covenants, and the other good and valuable considerations set forth herein, NSR and MCR agree as follows:

Section 1. Definitions and Interpretations

(a) Certain Definitions. All terms defined in this Agreement shall have the defined meanings when used in this Agreement, unless otherwise defined or the context otherwise requires. The following terms shall have the following meanings:

"Action" means any litigation, action, suit, proceeding, investigation, arbitration, claim or other dispute by or before any court or other Governmental Authority, or any other alternative dispute resolution proceedings, such as arbitration or mediation.

"Affiliate" shall mean, with respect to any specified Person, (i) any other Person who, directly or indirectly, controls, is under common control with, or is controlled by, such specified Person, (ii) any other Person who is a director, officer, manager, member, partner or trustee of the specified Person or a Person described in clause (i) of this definition or any spouse of the specified Person or any such other Person or (iii) any Person of which the specified Person and/or any one or more of the Persons specified in clause (i) or (ii) of this definition, individually or in the aggregate, beneficially own 10% or more of any class of voting securities.

"Business Day" shall mean any day other than a Saturday or Sunday or any day banks in the State of New York are authorized or required to be closed.

"Commodity" shall mean all commodities within a 2-digit STCC code classification.

"Existing Customer Transportation Agreement" shall mean a Customer Transportation Agreement that is accepted by a customer for the transportation of freight and in existence on the Effective Date.

"Governmental Authority" shall mean any nation or government, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government or any mediation body or arbitral tribunal, including the STB.

"Lane" shall mean, with reference to a particular Customer Transportation Agreement, the point to point routing via the Elkhart Yard, or the Willow Run, interchange point, as may be applicable, pursuant to the Customer Transportation Agreement where one point is a point on MCR and the other point is either: (i) a point on NSR; or (ii) a point of interchange with another rail carrier.

"Person" shall mean an individual or a partnership, corporation, trust, association, limited liability company, Governmental Authority or other entity.

"STB" shall mean the Surface Transportation Board or any successor entity thereto.

"Subsidiary" of any Person shall mean any entity of which such Person owns, directly or indirectly, securities or other ownership interests having the power to elect a majority of the board of directors or other persons performing similar functions, or otherwise having the power to direct, manage or control the conduct of business of such entity.

"Transfer" shall mean sell, assign, transfer, pledge, grant a security interest in, or otherwise dispose of, with or without consideration, and "Transferred" shall have a correlative meaning.

(b) Construction of Certain Terms and Phrases

Unless the context otherwise requires, (a) words of any gender include each other gender; (b) words using the singular or plural number also include the plural or singular number, respectively; (c) the terms “hereof,” “herein,” “hereby” and derivative or similar words refer to this entire Agreement; (d) the terms “Article” or “Section” refers to the specified Article or Section of this Agreement; (e) the terms “and” and “or” include the term “and/or” when the context is appropriate; (f) the terms “include” or “including” also include the words “without limitation” when the context is appropriate. Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under generally accepted accounting principles, as in effect in the United States of America. Whenever this Agreement refers to an Appendix, Exhibit or Schedule attached hereto, the Appendix, Exhibit or Schedule shall be deemed to be incorporated by reference.

Section 2. Existing Customer Transportation Agreements.

(a) Appendix A lists all identified Existing Customer Transportation Agreements pursuant to which NSR has committed to undertake transportation to or from Customer facilities located on or adjacent to MCR’s lines. Existing Customer Transportation Agreements identified subsequent to the Effective Date shall be added to Appendix A.

(b) Subject to the terms of the Transaction Agreement, and for value received, NSR does hereby transfer and assign unto MCR, to the fullest extent that it lawfully may, all of NSR’s rights, titles and interests in those various Existing Customer Transportation Agreements to the extent that said instruments involve transportation to or from Customer facilities located on or beyond MCR’s lines.

(c) Subject to the terms of the Transaction Agreement, MCR does hereby accept and assume, to the extent of the interest hereby assigned, all of the rights, titles, interests, covenants, promises and obligations of NSR contained within the NSR Customer Transportation Agreements to the extent assigned.

(d) MCR shall perform all the necessary operations to complete the transportation to and from MCR’s stations, or in interchange with other carriers, pursuant to Existing Customer Transportation Agreements, in each case in accordance with its terms. NSR shall perform all the necessary operations to complete the transportation to and from NSR stations, or in interchange with other carriers, pursuant to Existing Customer Transportation Agreements, in each case in accordance with its terms.

(e) MCR shall receive a division of the transportation rate received by NSR for services provided pursuant to this Section 2, as set forth in Appendix B. Should, during the term of an Existing Customer Transportation Agreement, the transportation rate received by NSR pursuant to an Existing Customer Transportation Agreement for services provided pursuant to this Section 2 increase or decrease, as measured in terms of a percentage increase or decrease, during the term of said Existing Customer Transportation Agreement, the base rate division received by MCR shall increase or decrease by the same percentage increase or decrease. For the purposes of illustration only, if in the second year of a three-year Existing Customer Transportation Agreement the NSR division was \$X and the MCR division was \$Y, and if in the third year of that Existing Customer Transportation Agreement the NSR

division will be 5% higher than \$X, the MCR division for the third year of that Existing Customer Transportation Agreement shall be 5% higher than \$Y.

(f) The Existing Customer Transportation Agreement that provide for refunds, rebates or other such payments or discounts are set forth in Appendix C, together with the amount that MCR shall pay if refunds are to be paid in accordance with their respective terms.

Section 3 – Future Customer Transportation Agreements involving the Same Lane and Commodity.

(a) For a future Customer Transportation Agreement that covers the same Lane and Commodity as an Existing Customer Transportation Agreement, the MCR division for the future Customer Transportation shall be a dollar amount not more than the division that MCR would have received if the future Customer Transportation Agreement was a year-over-year extension of the Existing Customer Transportation Agreement. For the purposes of illustration only, if in the final year of an Existing Customer Transportation Agreement the NSR division was \$X and the MCR division was \$Y, and if in the future Customer Transportation Agreement that covers the same Lane and Commodity the NSR division will be 5% higher than \$X, the MCR division under the future Customer Transportation Agreement shall be up to, but not to exceed, 5% higher than \$Y.

(b) Should, during the term of a future Customer Transportation Agreement covered by this Section 3, the transportation rate received by NSR pursuant to the Customer Transportation Agreement for services provided increase or decrease, as measured in terms of a percentage increase or decrease, during the term of said Customer Transportation Agreement, the base rate division received by MCR shall increase up to, but not to exceed, the same percentage increase received by NSR, or decrease by the same percentage decrease.

Section 4 – Other Future Customer Transportation Agreements.

(a) For future Customer Transportation Agreements that do not cover the same Lane and/or the same Commodity as an Existing Customer Transportation Agreement, the Parties are free to set divisions within their discretion, capped only by the terms of this Section 4.

(b) Each quarter MCR shall determine the weighted average MCR factor for each Commodity within the respective origination or termination zone on MCR as described in Appendix B, measured on a ton-mile basis. MCR's factor for a future Customer Transportation Agreement covered by this Section 4 that involves movement of Commodities that either had been or was then being transported over MCR shall be no greater than 125% of the weighted average MCR factor for each Commodity, measured on a ton-mile basis.

(c) Each quarter MCR shall determine the weighted average MCR factor for all Commodities measured on a ton-mile basis. MCR's factor for a future Customer Transportation Agreement covered by this Section 4 that involves movement of Commodities that had not previously been transported over MCR shall be no greater than 125% of the weighted average MCR factor for all Commodities within the respective origination or termination zone, measured on a ton-mile basis.

Section 5 – All Future Customer Transportation Agreements

(a) Nothing in Section 3 or Section 4 shall be interpreted as requiring a Customer Transportation Agreement entered into pursuant to this Agreement to have an escalation provision, nor shall be interpreted as prescribing a set form of escalation provision if one is included in the Customer Transportation Agreement.

(b) Neither NSR nor MCR shall commit the other Party or any other party to provide rail cars or any particular local services not necessary for completion of the line haul transportation ("Local Services"), including, without limitation, loading or unloading, weighing of cars, intra-plant switching, storage or warehousing, without prior approval of the party (including a Party) responsible for providing said particular local services. The weighing of cars for the purpose of assessing transportation charges shall be a Local Service separately assessed and not subsumed within the rates set forth in Appendix B. Any charges for Local Services may be included in a Customer Transportation Agreement by mutual agreement of the Parties.

(c) The form and content of any future Customer Transportation Agreement, whether common carrier rate, exempt rate quote, circular, contract, or other, shall be at the discretion of MCR, if the transportation is originating on MCR, or on NSR, if the transportation is originating at a location on NSR. MCR shall appear in the rate document or waybill. In determining rights and obligations between MCR and NSR, MCR will be deemed a party to, and subject to the terms of, the bill of lading or waybill as an independent interline carrier.

Section 6. Fuel Surcharge.

Nothing in this Section 6 shall be interpreted as requiring a future Customer Transportation Agreement entered into pursuant to this Agreement to have a fuel surcharge provision, nor shall be interpreted as prescribing a set form of fuel surcharge provision if one is included in the future Customer Transportation Agreement. MCR agrees not to impose an additional fuel surcharge on any existing Customer Transportation Agreement.

Section 7. Effect of this Agreement on other Agreements, Transportation Services and Charges

(a) Each Party shall be responsible for, and this Agreement shall have no effect on, the determination and assessment of demurrage, weighing, switching, or other transportation ancillary services charges, including charges for Local Services, and the maintenance of the records or collection of the same. Each Party shall be responsible for the determination, assessment and collection of any fuel and/or other surcharges to the same extent said Party would be responsible for the same in the absence of this Agreement.

(b) Other than specifically set forth herein, this Agreement shall have no effect on tariffs, circulars and other transportation publications.

(c) This Agreement shall have no effect on the Master Interchange Agreement, the Parties' respective obligations regarding maintenance, repair, and operation of tracks and equipment related to that interchange, all liabilities of each of the Parties, both on the interchange tracks and beyond the interchange tracks.

(d) This Agreement shall have no effect on the responsibility for the processing of all revenue and accounting claims (including, without limitation, the collection of freight rates from users of rail service, any claims for overpayment or underpayment thereof, allocation of those revenues with any other interline carriers, and any reclaims for improper allocation), and each Party shall be responsible for the same to the same extent said Party would be responsible in the absence of this Agreement. This Agreement shall have no effect upon car hire and car accounting practices, responsibilities and obligations between the Parties, and will place no obligation on either Party to provide additional free time or car hire relief to the other Party or to any Customer.

(e) Nothing in this Agreement constitutes or will operate as a waiver of NSR's or MCR's right to hold rail cars prior to interchange for payment of all charges due it, or of NSR's or MCR's right to invoke or participate in any lawful embargo. If MCR embargoes any Customer or portion of its lines, or if NSR embargoes any Customer or portion of its line impacted by an Existing Customer Transportation Agreement, then in addition to Customer, regulatory, and other required embargo notices and filings, the Party imposing the embargo shall notify the other Party of said embargo at or prior to issuance.

Section 8. Relationship of the Parties.

Nothing herein shall be interpreted as creating an association, partnership, joint venture or other joint undertaking between NSR and MCR. In the performance of transportation and other services by NSR and MCR, each shall be independent of the other, and employees of NSR and MCR shall be subject to the direction, supervision and control of their respective employer.

Section 9. Confidentiality

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement, or as may be necessary or appropriate for a Party hereto to enforce its rights under this Agreement, during the term of this Agreement (including any extensions thereof), and for a period of three (3) years after termination or expiration of this Agreement, the terms and provisions of this Agreement and all information to which access is provided or which is obtained hereunder will be kept confidential and will not be disclosed by either Party to any person other than members, officers, employees, and attorneys, without the prior written approval of the other Party. Notwithstanding anything to the contrary, either Party may disclose this Agreement in connection with an audit by its external auditors, the Internal Revenue Service or other tax authority.

Section 10. Term.

(a) This Agreement shall become effective following the latest date of: (i) the date first written above; (ii) following receipt of any required regulatory approvals or exemptions; and (iii) following the expiration of any time periods required by the issuance of labor notices by NSR and/or MCR, should such labor notices be required ("Effective Date"). The Parties shall determine the Effective Date through an exchange of written correspondence.

(b) This Agreement shall commence on the Effective Date, and shall continue for an initial term ("Initial Term") of twenty-five (25) years from the Effective Date.

(c) This Agreement shall automatically renew for additional terms of ten (10) years (each a "Renewal Term") unless NSR or MCR gives the other Party written notice during a window period beginning twelve (12) months before the end of the then-current term and ending six (6) months before the end of the then-current term.

(d) Termination or expiration of this Agreement shall not relieve or release any Party hereto from any obligations assumed or from any liability which may have arisen or been incurred by such Party under the terms of this Agreement prior to termination or expiration hereof.

Section 11. Miscellaneous.

(a) Notices

All notices, requests, demands and other communications (collectively, "Notices") given pursuant to this Agreement shall be in writing, and shall be delivered by personal service, courier, overnight delivery service, facsimile transmission (which must be confirmed) or by United States registered or certified mail, postage prepaid, return receipt requested, to the following addresses:

(i) if to NSR, to:

David Lawson
Vice President Industrial Products
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510

with a copy to:

Vice President Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

(ii) if to MCR, to:

President
Michigan Central Railway, LLC
315 W. 3rd Street
Pittsburg, Kansas 66762

with a copy to:

Ed McKechnie
Chief Commercial Officer
Watco Transportation Services, Inc.
315 W. 3rd Street
Pittsburg, Kansas 66762

with a copy to:

Craig Richey
General Counsel
Watco Transportation Services, Inc.
315 W. 3rd Street
Pittsburg, Kansas 66762

Any Notice, other than a Notice sent by registered or certified mail, shall be effective when received; a Notice sent by registered or certified mail, postage prepaid return receipt requested, shall be effective on the earlier of when received or the third day following deposit in the United States mails. Any Party may from time to time change its address for further Notices hereunder by giving notice to the other Party in the manner prescribed in this Section.

(b) Entire Agreement

This Agreement, including any attached exhibits and schedules, contain the sole and entire agreement and understanding of the Parties with respect to the entire subject matter of this Agreement, and any and all prior discussions, negotiations, commitments and understandings, whether oral or otherwise, related to the subject matter of this Agreement are hereby merged herein. Nothing in this Agreement, express or implied, is intended to confer upon any Person other than the Parties hereto any rights or remedies under or by way of this Agreement.

(c) Assignment

No party may assign its rights or obligations under this Agreement, and any attempted or purported assignment or any delegation of any party's duties or obligations arising under this Agreement to any third party or entity shall be deemed to be null and void, and shall constitute a material breach by such party of its duties and obligations under this Agreement.

(d) Extension, Waiver and Amendment

At any time prior to the Closing, the parties hereto may (a) extend the time for the performance of any of the obligations or other acts of any other party hereto, (b) waive any inaccuracies in the representations and warranties of any other party hereto contained herein or in any document delivered pursuant hereto, and (c) waive compliance by any other party hereto with any of the agreements or conditions contained herein. Any agreement on the part of a party hereto to any such extension or waiver shall be valid if set forth in writing in an instrument signed by or on behalf of such party. The waiver by any party hereto of a breach of this Agreement shall not operate or be construed as a waiver of any subsequent breach. This Agreement may be amended only by a written agreement executed by all of the parties to this Agreement.

(e) Governing Law; Submission to Jurisdiction

(i) THE LAWS OF THE STATE OF DELAWARE SHALL GOVERN THE VALIDITY OF THIS AGREEMENT, THE CONSTRUCTION OF ITS TERMS AND THE INTERPRETATION OF THE RIGHTS AND DUTIES ARISING HEREUNDER.

(ii) Subject to Section 11(f), each of the Parties hereto hereby (i) consents to submit itself to the exclusive jurisdiction of any Federal or state court located in the State of Delaware (the "Delaware Courts") in any action to enforce or in aid of the agreement to arbitrate in Section 11(f) or for provisional relief to maintain the status quo or prevent irreparable harm pending the appointment of the arbitrators, and to the non-exclusive jurisdiction of the Delaware Courts for enforcement of any award issued hereunder (ii) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, and (iii) waives any objection based on forum non conveniens or any other objection to venue thereof.

(f) Dispute Resolution

(i) All disputes with respect to this Agreement shall be resolved first through discussions among the officers of each Party, then through discussions between the chief executive officers, or other designated member of the senior management, of each of the Parties, in each case seeking a mutually-acceptable consensus resolution. If the Parties have not resolved a dispute within thirty (30) days following reference of the dispute to the Party's chief executive officers or other designated member of the senior management, either Party may refer the dispute to binding arbitration before a panel of three independent arbitrators sitting in Washington, D.C., and acting under the American Arbitration Association under its commercial arbitration rules. The decision of a majority of the panel of arbitrators shall be final and conclusive upon the Party. Each Party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel, and one-half of the compensation, costs and expenses of the three arbitrators and the arbitration filing fees. The arbitrators shall not have the power to award special, consequential or punitive damages or to determine violations of criminal or antitrust laws. Pending the award of the arbitrators, there shall be no interruption in the transaction of business under this Agreement, and all payments in respect thereto shall be made in the same manner as prior to the arising of the dispute until the matter in dispute shall have been fully determined by arbitration, and thereupon such payment or restitution shall be made as required by the decision of the panel of arbitrators.

(ii) By agreeing to arbitration, the Parties do not intend to deprive any Delaware Court of its jurisdiction to issue a pre-arbitral injunction, pre-arbitral attachment, or other order in aid of arbitration proceedings and the enforcement of any award. Without prejudice to such provisional remedies as may be available under the jurisdiction of a Delaware Court, the arbitral tribunal shall have full authority to grant provisional remedies and to direct the parties to request that any court modify or vacate any temporary or preliminary relief issued by such court, and to award Damages for the failure of any Party to respect the arbitral tribunal's orders to that effect.

(iii) The Parties are committed to the prompt and efficient resolution of disputes. Accordingly, if one or more disputes arises under this Agreement, such disputes may be brought in a single arbitration. If more than one arbitration is brought with respect to disputes under this Agreement, then any Party may request that any arbitration or any new dispute arising under this Agreement be consolidated into any prior arbitration. The new dispute or arbitration shall be so consolidated, provided that the arbitral tribunal for the prior (or first filed) arbitration determines that (A) the new dispute or

arbitration presents significant issues of law or fact common with those in the pending arbitration; (B) no Party would be unduly prejudiced and (C) consolidation under such circumstances would not result in undue delay for the prior arbitration. Any order of consolidation issued by such arbitral tribunal shall be final and binding upon the parties. Unless the parties otherwise agree, the arbitral tribunal appointed first in time shall serve as the arbitral tribunal for the consolidated arbitration. The Parties waive any right they have to appeal or to seek interpretation, revision or annulment of such order of consolidation under the Rules or in any court. The Parties agree that upon such an order of consolidation, they will promptly dismiss any arbitration brought under this Agreement, the subject of which has been consolidated into another arbitral proceeding.

(g) Severability

Whenever possible each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement shall be or become prohibited or invalid under applicable Law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement.

(h) Captions

The various captions of this Agreement are for reference only and shall not be considered or referred to in resolving questions of interpretation of this Agreement.

(i) Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

(j) Costs and Attorneys' Fees

Except to the extent provided for in Section 11(f) hereof, each of the Parties shall bear and pay all costs and expenses incurred by it or on its behalf in connection with the transactions contemplated hereunder, including fees and expenses of its own financial or other consultants, investment bankers, accountants and counsel.

(k) Judicial Interpretation

Should any provision of this Agreement require judicial interpretation, it is agreed that a court or other tribunal interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against any Person by reason of the rule of construction that a document is to be construed more strictly against the Person who itself or through its agent prepared the same, it being agreed that all parties have participated in the preparation of this Agreement.

(l) No Third Party Beneficiaries

Except as expressly provided in this Agreement, this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the Parties hereto; provided, however,

that this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the Parties and their respective successors and permitted assigns.

(m) Non-Waiver

The waiver of any default of any of the terms and conditions hereof shall be limited to the act or acts constituting that default and shall not be construed as a continuing or permanent waiver of any such terms and conditions, all of which shall be and remain in full force and effect as to future acts or happenings notwithstanding that waiver. The Parties intend that none of the provisions of this Agreement shall be thought by the other to have been waived by any act or knowledge of the Parties, but only by a written instrument signed by the party waiving a right hereunder.

(n) Amendment

This Agreement may be modified only by an instrument in writing signed by an authorized officer of NSR and MCR.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate, each part being an original, as of the day and year first above written.

NORFOLK SOUTHERN RAILWAY COMPANY

By: _____

Title: _____

MICHIGAN CENTRAL RAILWAY LLC

By: _____

Title: _____

Execution Copy - Redacted

Appendix A – Existing Transportation Agreements

[To be supplied]

Appendix B

Figure 1 consists of four bar charts, labeled (a) through (d), each showing the percentage of respondents for four age groups: 18-24, 25-34, 35-44, and 45-54. The y-axis represents the percentage from 0 to 100. The x-axis represents the age groups. The bars are black, and the background is white with horizontal grid lines.

Category	Age Group	Percentage (%)
(a) No	18-24	
	25-34	
	35-44	
	45-54	
(b) Yes	18-24	
	25-34	
	35-44	
	45-54	
(c) No	18-24	
	25-34	
	35-44	
	45-54	
(d) Yes	18-24	
	25-34	
	35-44	
	45-54	

Execution Copy - Redacted

Appendix C – Existing Transportation Agreements

[To be supplied]

Appendix K – Master Locomotive Run Through Agreement

LOCOMOTIVE RUN THROUGH AGREEMENT

This Locomotive Run Through Agreement is made as of _____ by and between MICHIGAN CENTRAL RAILWAY, LLC ("MCR"), and NORFOLK SOUTHERN RAILWAY COMPANY ("NSR"). MCR and NSR hereinafter shall each be referred to as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, on [_____], 2007, NSR, Watco Transportation Services, Inc. ("Watco") and MCR entered into a transaction agreement (the "Transaction Agreement") that, among other things, provides for the creation of MCR, the transfer, subject to the retention of certain rights, from NSR to MCR of the Subject Trackage, as defined in the Transaction Agreement; and

WHEREAS, pursuant to an agreement of even date hereof (the "Master Interchange Agreement") the Parties have agreed to terms and conditions governing the interchange of traffic in Elkhart Yard; and

WHEREAS, in the handling of certain through traffic the Parties desire, in the interest of economy and efficiency in operation, that the owned, leased or licensed locomotives ("Locomotives"), and head-end and rear-end telemetry devices of either Party may, by prior agreement, be operated by the other Party with their respective train and engine crews; and

WHEREAS, the Parties acknowledge that it is not generally practical to deliver locomotives fully fueled and lubricated immediately prior to Exchange, and desire to set up a fuel and lubricating oil accounting and crediting system that is both practical and equitable for making each carrier whole when locomotives are delivered to a receiving carrier with less than a full tank of fuel; and

WHEREAS, the Parties desire that this Agreement shall apply solely to Exchanged Equipment, as hereinafter defined, between the Parties for the purpose of being used by the train and engine crews of the Party given Custody and Control, as hereinafter defined, of said Exchanged Equipment, and solely for the purpose of facilitating the operation of run through trains or other services including Free Running Service, as hereinafter defined; and

WHEREAS, the Parties desire to set forth the terms and conditions for the exchange of Exchanged Equipment;

Now therefore, it is agreed by and between the Parties as follows:

SECTION 1. DEFINITIONS AND INTERPRETATION

(a) Interpretation Generally.

(i) Unless otherwise defined herein, all words, terms and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.

(ii) Each definition in this Agreement includes the singular and the plural, and references in this Agreement to the neuter gender include the masculine and feminine where appropriate. References herein to any agreement or contract mean such agreement or contract as amended. As used in this Agreement, the word “including” means “without limitation”, and the words “herein”, “hereof” and “hereunder” refer to this Agreement as a whole. All dollar amounts stated herein are in United States currency.

(b) Capitalized Terms.

All terms defined in this Agreement shall have the defined meanings when used in this Agreement, unless otherwise defined or the context otherwise requires. The following terms shall have the following meanings:

“Burn Rate” shall mean the gallons of fuel used by one (1) locomotive traveling one (1) mile.

“Equipment” shall mean, collectively, Locomotives and Telemetry Devices.

“Free Running Service” shall mean Locomotives Exchanged to the Using Party in, or other than in, pre-arranged run-through service for the explicit purpose of equalizing horsepower hours.

“Latent Defect” shall mean a hidden or concealed defect – a defect that could not be discovered by reasonable or customary inspection.

“Necessary Notice” shall mean that notice of the arrival of Equipment to be Exchanged as the receiving carrier may reasonably require to be provided by the delivering carrier, such notice to be provided by a means that the receiving carrier reasonably specifies.

“Owning Party” shall mean the Party that is the owner or lessee of the Equipment utilized pursuant to this Agreement.

“Telemetry Device” shall mean either a head-end telemetry device or rear-end telemetry device, and reference to a “Telemetry Device” located on a Locomotive shall

be a reference to either a head-end telemetry device or a rear-end telemetry device or both, depending upon the configuration of the telemetry device(s) on the Locomotive.

“Using Party” shall mean the Party that is operating or has Custody and Control of an Owning Party’s Equipment utilized pursuant to this Agreement.

(c) Other Words and Phrases.

(i) Exchanged.

Equipment shall be considered **“Exchanged”** when the delivering carrier’s engine crew has disembarked from the locomotive consist at an agreed upon exchange point, and the receiving carrier has received Necessary Notice of delivery of the Equipment by the delivering carrier.

(ii) Custody and Control.

(A) If Equipment is Exchanged at an exchange point at or after the time that the delivering carrier estimated the arrival of the Equipment at the exchange point, then **“Custody and Control”** over Equipment shall be considered to be transferred from the delivering carrier to the receiving carrier when the Equipment is Exchanged.

(B) If Equipment is Exchanged at an exchange point prior to the time that the delivering carrier estimated the arrival of the Equipment at the exchange point, then **“Custody and Control”** over Equipment shall be considered to be transferred from the delivering carrier to the receiving carrier at the earlier of: (x) the estimated time of delivery; and (y) the time that the receiver carrier’s crew occupies or otherwise exercises control over the Equipment.

(C) Generally, the time of transfer of the **“Custody and Control”** over Equipment shall be determined by the conditions recorded by the engine crews involved in the Exchange, but in the event that the Parties are so unable to ascertain the exact time of Exchange, then the arrival times recorded by the appropriate Train Dispatcher or other authorized personnel of the Party receiving the locomotives in Exchange shall govern.

(D) If Equipment is delivered for exchange without providing Necessary Notice, then **“Custody and Control”** over Equipment shall be considered transferred from the delivering carrier to the receiving carrier at the time that the receiving carrier’s crew occupies or otherwise exercises control over the Equipment.

(d) Successor Laws.

A reference to any particular statute or regulation shall include a reference to any successor statute or regulation.

(e) Railroad Industry.

All words, terms and phrases used in this Agreement, and not otherwise defined, shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.

SECTION 2. OPERATIONS.

(a) Condition of the Exchanged Equipment.

(i) Exchanged Equipment shall be in good running order, properly serviced and equipped, including, without limitation, coupler stops (carrier stops), and shall be in compliance with applicable laws and regulations.

(ii) Locomotives shall be equipped with dynamic brakes (except as may otherwise be mutually agreed to on a case by case basis) and be of sufficient type, capacity and quantity to permit movement of the cars interchanged with the Locomotives Exchanged.

(iii) Locomotives shall be equipped with radios that are compatible for the conduct of business over the tracks of both Parties.

(b) Documents Exchanged.

(i) The delivering carrier shall provide the receiving carrier Necessary Notice.

(ii) The delivering carrier shall provide air slips or notification that an initial terminal test was successfully conducted.

(c) Time, Location and Conditions of Exchange.

(i) The Exchange of Equipment between Parties may take place at any connecting location, provided, however, that such Exchange shall be at the sole discretion of the Senior Operating Office, or his designee, of each of the Parties, which such location shall be agreed upon, orally or in writing, in advance.

(ii) Other conditions of Exchange, such as scheduling and blocking attendant to such Exchange, are subject to change in order to meet marketing and operating demands, and are not the subject of this Agreement.

(d) Equipment Owned by Third Parties.

(i) In the event that Equipment owned by a third party is Exchanged, the Equipment shall be considered owned by the delivering party for purposes of this Agreement.

(ii) As between the delivering party and the third party owner of a Locomotive Exchanged pursuant to this Agreement, the delivering party shall retain responsibility for horse power hours for the Equipment owned by the third party.

SECTION 3. HORSEPOWER HOURS.

(a) The Using Party shall incur a horsepower hour liability for use of the Owning Party's Equipment beginning at the exchange of Custody and Control of the Equipment to the Using Party and ending at the exchange of Custody and Control of the Equipment to the Owning Party. Notwithstanding the foregoing, the Using Party shall not incur a horsepower hour liability during a period that the relevant Equipment is inoperable because of mechanical failure that is not the result of damage to said Equipment while in the Using Party's Custody and Control, such period beginning at the time the mechanical failure is reported to the Owning Party's Operations Center, and such period ending at the time the Owning Party reports the Equipment again available for service. The Using Party shall report a mechanical failure promptly.

(i) In the case of Locomotives, the horsepower hour liability shall be defined to be the result of multiplying the rated horsepower of a locomotive by the total time (in hours) the locomotive was in the Custody and Control of the Using Party.

(ii) In the case of Telemetry Devices, the horsepower hour liability shall be defined to be the result of multiplying the total time (in hours) the Telemetry Device was in the Custody and Control of the Using Party by thirty-six (36).

(b) Each Party shall furnish the other with a monthly statement of horsepower hours for the time the Owning Party's Equipment was in the Custody and Control of the Using Party.

(c) All horsepower hour liability shall be repaid through a mutually agreed upon number of locomotives or by payment to the party owned at the Current Rate defined in Section 8(c) of this agreement.

SECTION 4. FUEL AND LUBRICATING OIL ACCOUNTING AND BILLING

(a) If a Locomotive is fueled prior to Exchange while in the Custody and Control of the delivering carrier, the delivering carrier shall calculate the amount of fuel used in its service from the last point of fueling prior to Exchange to the point of Exchange, and credit the receiving carrier with that amount of fuel to give the receiving

carrier the equivalent of a full tank of fuel. If a Locomotive is fueled prior to Exchange while in the Custody and Control of a carrier other than the delivering carrier, the delivering carrier shall calculate the amount of fuel used in its service from the point of receipt of the locomotive into the delivery carrier's Custody and Control, and credit the receiving carrier with that amount of fuel to give the receiving carrier the equivalent of a full tank of fuel.

(b) Each Party will record and report to the other Party the last fuel point of all locomotives Exchanged, the date and time of Exchange, the routing and mileage that the Exchanged Locomotive takes from its last fueled location prior to Exchange, or, in the case of a Locomotive that is not fueled prior to Exchange in Delivery, all routing and mileage from the point of Exchange in receipt to the point of Exchange in delivery.

(c) There shall be no obligation implied in this Agreement to make either Party responsible for fuel consumed in other than its own service. However, as a practical matter, when Locomotives overhauled an intermediate carrier without being fueled, it is virtually impossible for a receiving carrier to know the identity of the preceding carrier(s) without also having access to the transportation records of the preceding carrier(s). Therefore, it is the obligation of all non-fueling intermediate carriers to either pass any offered fuel credit through to subsequent carriers, to refuse the credits from proceeding carriers, informing the preceding carrier to credit the subsequent carrier, or to inform the succeeding carrier of the carrier that the exchanged locomotive was received from, and allow the subsequent carrier the opportunity to collect for fuel owned from the proceeding carrier. Only the final fueling carrier is entitled to keep the fuel credits from each of the railroads involved, from the last location the locomotive was, in fact, fueled.

(d) Calculation of fuel consumption and preparation of fuel billing shall be as set forth in Appendix A, Part 2.

SECTION 5. RESPONSIBILITY FOR LOCOMOTIVES AND TDs BY THE USING PARTY

(a) If Locomotives, when Exchanged, are found to be defective or unsafe by the receiving Party, the receiving Party may exclude them from service or handle repairs as set forth in this Section 5.

(b) If Equipment of the Owning Party is lost, destroyed or irreparably damaged from any cause whatsoever or howsoever, except Latent Defects, arising while in possession of the Using Party, the Using Party shall reimburse the Owning Party in an amount equal to the Casualty Value. The Casualty Value is defined to be the greater of: (1) the STB depreciated ledger value of such equipment; or (2) the amount the Owning Party is obligated to pay under the terms and provisions of any lease or financing agreement to which such Equipment may be subject. Upon payment of such amount, and upon obtaining the consent of the Owning Party, the Using Party may dispose of the Equipment on an "as is, where is" basis and retain for its own account the proceeds of such disposition up to the amount paid the Owning Party pursuant to this Section 5(b).

All proceeds in excess of the amount paid the Owning Party pursuant to this Section 5(b) shall be paid over to the Owning Party, provided, however, that in the event any Equipment is irreparably damaged and the lease or other financing agreement to which said Equipment may be subject requires the Owning Party to return the hulk to the Trustee, security interest holder or lessor, then the Using Party shall pay to the Owning Party the amount required under the other financing agreement and shall return the hulk to the Owning Party.

(c) If the owning Party's Equipment requires repair while present on or operating over the tracks of the Using Party pursuant to this Agreement, the Using Party may perform light repairs to such Equipment not to exceed a total of five (5) hours of labor or [one hundred dollars (\$100.00)] in material cost per unit at the Using Party's expense. Repairs, but not modifications, shall be permitted. In the event that light repairs require expense to the Using Party in excess of five (5) hours labor or [one hundred dollars (\$100.00)] the total cost of such repairs will be billable to the Owning Party and will be reimbursed by the Owning Party. If the Using Party considers making such repairs, it may do so only after receiving approval of the appropriate Mechanical Officer of the Owning Party. The Owning Party may, at its option, refuse to permit the Using Party to make repairs in excess of five (5) hours of labor or [one hundred dollars (\$100.00)]. If such permission is not granted, the Locomotive shall be returned, promptly, to the Owning Party.

(d) All other repairs to Equipment will be at the Owning Party's expense, except that the Using Party shall bear the expense of repairing damage to Equipment occurring as a result of an accident, derailment or cause other than normal use. Damage to equipment from freezing or overheating, when due to the Using Party's failure to reasonably protect the Equipment, shall not be considered damage from normal use.

(e) Locomotives requiring heavy repairs shall be returned to the Owning Party unless otherwise mutually agreed upon by the Mechanical Department of the Owning Party and the Using Party.

(i) When any Locomotive is out of service for heavy repairs while present on the Using Party's tracks, or while being returned to the Owning Party because of mechanical failure, the time out of service shall not be included in the computation of hours for equalization purposes.

(ii) When a Locomotive is out of service because of an accident, derailment or cause other than normal use occurring while the Locomotive is present on or operating over the Using Party's tracks pursuant to this Agreement, the Locomotive will remain in equalization until the locomotive is returned to normal service on the tracks of the Owning Party. In the event the Owning Party repairs the Locomotive, the Owning Party shall have a maximum of sixty (60) days from the date of arrival on the Owning Party's tracks after the accident, derailment or event involved to repair the Locomotive. If the Owning Party takes longer than sixty (60) days to repair and return

the locomotive to normal service, the locomotive will no longer be counted in equalization.

(f) Repairs to an Owning Party's Equipment required as a result of an accident, derailment or cause other than normal use shall be performed at such location as the Parties may mutually agree. Repair costs, borne by the Using Party, shall be the mutually agreeable result of estimates made by both the Using Party and the Owning Party. The Using Party may also make request to the Owning Party that additional repair estimates be made by reputable independent locomotive repair firms, such request not to be unreasonably denied. All estimates will conform to the mechanical standards of the Owning Party. If the mutually agreed to repair costs exceed the remaining value of the Locomotive, the Casualty Value defined in Section 5(b), then the Locomotive shall be considered irreparably damaged.

(g) Reports of accidents shall be prepared in the usual manner by the Party on whose tracks the accident occurs and, if the accident occurs to the Owning Party's Equipment while on the tracks of the Using Party, reports thereof will be made promptly to the Owning Party's Operations Center identifying the Equipment involved.

(h) Warranty and Limitations on Warranty.

(i) UNLESS OTHERWISE SPECIFIED HEREIN, MATERIALS SUPPLIED IN REPAIR SHALL MEET THE SAME SPECIFICATIONS APPLICABLE TO THE REPAIRING PARTY'S OWN LOCOMOTIVES.

(ii) EACH PARTY SHALL PERFORM REPAIR WORK IN A WORKMANSHIP-LIKE MANNER, AND IN CONFORMANCE WITH ANY APPLICABLE FEDERAL, STATE OR LOCAL REGULATORY REQUIREMENTS, IN A MANNER SIMILAR TO, AND WITH THE SAME CARE AND QUALITY THAT THE REPAIRING PARTY PROVIDES ON ITS OWN FLEET. OTHER THAN THE FOREGOING, THE REPAIRING PARTY MAKES NO WARRANTIES OR REPRESENTATIONS, EITHER EXPRESSED OR IMPLIED, AS TO THE REPAIR WORK. THE REPAIRING PARTY EXPRESSLY DISCLAIMS ANY WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE REPAIR WORK. IN NO EVENT UNDER ANY THEORY OR LAW OR CAUSE OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL THE PARTY MAKING THE REPAIRS BE LIABLE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES, EVEN IF THE PARTY MAKING THE REPAIRS HAD OR SHOULD HAVE HAD NOTICE OF THE POSSIBILITY OF SAID DAMAGES, INCLUDING BUT NOT LIMITED TO BUSINESS INTERRUPTION EXPENSES, COST OF CAPITAL AND LOSS OF PROFITS, ARISING FROM, INCIDENT TO OR OCCURRING IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THE REPAIR WORK OR ANY PART THEREOF, PURSUANT TO THIS AGREEMENT.

SECTION 6. LIABILITY

(a) Except as provided in Section 5, the following provisions shall apply. When Equipment has been Exchanged to the Using Party, such Equipment shall be considered in all respects as the Equipment of the Using Party for the purpose of fixing liability, and the Using Party shall protect, defend, indemnify and save harmless the Owning Party and its parent company(ies), subsidiaries and affiliates, and all of their respective directors, officers, agents or employees (each an "Indemnified Party and Person") against all claims, liabilities, losses, damages and expenses for injury (including death) sustained by the directors, officers agents and employees of the Using Party, the Owning Party, and all other persons whosoever, and for damage to, or loss or destruction of property of any kind and owned by any person or entity whatsoever, caused by, resulting from, arising out of, or occurring in connection with the use, operation, possession, rental or custody of any or all of such Equipment under this Agreement. As a result of any such claim, suit or demand of any kind, the Using Party will assume at its own expense on behalf of the Owning Party and its Indemnified Parties and Persons the defense of any such claim or action at law or in equity which may be brought against such Indemnified Parties and Persons the amount of settlement upon or judgment that may be entered, plus all costs and expenses involved as aforementioned.

(b) Any provisions of this Section 6 to the contrary notwithstanding, in the event of any injuries (including death) or damages caused by a Latent Defect in Equipment, the Owning Party shall be responsible for and shall indemnify, defend and save harmless the Using Party's Indemnified Parties and Persons, from and against any and all liability, cost and expenses arising from or growing out of such injuries or damages caused by the Equipment having such Latent Defect. In the event there is a disagreement concerning a Latent Defect

(c) Indemnification.

MCR hereby indemnifies and holds harmless, NSR from and against any and all loss, cost, expense, claim and liability (including but not limited to attorneys' fees) resulting from the loss of life or personal injury to any person or loss of or damage to any property arising from, incident to or occurring in connection with the performance of the Work by NSR, regardless of whether negligence on the part of NSR or its employees, agents, or servants caused on contributed to said loss of life, personal injury or property loss or damage, provided, however, that the foregoing shall not apply to the personal injury or loss of life damage to the employees, agents, or servants of NSR occurring in the performance of the Work unless caused solely by the negligence of MCR.

SECTION 7. INDEMNITY COVERAGE

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

(b) Each of MCR and NSR shall indemnify and hold harmless the other Party against any and all costs and payments, including benefits, allowances, and arbitration, administrative and litigation expenses, arising out of lawsuits, claims or grievances brought by or on behalf of its own employees or their collective bargaining representatives, either pursuant to employee protective conditions imposed by a governmental agency upon the agency's approval or exemption of this Agreement and operations hereunder or pursuant to a collective bargaining agreement. It is the Parties' intention that MCR and NSR each shall bear the full costs of protection of its own employees under employee protective conditions that may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

SECTION 8. TERM

(a) Effective Date.

This Agreement shall become effective following the latest date of: (i) the date first written above; (ii) following receipt of any required regulatory approvals or exemptions of the Transaction Agreement or any of the Ancillary Agreements; and (iii) following the expiration of any time periods required by the issuance of labor notices by NSR and/or MCR, should such labor notices be required ("Effective Date"). The Parties will determine the Effective Date through an exchange of written correspondence.

(b) Initial Term.

This Agreement shall commence on the Effective Date, and shall continue until terminated by mutual agreement of the Parties.

(c) Termination.

Termination of this Agreement shall not relieve or release either Party hereto from any obligations assumed or from any liability which may have arisen or been incurred by such Party under the terms of this Agreement prior to termination hereof. In the event of termination of this Agreement or any Supplement to this Agreement, should one Party owe the other Party horsepower hours pursuant to this Agreement, the deficit Party will pay to the other Party a monetary rate per horsepower hour of deficiency, which rate shall be the "Current Rate", which shall be derived from data found in the most recent R-1 report to the STB as shown in Appendix B, provided, however, that prior to such payment the Parties shall make every effort to equalize the existing deficiencies in horsepower hours through repayment in kind. Payment in cash rather than in kind may also be made any other time to resolve horsepower hour deficits if mutually agreed to between the Parties.

SECTION 9. ARBITRATION

(a) Any dispute, controversy or claim arising out of or otherwise with respect to this Agreement (a "Dispute") shall be referred to their respective senior operating officers for resolution. In the event such officers are unable to resolve the Dispute, either party may submit the Dispute for binding arbitration by a sole, disinterested arbitrator in accordance with the Delaware Uniform Arbitration Act (the "Act") and the Commercial Arbitration Rules of the American Arbitration Association (the "Rules"). In the event of any inconsistency between this Article, the Act and/or the Rules, this Article shall take precedence over the Act and the Rules, and the Act shall take precedence over the Rules. The arbitrator shall be jointly selected by the parties and shall have not less than ten (10) years of experience in railroad operations. The arbitrator shall have the power to require, and shall require, the performance of acts found to be required by this Agreement and the cessation or nonperformance of acts found to be prohibited by this Agreement. The arbitrator shall not have the power to award damages that are inconsistent with this Agreement or special, consequential or punitive damages or to determine violations of criminal or antitrust laws. The arbitrator shall render a written decision on the Dispute that shall include findings of fact and conclusions of law and shall be final and conclusive upon the parties. Judgment upon the award rendered may be entered in any court of competent jurisdiction, which court may order appropriate relief at law or equity. Notwithstanding the foregoing, each party shall have the right to seek vacation or modification of any award that is based, in whole or in part, on an incorrect or erroneous ruling of law by appeal to a court of competent jurisdiction, with any such application for vacation or modification to be filed with such court within thirty (30) days from the date the award is rendered.

(b) Each party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expenses of the arbitrator, if any, shall be borne by NSR and MCR, with each paying fifty percent (50%) of such compensation, costs and expenses. Pending the written decision of the arbitrator, there shall be no interruption in the transaction of business under this Agreement, and all obligations in respect thereto shall be fulfilled in the same manner as prior to the arising of the Dispute until the matter in dispute shall have been fully determined by arbitration, and thereupon such remedy shall be made as required by the written decision of the arbitrator. In the event either party fails in its obligations under the preceding sentence, the other party is entitled to apply to the arbitrator seeking interim or provisional relief until the arbitration award is rendered or the Dispute is otherwise resolved, and the arbitrator shall have the authority to issue orders granting interim or provisional relief.

(c) No provision of, nor the exercise of any rights under, this Agreement regarding arbitration shall limit the right of either party to seek provisional or ancillary judicial remedies with respect to any Dispute, such as preliminary injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court

having jurisdiction before, during or after the pendency of any arbitration. The institution and maintenance of an action for such judicial remedies shall not constitute a waiver of the right of any party, including the claimant in such action, to submit to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

(d) No provision of, nor the exercise of any rights under, this Agreement regarding arbitration shall limit the right of either party to join the other party in litigation in the event of any litigation or proceeding commenced by any third party against a party to this Agreement in which the other party is an indispensable party or potential third party defendant (e.g., where such other party may be obligated to indemnify the defendant in such third party action).

SECTION 10. NOTICES

Any notice required or permitted to be given by one Party to another under this Interchange Agreement shall be sent to each of MCR and NSR, and deemed given on the date sent by certified mail, or by such other means as the Parties may agree, and shall be addressed as follows:

(i) If to MCR:

President
Michigan Central Railway, LLC
315 W. 3rd Street
Pittsburg, Kansas 66762

with a copy to:

Ed McKechnie
Chief Commercial Officer
Watco Transportation Services, Inc.
315 W. 3rd Street
Pittsburg, Kansas 66762

with a copy to:

Craig Richey
General Counsel
Watco Transportation Services, Inc.
315 W. 3rd Street
Pittsburg, Kansas 66762

(ii) If to NSR:

Executive Vice President Operations
Norfolk Southern Corporation

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Three Commercial Place
Norfolk, Virginia 23510-2191

with a copy to:

Senior Director – Joint Facilities
Norfolk Southern Corporation
1200 Peachtree Street, N.E., Box 158
Atlanta, Georgia 30309

with a copy to:

Vice President Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

Either Party may provide notice of changes in the above addressees to the other Party by personal service or certified mail.

SECTION 11. FORCE MAJEURE

The obligations, other than payment obligations, of the Parties to this Agreement shall be subject to force majeure (including flood, earthquake, hurricane, tornado, or other such severe weather or climatic condition, riot, accident, wreck, derailment, washout, explosion, Acts of God, act of terrorism and public enemy, war, blockage, insurrection, vandalism or sabotage, fire, strike, lockout or labor dispute, embargoes or AAR service orders, or governmental laws, orders or regulations, and other causes or circumstances beyond the control of the Party invoking such force majeure as an excuse for nonperformance), but only as long as, and to the extent that, such force majeure shall reasonably prevent performance of such obligations by the affected Party. In the event that an event of force majeure impairs either Party's ability to fulfill its obligations to the other Party under this Agreement, said Party shall take all commercially reasonable measures to restore performance of its obligations in a timely manner.

SECTION 12. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement, or as may be necessary or appropriate for a Party hereto to enforce its rights under this Agreement, during the term of this Agreement (including any extensions thereof), and for a period of three (3) years after termination or expiration of this Agreement, the terms and provisions of this Agreement and all information to which access is provided or which is obtained hereunder will be kept confidential and will not be disclosed by either Party to any person other than members, officers, employees, and attorneys, without the prior written

approval of the other Party. Notwithstanding the foregoing, either Party may disclose this Agreement to Federal, State and local tax authorities when under audit.

SECTION 13. SUCCESSORS AND ASSIGNS

(a) This Agreement shall inure to the benefit of and be binding upon each of the Parties and their respective successors and permitted assigns.

(b) Neither Party may assign this Agreement, or any of its rights, interests or obligations hereunder, including by operation of law, without the prior consent in writing of the other Party, which consent may be withheld at the discretion of such other Party.

SECTION 14. GENERAL

(a) This Agreement and each and every provision hereof is for the exclusive benefit of the Parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of damages or otherwise against either of the Parties hereto.

(b) This Agreement contains the entire understanding of the Parties hereto with respect to the subject matter hereof and supersedes any and all oral understandings between the Parties.

(c) No term or provision of this Agreement may be changed, waived, discharged or terminated except by an instrument in writing and signed by both Parties. The Parties intend for this Agreement to be supplemented in writing from time to time to provide for special operating, horsepower hour and fueling considerations and/or exceptions with Exchanged Equipment operating in specific run-through services. Except as otherwise provided in such supplements, all provisions of this Agreement shall apply to all Exchanged Equipment exchanged pursuant to such supplements. In the event of a conflict between the provisions of this Agreement and that of a supplement, and the absence of direction in the supplement to the contrary, the provisions of the supplement shall prevail.

(d) All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

(e) This Agreement is the result of mutual negotiations between the Parties hereto, none of whom shall be considered the drafter for purposes of contract construction.

(f) If any provision of this Agreement or the application thereof to any Party hereto or to any circumstance shall be determined by a court of competent jurisdiction to be invalid or unenforceable to any extent or for any reason, the remainder of this Agreement or the application of the provisions thereof to such Party or circumstance, other than those determined to be invalid or unenforceable, shall not be affected thereby.

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and shall be enforced to the fullest extent permitted by law, and the Parties shall promptly enter into such other agreement(s) as their respective legal counsel may deem appropriate in order to replace such invalid or unenforceable provisions in a manner that produces a result which is substantially equivalent to the terms of this Agreement in all material respects.

(g) Nothing herein shall be interpreted as creating an association, partnership, joint venture or other joint undertaking between MCR and NSR. Each Party shall indemnify and hold harmless the other Party against any and all costs and payments, including benefits, allowances, and arbitration, administrative and litigation expenses, arising out of claims or grievances made, or lawsuits brought, by or on behalf of its own employees or their collective bargaining representatives, either pursuant to employee protective conditions imposed by a governmental agency or pursuant to a collective bargaining agreement. It is the Parties' intention that each Party shall bear the full costs of protection of its own employees under employee protective conditions that may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

(h) This Agreement shall be governed and interpreted in accordance with the laws of the State of Delaware, without regard to application of the choice of law principles thereof.

(i) This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

MICHIGAN CENTRAL
RAILWAY COMPANY, LLC

NORFOLK SOUTHERN
RAILWAY COMPANY

Per: _____

Per: _____

Appendix A

Methodology for Accounting and Billing of Fuel

Part 1: Illustration and Explanation of Run Through Scenarios

The following diagrams depict three (3) situations which cover basic Run Through scenarios, and illustrate how the fuel accounting system works.

Situation 1: Railroad A fuels a locomotive at Point A1 and Exchanges it to Railroad B at Point X. Railroad B thereafter refuels the locomotive at Point B1.

[illegible]

Railroad A owes Railroad B the fuel used from Point A1 (the last fuelling point prior to Exchange) to Point X (the exchange point) because Railroad B has refueled the locomotive.

Situation 2: Railroad B uses a locomotive it received in Exchange from Railroad A but does not fuel the locomotive prior to Exchanging it back to Railroad A.

A1 >>>>>>>>>>>>→ X1 >>>>>>>>>>>> → X2 >>>>>>>>>>>>A2
Fueled Railroad A Exchanged Railroad B Exchanged Railroad A Refueled
at A1 at X1 at X2 at A2

Railroad B owes Railroad A the fuel that it used after receiving the locomotive in Exchange at Point X1 and prior to delivering the locomotive back in Exchange to Railroad A at Point X2 because Railroad A refueled the locomotive and Railroad B did not.

Situation 3: Railroad B uses but does not fuel a locomotive it received in Exchange from Railroad A prior to delivering the locomotive back in Exchange to Railroad C.

A1 >>>>>>>>>>>>>>>>>>→ X1 >>>>>>>>>>>>>>>>>> → X2 >>>>>>>>>>>>>>>>>>C1
Fueled Railroad A Exchanged Railroad B Exchanged Railroad C Refueled
at A1 at X1 at X2 at C1

Railroad B owes Railroad C the fuel that Railroad B used from Point X1 to Point X2. Railroad B calculates the fuel it owes to Railroad C. Railroad B must perform the following actions:

1. Inform Railroad A that it Exchanged the locomotive with Railroad C.
2. Inform Railroad C that it received the locomotive in Exchange from Railroad A.

Railroad A and Railroad C will then have information sufficient to settle their accounts.

Appendix A
Methodology for Accounting and Billing of Fuel

Part 2: Further Explanation, Definition and Conditions of Fuel Crediting System, Burn Rates and Billing.

Utilization of Fuel Crediting Methodology and Burn Rates

Fuel consumption credits shall be determined using the above illustrated methodology of Appendix A, Part 1 and Section 5 of the Agreement. To calculate fuel consumption in the crediting carrier's service, mileage to be used to calculate fuel consumption credited shall be multiplied by appropriate Burn Rates with Burn Rates in units of gallons of fuel consumed per locomotive mile. The gallons of fuel calculated to have been consumed shall then be multiplied by the appropriate monetary amount per gallon (defined below) to determine the monetary amount to be credited.

Statement of Locomotives Exchanged

Each party shall furnish the other party with a statement of all locomotives Exchanged to or from the parties to this Agreement within each calendar month. This statement will reflect the point last fueled, or, if not fueled, the point at which, and the railroad from which, the locomotive was received in Exchange, the mileage the locomotive actually traversed between the location the locomotive was last fueled or received in Exchange as well as applicable dates and times. Further, to facilitate the determination of whether the carrier receiving the locomotive in Exchange should accept fuel credits, the location date and time the locomotive was fueled on return or the location, date and time and the carrier the locomotive was Exchanged to will be submitted to the carrier preparing the statement.

Preparation of Net Statement

NSR shall use the statements to prepare net statements of fuel credits. NSR shall cumulate the credits due both Parties to determine the net amount of billable fuel. Net credits shall be the net of the monetary amounts rather than the net of gallons. In the event the cumulative credits result in a net due NSR, then NSR shall submit a bill together with the net statement to MCR for payment. In the event the total credits result in a net due MCR, then NSR shall forward the statement to MCR and MCR shall submit a bill to NSR. Preparation of such billing may be performed by either Party as the Parties may mutually agree from time to time.

Effect of Practices Used When Fueling Locomotives

The fuel accounting methodology set forth above is premised upon each of the Parties fueling to capacity at the point of last fueling. In the event it is the practice of the fueling Party to do otherwise, such fueling Party shall notify the other Party and alternative fuel

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accounting methodologies shall be immediately established to compensate for such practice.

Determination of Appropriate Burn Rates

Until such time as the Parties conduct and agree to utilize Burn Rates determined by train simulation studies, or Burn Rates developed as a result of joint audits, and/or joint studies, each shall use a Burn Rate to account for fuel usage while locomotives are on its properties which shall be derived in the following manner:

Each Party shall derive the applicable R-1 Burn Rate for locomotives used on its properties by dividing the "Gallons of Fuel Consumed" (Annual Report [R-1] Schedule 750, Line 1) by the "Total Locomotive Unit Miles in Freight Service" (R-1 Schedule 755, Line 11). The R-1 derived Burn Rates shall be adjusted annually as new R-1 reports are published, and shall become effective as of June 1 of each calendar year. As MCR will not produce annual Forms R-1, the NSR Burn Rate will be used in lieu of calculating an MCR Burn Rate.

Burn Rates may be replaced as the result of studies described above, but only for the services the studies cover. If new Burn Rates are developed for particular locomotive movements, a Supplement to this Agreement shall be prepared and R-1 Burn Rates shall still apply to all other movements except those rates agreed to and in force by Supplements to this Agreement. Calculations of fuel consumption shall take into account each of the Burn Rates involved.

At the request of each Party, but not more than once per calendar year, a study of fuel billed in services covered by this Agreement may be conducted by the Parties using a mutually acceptable study method in order to determine the reasonableness of the Burn Rates. Based upon the results of such studies, the Burn Rates shall be adjusted and used for future billing.

Prices to Use in Billing: Additives, Taxes and Logic of Billing

Billing shall be based upon system average costs of fuel/lubrication oil per gallon, plus appropriate additives including taxes. Lubrication oils shall be billable at ten (10) per 1,000 gallons of diesel fuel furnished.

If either Party is capable of utilizing the actual prices of fuel, additives and taxes for actual individual locations, rather than system averages, it may do so provided it notifies the other Party and includes the prices, additives and taxes utilized on the bill or statement rendered.

To clarify the application of fuel pricing and billing, the following shall apply. If Carrier A credits Carrier B with fuel used in Carrier A's service on the way to Carrier B, and if Carrier B fuels the locomotive, then Carrier B bills Carrier A for that fuel at Carrier B's price. If Carrier B does not fuel, it may not bill Carrier A for fuel for that trip. (See

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Situation 2 or 3). The carrier being credited fuel from an Exchanging Carrier will be the carrier(s) yielding credits of fuel the price the receiving fueling carrier paid for the fuel, plus additives as described above.

Maintenance of Records and Auditing

Records shall be maintained for a period of two (2) years to support billing and such records shall be made available for inspection, on request during normal business hours.

Audits of prior fuel billing may be conducted at the request of either party; provided, however, that such audits shall be limited to a two (2) year period from the date written notification of desire to conduct such audit is given by the party requesting the audit.

Appendix B
Methodology for Calculating the Monetary Cost to Supply a Horsepower Hour

Calculation of the cost to supply a horsepower hour when needed to settle horsepower hour costs in the event they cannot be settled in kind should be made according to the following methodology, strictly using data available in R-1 Annual Reports to the Surface Transportation Board. The R-1 report to be used shall be the most recent available which pertains to the year the settlement is to be made for, or as mutually agreed to between, the Parties. Note that the intent of using R-1 data is to utilize publicly available data, and thereby avoid compromising the financial situation of either party at settlement. No internal financial calculations will be used.

Calculation of Total Locomotive Expense for the Year

Let: Railroad Operating Expense, Total Locomotives
R-1 Schedule 510 line 219 = ROEL

Note that this includes depreciation expense for locomotives, the cost of holding locomotives as assets. Fully depreciated locomotives are not an expense as such, and, if destroyed, are covered elsewhere in this Agreement. Operating expenses do not include interest expenses on locomotive debt.

Let: Interest Equipment Debt
R-1 Schedule 510 line 26 = INTE

Investment in Railway Property Used
In Transportation
R-1 Schedule 352B line 32 = INVL

Investment in Railway Property Used
In Transportation
R-1 Schedule 352B line 40 = INVE

Interest Expense on Locomotives = INTL

Where $INTL = INTE \times (INVL / INVE)$

Then $TLE = ROEL + INTL$

Interest Expense is distributed to locomotives according to the proportion of equipment assets the locomotives represent. By design, this is an approximation, since more exact allocation of interest expense requires examination of the internal financing of each party, which shall not be required by this Agreement.

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Calculation of Horsepower Hours

Let: Inventory of Equipment Total Aggregate
Capacity of Units reported
R-1 Schedule 710 Line 5 Column k

= THP

Note THP (Total Horsepower) is used since TLE (Total Locomotive Expense) is based on all units.

Total Locomotive Unit Miles
In Road Service
R-1 Schedule 755 Line 11

= LUMI

Total Train Miles
R-1 Schedule 755 Line 7

= TRMI

Average Units Per
Road Train Mile LUMI / TRMI

= AUPT

Train Hours in Road Service
R-1 Schedule 755 Line 115

= THRS

Road Unit Hours

= RUH

Yard Switching Locomotive Miles
R-1 Schedule 755 Line 13

= YSMI

The speed shown in the instructions for
completion of R-1 Schedule 755
paragraph (G) as average yard
switching speed shall be used and
defined as

= YMPH

Yard Unit Hours YSMI / YMPH

= YUH

Total Locomotive Hours RUH + YUH

= TLH

Total Number of Locomotives
R-1 Schedule 710 Line 5 Column j

= TNL

Horsepower Per Locomotive THP / TNL

= HPPU

Total Horsepower Hours TLH x HPPU

= THPH

Cost Per Horsepower Hour – The “Current Rate”

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The Current Rate referred to in Section 4.2 shall equal Total Locomotive Expense / Total Horsepower Hours.

Since Total Locomotive Expense = TLE

and

Total Horsepower Hours = THPH

The Current Rate = $TLE / THPH$

Appendix L – Car Supply Agreement

CAR SUPPLY AGREEMENT

THIS CAR SUPPLY AGREEMENT ("Agreement") is made and entered into this ____ day of _____, _____, by and between NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation on its own behalf and on behalf of its subsidiary railroad companies (all collectively and singularly called "NSR"), and MICHIGAN CENTRAL RAILWAY LLC ("MCR"). Each of NSR and MCR shall hereinafter be referred to as a "Party" and collectively as "Parties."

WITNESSETH:

WHEREAS, on [_____], 2007, NSR, MCR and Watco Transportation Services, Inc. ("Watco") entered into a transaction agreement (the "Transaction Agreement") that, among other things, provides for the transfer, subject to the retention of certain rights, from NSR to MCR of the Subject Trackage, as defined in the Transaction Agreement; and

WHEREAS, NSR, through contracts, exempt quotations and common carrier offerings ("Customer Transportation Agreements"), has undertaken, alone and in conjunction with other Persons other than MCR, to provide through rail transportation to shippers and receivers of rail freight ("Customers") with facilities physically located on or adjacent to the Subject Trackage which, prior to the Closing Date, as defined in the Transaction Agreement, is NSR's railroad line, and after the Closing Date, will be MCR's railroad line; and

WHEREAS, NSR and MCR seek to smoothly transition transportation services to and from customers located on the Subject Trackage; and

WHEREAS, NSR and MCR, in order to facilitate the continued provision of through rail transportation service pursuant to existing Customer Transportation Agreements, has entered into the Fixed Divisions Agreement of even date hereof; and

WHEREAS, the Parties have entered into that Master Interchange Agreement of even date hereof; and

NOW, THEREFORE, in consideration of the premises, the mutual covenants, and the other good and valuable considerations set forth herein, NSR and MCR agree as follows:

Section 1. Definitions and Interpretations

(a) Certain Definitions. All terms defined in this Agreement shall have the defined meanings when used in this Agreement, unless otherwise defined or the context otherwise requires. The following terms shall have the following meanings:

"**Action**" means any litigation, action, suit, proceeding, investigation, arbitration, claim or other dispute by or before any court or other Governmental Authority, or any other alternative dispute resolution proceedings, such as arbitration or mediation.

“Effective Customer Transportation Agreement” shall mean a Customer Transportation Agreement that is accepted by a customer for the transportation of freight.

“Governmental Authority” shall mean any nation or government, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government or any mediation body or arbitral tribunal, including the STB.

“Person” shall mean an individual or a partnership, corporation, trust, association, limited liability company, Governmental Authority or other entity.

(b) Construction of Certain Terms and Phrases

Unless the context otherwise requires, (a) words of any gender include each other gender; (b) words using the singular or plural number also include the plural or singular number, respectively; (c) the terms “hereof,” “herein,” “hereby” and derivative or similar words refer to this entire Agreement; (d) the terms “Article” or “Section” refers to the specified Article or Section of this Agreement; (e) the terms “and” and “or” include the term “and/or” when the context is appropriate; (f) the terms “include” or “including” also include the words “without limitation” when the context is appropriate. Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under generally accepted accounting principles, as in effect in the United States of America.

Section 2. Car Supply During the Initial Six Month Transition Period.

(a) During the first six (6) month period after the Effective Date, NSR shall continue to supply cars pursuant to Effective Customer Transportation Agreements to the same extent it supplies cars immediately prior to the Effective Date, with the same due consideration to car availability, opportunity costs and other commercial and operational considerations that apply, and to the same extent those considerations apply, to the supply of cars prior to Closing Date. In addition, for the first six (6) month period after the Effective Date NSR shall endeavor to supply cars to new and existing customers on MCR’s line pursuant to new Customer Transportation Agreements to the same extent NSR would do so on its own lines, with due consideration to car availability, opportunity costs, and other commercial and operational considerations to apply, and to the same extent those considerations apply, to the supply of cars on NSR’s lines.

(b) Following the first six (6) month period after the Effective Date, NSR shall continue to supply cars under Effective Customer Transportation Agreements in effect on the Effective Date to the same extent it has committed to do so in said Effective Customer Transportation Agreements. As each of said Effective Customer Transportation Agreements expire or are terminated in accordance with their terms, NSR’s commitment to supply cars to the customers pursuant to said Effective Customer Transportation Agreements shall expire or terminate. No new commitment to supply cars to said customers will arise pursuant to this Agreement. Once all said Effective Customer Transportation Agreements expire or are terminated in accordance with their terms, NSR’s obligations hereunder shall expire and terminate. Nothing in the immediately preceding two sentences, however, shall act to vitiate a later assumed car supply obligation pursuant to subsequently effective transportation contracts or exempt quotations.

Section 3. Effect of this Agreement on other Agreements, Transportation Services and Charges

(a) Each Party shall be responsible for, and this Agreement shall have no effect on, the determination and assessment of demurrage, weighing, switching, or other transportation ancillary services charges, including charges for Local Services, and the maintenance of the records or collection of the same. Each Party shall be responsible for the determination, assessment and collection of any fuel and/or other surcharges to the same extent said Party would be responsible for the same in the absence of this Agreement.

(b) Other than specifically set forth herein, this Agreement shall have no effect on tariffs, circulars and other transportation publications. Nothing in this Agreement shall be interpreted as imposing a greater obligation on either NSR or MCR to supply cars after Closing Date than NSR had prior to Closing Date.

(c) This Agreement shall have no effect on the Master Interchange Agreement, the Parties' respective obligations regarding maintenance, repair, and operation of tracks and equipment related to that interchange, all liabilities of each of the Parties, both on the interchange tracks and beyond the interchange tracks. This Agreement shall have no effect on the Fixed Divisions Agreement.

(d) This Agreement shall have no effect on the responsibility for the processing of all revenue and accounting claims (including, without limitation, the collection of freight rates from users of rail service, any claims for overpayment or underpayment thereof, allocation of those revenues with any other interline carriers, and any reclaims for improper allocation), and each Party shall be responsible for the same to the same extent said Party would be responsible in the absence of this Agreement. This Agreement shall have no effect upon car hire and car accounting practices, responsibilities and obligations between the Parties, and will place no obligation on either Party to provide additional free time or car hire relief to the other Party or to any Customer.

(e) Nothing in this Agreement constitutes or will operate as a waiver of NSR's or MCR's right to hold rail cars prior to interchange for payment of all charges due it, or of NSR's or MCR's right to invoke or participate in any lawful embargo. If MCR embargoes any Customer or portion of its lines, or if NSR embargoes any Customer or portion of its line impacted by an Effective Customer Transportation Agreement, then in addition to Customer, regulatory, and other required embargo notices and filings, the Party imposing the embargo shall notify the other Party of said embargo at or prior to issuance. Any obligation to supply cars hereunder shall be suspended during the period of the embargo.

Section 4. Relationship of the Parties.

Nothing herein shall be interpreted as creating an association, partnership, joint venture or other joint undertaking between NSR and MCR. In the performance of transportation and other services by NSR and MCR, each shall be independent of the other, and employees of NSR and MCR shall be subject to the direction, supervision and control of their respective employer.

Section 5. Confidentiality

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement, or as may be necessary or appropriate for a Party hereto to enforce its rights under this Agreement, during the term of this Agreement (including any extensions thereof), and for a period of three (3) years after termination or expiration of this Agreement, the terms and provisions of this Agreement and all information to which access is provided or which is obtained hereunder will be kept confidential and will not be disclosed by either Party to any person other than members, officers, employees, and attorneys, without the prior written approval of the other Party. Notwithstanding anything to the contrary, either party may disclose this Agreement in connection with an audit by its external auditors, the Internal Revenue Service or other tax authority.

Section 6. Term.

(a) Effective Date.

This Agreement shall become effective following the latest date of: (i) the date first written above; (ii) following receipt of any required regulatory approvals or exemptions of the Transaction Agreement or any of the Ancillary Agreements; and (iii) following the expiration of any time periods required by the issuance of labor notices by NSR and/or MCR, should such labor notices be required ("Effective Date"). The Parties will determine the Effective Date through an exchange of written correspondence.

(b) Initial Term.

This Agreement shall commence on the Effective Date, and shall continue until the earlier of: (i) termination by mutual agreement of the Parties; and (ii) the date that all Effective Customer Transportation Agreements have expired or are terminated in accordance with their terms.

(c) Termination or Expiration.

Termination or expiration of this Agreement shall not relieve or release either Party hereto from any obligations assumed or from any liability which may have arisen or been incurred by such Party under the terms of this Agreement prior to termination or expiration hereof.

Section 7. Miscellaneous.

(a) Notices

All notices, requests, demands and other communications (collectively, "Notices") given pursuant to this Agreement shall be in writing, and shall be delivered by personal service, courier, overnight delivery service, facsimile transmission (which must be confirmed) or by United States registered or certified mail, postage prepaid, return receipt requested, to the following addresses:

Execution Copy

(i) if to NSR, to:

Executive Vice President Operations
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

with a copy to:

Senior Director – Joint Facilities
Norfolk Southern Corporation
1200 Peachtree Street, N.E., Box 158
Atlanta, Georgia 30309

with a copy to:

Vice President Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

with a copy to:

(ii) if to MCR, to:

President
Michigan Central Railway, LLC
315 W. 3rd Street
Pittsburg, Kansas 66762

with a copy to:

Ed McKechnie
Chief Commercial Officer
Watco Transportation Services, Inc.
315 W. 3rd Street
Pittsburg, Kansas 66762

with a copy to:

Craig Richey
General Counsel
Watco Transportation Services, Inc.
315 W. 3rd Street
Pittsburg, Kansas 66762

Execution Copy

Any Notice, other than a Notice sent by registered or certified mail, shall be effective when received; a Notice sent by registered or certified mail, postage prepaid return receipt requested, shall be effective on the earlier of when received or the third day following deposit in the United States mails. Any Party may from time to time change its address for further Notices hereunder by giving notice to the other Party in the manner prescribed in this Section.

(b) Entire Agreement

This Agreement, including any attached exhibits and schedules, contain the sole and entire agreement and understanding of the Parties with respect to the entire subject matter of this Agreement, and any and all prior discussions, negotiations, commitments and understandings, whether oral or otherwise, related to the subject matter of this Agreement are hereby merged herein. Nothing in this Agreement, express or implied, is intended to confer upon any Person other than the Parties hereto any rights or remedies under or by way of this Agreement.

(c) Assignment

No Party may assign its rights or obligations under this Agreement, and any attempted or purported assignment or any delegation of any Party's duties or obligations arising under this Agreement to any third party or entity shall be deemed to be null and void, and shall constitute a material breach by such Party of its duties and obligations under this Agreement.

(d) Extension, Waiver and Amendment

At any time prior to the Closing, the Parties hereto may (a) extend the time for the performance of any of the obligations or other acts of any other Party hereto, (b) waive any inaccuracies in the representations and warranties of any other Party hereto contained herein or in any document delivered pursuant hereto, and (c) waive compliance by any other Party hereto with any of the agreements or conditions contained herein. Any agreement on the part of a Party hereto to any such extension or waiver shall be valid if set forth in writing in an instrument signed by or on behalf of such party. The waiver by any Party hereto of a breach of this Agreement shall not operate or be construed as a waiver of any subsequent breach. This Agreement may be amended only by a written agreement executed by all of the Parties to this Agreement.

(e) Governing Law; Submission to Jurisdiction

(i) THE LAWS OF THE STATE OF DELAWARE SHALL GOVERN THE VALIDITY OF THIS AGREEMENT, THE CONSTRUCTION OF ITS TERMS AND THE INTERPRETATION OF THE RIGHTS AND DUTIES ARISING HEREUNDER.

(ii) Subject to Section 7(f), each of the Parties hereto hereby (i) consents to submit itself to the exclusive jurisdiction of any Federal or state court located in the State of Delaware (the "Delaware Courts") in any Action to enforce or in aid of the agreement to arbitrate in Section 7(f) or for provisional relief to maintain the status quo or prevent irreparable harm pending the appointment of the arbitrators, and to the non-exclusive jurisdiction of the Delaware Courts for enforcement of any award issued hereunder (ii) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion

or other request for leave from any such court, and (iii) waives any objection based on forum non conveniens or any other objection to venue thereof.

(f) Dispute Resolution

(i) All disputes with respect to this Agreement shall be resolved first through discussions among the officers of each Party, then through discussions between the chief executive officers, or other designated member of the senior management, of each of the Parties, in each case seeking a mutually-acceptable consensus resolution. If the Parties have not resolved a dispute within thirty (30) days following reference of the dispute to the Party's chief executive officers or other designated member of the senior management, either Party may refer the dispute to binding arbitration before a panel of three independent arbitrators sitting in Washington, D.C., and acting under the American Arbitration Association under its commercial arbitration rules. The decision of a majority of the panel of arbitrators shall be final and conclusive upon the Party. Each Party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel, and one-half of the compensation, costs and expenses of the three arbitrators and the arbitration filing fees. The arbitrators shall not have the power to award special, consequential or punitive damages or to determine violations of criminal or antitrust laws. Pending the award of the arbitrators, there shall be no interruption in the transaction of business under this Agreement, and all payments in respect thereto shall be made in the same manner as prior to the arising of the dispute until the matter in dispute shall have been fully determined by arbitration, and thereupon such payment or restitution shall be made as required by the decision of the panel of arbitrators.

(ii) By agreeing to arbitration, the Parties do not intend to deprive any Delaware Court of its jurisdiction to issue a pre-arbitral injunction, pre-arbitral attachment, or other order in aid of arbitration proceedings and the enforcement of any award. Without prejudice to such provisional remedies as may be available under the jurisdiction of a Delaware Court, the arbitral tribunal shall have full authority to grant provisional remedies and to direct the Parties to request that any court modify or vacate any temporary or preliminary relief issued by such court, and to award Damages for the failure of any Party to respect the arbitral tribunal's orders to that effect.

(iii) The Parties are committed to the prompt and efficient resolution of disputes. Accordingly, if one or more disputes arises under this Agreement, such disputes may be brought in a single arbitration. If more than one arbitration is brought with respect to disputes under this Agreement, then any Party may request that any arbitration or any new dispute arising under this Agreement be consolidated into any prior arbitration. The new dispute or arbitration shall be so consolidated, provided that the arbitral tribunal for the prior (or first filed) arbitration determines that (A) the new dispute or arbitration presents significant issues of law or fact common with those in the pending arbitration; (B) no Party would be unduly prejudiced and (C) consolidation under such circumstances would not result in undue delay for the prior arbitration. Any order of consolidation issued by such arbitral tribunal shall be final and binding upon the Parties. Unless the Parties otherwise agree, the arbitral tribunal appointed first in time shall serve as the arbitral tribunal for the consolidated arbitration. The Parties waive any right they have to appeal or to seek interpretation, revision or annulment of such order of consolidation under the Rules or in any court. The Parties agree that upon such an order of consolidation, they will promptly dismiss any arbitration brought under this Agreement, the subject of which has been consolidated into another arbitral proceeding.

(g) Severability

Whenever possible each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement shall be or become prohibited or invalid under applicable Law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement.

(h) Captions

The various captions of this Agreement are for reference only and shall not be considered or referred to in resolving questions of interpretation of this Agreement.

(i) Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

(j) Costs and Attorneys' Fees

Except to the extent provided for in Section 7(f) hereof, each of the Parties shall bear and pay all costs and expenses incurred by it or on its behalf in connection with the transactions contemplated hereunder, including fees and expenses of its own financial or other consultants, investment bankers, accountants and counsel.

(k) Judicial Interpretation

Should any provision of this Agreement require judicial interpretation, it is agreed that a court or other tribunal interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against any Person by reason of the rule of construction that a document is to be construed more strictly against the Person who itself or through its agent prepared the same, it being agreed that all Parties have participated in the preparation of this Agreement.

(l) No Third Party Beneficiaries

This Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the Parties hereto; provided, however, that this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the Parties and their respective successors and permitted assigns.

(m) Non-Waiver

The waiver of any default of any of the terms and conditions hereof shall be limited to the act or acts constituting that default and shall not be construed as a continuing or permanent waiver of any such terms and conditions, all of which shall be and remain in full force and effect as to future acts or happenings notwithstanding that waiver. The Parties intend that none of the provisions of this Agreement shall be thought by the other to have been waived by any act or knowledge of the Parties, but only by a written instrument signed by the Party waiving a right hereunder.

Execution Copy

(n) Amendment

This Agreement may be modified only by an instrument in writing signed by an authorized officer of NSR and MCR.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate, each part being an original, as of the day and year first above written.

NORFOLK SOUTHERN RAILWAY COMPANY

By: _____

Title: _____

MICHIGAN CENTRAL RAILWAY LLC

By: _____

Title: _____

Appendix M --Locomotive Fuel and Service Agreement

LOCOMOTIVE FUELING AND SERVICING AGREEMENT

This Locomotive Fueling and Servicing Agreement is made as of _____ by and between MICHIGAN CENTRAL RAILWAY, LLC ("MCR"), and NORFOLK SOUTHERN RAILWAY COMPANY ("NSR"). MCR and NSR hereinafter shall each be referred to as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, on [], 2007, NSR, Watco Transportation Services, Inc. ("Watco") and MCR entered into a transaction agreement (the "Transaction Agreement") that, among other things, provides for the creation of MCR, the transfer, subject to the retention of certain rights, from NSR to MCR of the Subject Trackage, as defined in the Transaction Agreement; and

WHEREAS, pursuant to the Transaction Agreement, the Parties have determined to interchange traffic at Elkhart Yard, IN; and

WHEREAS, the Parties have agreed, in conjunction with the interchange of traffic, that Elkhart Yard would be an efficient location for the fueling and servicing of MCR's locomotive equipment; and

WHEREAS, the Parties desire to set forth the terms and conditions for the performance of the Work, as hereinafter defined, to be performed at Elkhart Yard by NSR for MCR.

Now therefore, it is agreed by and between the Parties as follows:

SECTION 1. DEFINITIONS AND INTERPRETATION

(a) Interpretation Generally.

(i) Unless otherwise defined herein, all words, terms and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.

(ii) Each definition in this Agreement includes the singular and the plural, and references in this Agreement to the neuter gender include the masculine and feminine where appropriate. References herein to any agreement or contract mean such agreement or contract as amended. As used in this Agreement, the word "including" means "without limitation", and the words "herein", "hereof" and "hereunder" refer to this Agreement as a whole. All dollar amounts stated herein are in United States currency.

(b) Capitalized Terms.

All terms defined in this Agreement shall have the defined meanings when used in this Agreement, unless otherwise defined or the context otherwise requires. The following terms shall have the following meanings:

“Major Servicing” shall mean any miscellaneous repairs where the unit cost of any individual part is more than the Minimum Amount, as defined and adjusted from time to time in a manner set forth in Appendix A, but shall not be considered a truck lubrication.

“Routine Servicing” shall mean the inspection for, and necessary supplying of water, paper products and other materials routinely required in the locomotive, plus any miscellaneous minor running repairs where the unit cost of any individual part is equal to or less than the Minimum Amount, as defined and adjusted from time to time in a manner set forth in Appendix A, but shall not be considered to be a truck lubrication.

“Work” shall refer to the Fueling, Routine Servicing, Major Servicing, and Truck Lubrication to the extent performed pursuant to this Agreement by NSR on a MCR locomotive.

(c) Successor Laws.

A reference to any particular statute or regulation shall include a reference to any successor statute or regulation.

(d) Railroad Industry.

All words, terms and phrases used in this Agreement, and not otherwise defined, shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.

SECTION 2. FUELING AND SERVICING.

(a) Performance of the Work.

(i) Upon request of MCR, NSR shall perform the Fueling, Routine Maintenance and Truck Lubrication for MCR.

(ii) Any Major Servicing shall be performed only upon the approval of MCR, at a price negotiated at the time of such Major Servicing.

(iii) NSR may perform a truck lubrication (“Truck Lubrication”) on any locomotive unit requiring the same without obtaining the prior approval of MCR.

(iv) Removed material or scrap shall become the property of NSR.

(v) As part of the Work, NSR shall verbally report the completed Work to MCR in a manner prescribed by MCR.

(vi) All Work will be performed on a non-discriminatory basis as dictated by NSR servicing protocols, as they may be modified from time to time. It is the intent of NSR that it shall generally accord MCR the same level of timeliness of service as to itself; provided, however, that the foregoing shall not constitute a service guarantee, and MCR shall have no claim whatsoever, under any theory of law, against NSR for failure to provide such level of service.

(b) Warranty and Limitations on Warranty.

(i) MATERIALS SUPPLIED SHALL MEET THE SAME SPECIFICATIONS APPLICABLE TO NSR'S OWN LOCOMOTIVES.

(ii) NSR SHALL PERFORM THE WORK IN A WORKMANSHIP-LIKE MANNER, AND IN CONFORMANCE WITH ANY APPLICABLE FEDERAL, STATE OR LOCAL REGULATORY REQUIREMENTS, IN A MANNER SIMILAR TO, AND WITH THE SAME CARE AND QUALITY THAT NSR PROVIDES IN, THE TYPICAL PERFORMANCE OF THE FUELING, ROUTINE SERVICE, MAJOR SERVICE AND TRUCK LUBRICATION ON ITS OWN FLEET IN ELKHART YARD. OTHER THAN THE FOREGOING, NSR MAKES NO WARRANTIES OR REPRESENTATIONS, EITHER EXPRESSED OR IMPLIED, AS TO THE WORK. NSR EXPRESSLY DISCLAIMS ANY WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE WORK. IN NO EVENT UNDER ANY THEORY OR LAW OR CAUSE OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL NSR BE LIABLE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES, EVEN IF NSR HAD OR SHOULD HAVE HAD NOTICE OF THE POSSIBILITY OF SAID DAMAGES, INCLUDING BUT NOT LIMITED TO BUSINESS INTERRUPTION EXPENSES, COST OF CAPITAL AND LOSS OF PROFITS, ARISING FROM, INCIDENT TO OR OCCURRING IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF THE WORK OR ANY PART THEREOF, INCLUDING BUT NOT LIMITED TO THE NON-PERFORMANCE OF FUELING, ROUTINE MAINTENANCE OR TRUCK LUBRICATION WHEN REQUESTED, PURSUANT TO THIS AGREEMENT.

(c) Indemnification.

MCR hereby indemnifies and holds harmless, NSR from and against any and all loss, cost, expense, claim and liability (including but not limited to attorneys' fees) resulting from the loss of life or personal injury to any person or loss of or damage to any property arising from, incident to or occurring in connection with the performance of the

Work by NSR, regardless of whether negligence on the part of NSR or its employees, agents, or servants caused or contributed to said loss of life, personal injury or property loss or damage, provided, however, that the foregoing shall not apply to the personal injury or loss of life damage to the employees, agents, or servants of NSR occurring in the performance of the Work unless caused solely by the negligence of MCR.

SECTION 3. COMPENSATION.

(a) Compensation Rate.

(i) MCR shall pay to NSR the Fueling Flat Rate, as adjusted from time to time, in the amount and in the manner set forth in Appendix A, for each Fueling performed on a locomotive when Service is not also performed at the same time.

(ii) MCR shall pay to NSR the Fueling and Service Flat Rate, as adjusted from time to time, in the amount and in the manner set forth in Appendix A, for each Fueling and Service when the Fueling and the Service are performed on the same locomotive at the same time.

(iii) MCR shall pay to NSR the Truck Lubrication Rate, as adjusted from time to time, in the amount and in the manner set forth in Appendix A, for each Truck Lubrication performed.

(b) Determination of Rates.

(i) The rate set forth in Appendix A shall be considered to include all labor, materials, fluids, and supplies, except fuel and lube oil, for the Fueling, Service, and Truck Lubrication.

(ii) The cost of fuel and lube oil supplied shall be at the monthly average cost of fuel purchased by NSR at Elkhart during the previous month, determined and communicated by NSR to MCR from time to time.

(iii) Fuel dispensed shall be measured by existing nozzle meters where available. If nozzle meters are not available, then fuel dispensed will be measured through a manifold meter on the outbound side of the fuel facility tank if available. If no fuel meters are available, fuel dispensed to each unit will be estimated by the fuel monitors on the locomotives, and for locomotives not equipped with fuel monitors, fuel will be estimated on the basis of nozzle flow rates.

(iv) In order to ease the calculations involved, NSR shall be deemed to use 0.008 gallons of lube oil for each gallon of fuel supplied.

SECTION 4. INDEMNITY COVERAGE

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

(b) Each of MCR and NSR shall indemnify and hold harmless the other Party against any and all costs and payments, including benefits, allowances, and arbitration, administrative and litigation expenses, arising out of lawsuits, claims or grievances brought by or on behalf of its own employees or their collective bargaining representatives, either pursuant to employee protective conditions imposed by a governmental agency upon the agency's approval or exemption of this Agreement and operations hereunder or pursuant to a collective bargaining agreement. It is the Parties' intention that MCR and NSR each shall bear the full costs of protection of its own employees under employee protective conditions that may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

SECTION 5. TERM

(a) Effective Date.

This Agreement shall become effective following the latest date of: (i) the date first written above; (ii) following receipt of any required regulatory approvals or exemptions of the Transaction Agreement or any of the Ancillary Agreements; and (iii) following the expiration of any time periods required by the issuance of labor notices by NSR and/or MCR, should such labor notices be required ("Effective Date"). The Parties will determine the Effective Date through an exchange of written correspondence.

(b) Initial Term.

This Agreement shall commence on the Effective Date, and shall continue until terminated by mutual agreement of the Parties.

(c) Termination.

Termination of this Agreement shall not relieve or release either Party hereto from any obligations assumed or from any liability which may have arisen or been incurred by such Party under the terms of this Agreement prior to termination hereof.

SECTION 6. ARBITRATION

Any dispute arising among the Parties with respect to this Agreement shall be referred to their respective senior operating officers. In the event such officers are unable to resolve the dispute, any Party may submit the dispute for binding arbitration by an independent arbitrator before the American Arbitration Association under the Commercial Arbitration Rules, who shall render a written decision on the controversy. The written decision of the arbitrator shall be final and conclusive upon the Parties. Each Party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator, if any, shall be borne by the Parties, with each Party paying fifty percent of such costs. The arbitrator shall not have the power to award consequential or punitive damages or to determine violations of criminal or antitrust laws. Pending the written decision of the arbitrator, there shall be no interruption in the transaction of business under this Interchange Agreement, and all payments in respect thereto shall be made in the same manner as prior to the arising of the dispute until the matter in dispute shall have been fully determined by arbitration, and thereupon such payment or restitution shall be made as required by the decision of the arbitrator.

SECTION 9. NOTICES

Any notice required or permitted to be given by one Party to another under this Interchange Agreement shall be sent to each of MCR and NSR, and deemed given on the date sent by certified mail, or by such other means as the Parties may agree, and shall be addressed as follows:

If to MCR:

President
Michigan Central Railway, LLC
315 West 3rd Street
Pittsburg, Kansas 66762

With a copy to:

Mr. Ed McKechnie
Chief Commercial Officer
Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

With a copy to:

Mr. Craig Richey

Execution Copy

General Counsel
Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

If to NSR:

Executive Vice President Operations
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

With a copy to:

Senior Director – Joint Facilities
Norfolk Southern Corporation
1200 Peachtree Street, N.E., Box 158
Atlanta, Georgia 30309

With a copy to:

Vice President Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510

MCR or NSR may provide changes in the above addresses to the other Party by personal service or certified mail.

SECTION 10. FORCE MAJEURE

The obligations, other than payment obligations, of the Parties to this Agreement shall be subject to force majeure (including flood, earthquake, hurricane, tornado, or other such severe weather or climatic condition, riot, accident, wreck, derailment, washout, explosion, Acts of God, act of terrorism and public enemy, war, blockage, insurrection, vandalism or sabotage, fire, strike, lockout or labor dispute, embargoes or AAR service orders, or governmental laws, orders or regulations, and other causes or circumstances beyond the control of the Party invoking such force majeure as an excuse for nonperformance), but only as long as, and to the extent that, such force majeure shall reasonably prevent performance of such obligations by the affected Party. In the event that an event of force majeure impairs either Party's ability to fulfill its obligations to the other Party under this Agreement, said Party shall take all commercially reasonable measures to restore performance of its obligations in a timely manner.

SECTION 11. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement, or as may be necessary or appropriate for a Party hereto to enforce its rights under this Agreement, during the term of this Agreement (including any extensions thereof), and for a period of three (3) years after termination or expiration of this Agreement, the terms and provisions of this Agreement and all information to which access is provided or which is obtained hereunder will be kept confidential and will not be disclosed by either Party to any person other than members, officers, employees, and attorneys, without the prior written approval of the other Party. Notwithstanding anything to the contrary, either Party may disclose this Agreement in connection with an audit by its external auditors, the Internal Revenue Service, or other tax authority.

SECTION 12. SUCCESSORS AND ASSIGNS

(a) This Agreement shall inure to the benefit of and be binding upon each of the Parties and their respective successors and permitted assigns.

(b) Neither Party may assign this Agreement, or any of its rights, interests or obligations hereunder, including by operation of law, without the prior consent in writing of the other Party, which consent may be withheld at the discretion of such other Party.

SECTION 13. GENERAL

(a) This Agreement and each and every provision hereof is for the exclusive benefit of the Parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of damages or otherwise against either of the Parties hereto.

(b) This Agreement contains the entire understanding of the Parties hereto with respect to the subject matter hereof and supersedes any and all oral understandings between the Parties.

(c) No term or provision of this Agreement may be changed, waived, discharged or terminated except by an instrument in writing and signed by both Parties.

(d) All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

(e) This Agreement is the result of mutual negotiations between the Parties hereto, none of whom shall be considered the drafter for purposes of contract construction.

(f) If any provision of this Agreement or the application thereof to any Party hereto or to any circumstance shall be determined by a court of competent jurisdiction to be invalid or unenforceable to any extent or for any reason, the remainder of this Agreement or the application of the provisions thereof to such Party or circumstance, other than those determined to be invalid or unenforceable, shall not be affected thereby and shall be enforced to the fullest extent permitted by law, and the Parties shall promptly enter into such other agreement(s) as their respective legal counsel may deem appropriate in order to replace such invalid or unenforceable provisions in a manner that produces a result which is substantially equivalent to the terms of this Agreement in all material respects.

(g) Nothing herein shall be interpreted as creating an association, partnership, joint venture or other joint undertaking between MCR and NSR. Each Party shall indemnify and hold harmless the other Party against any and all costs and payments, including benefits, allowances, and arbitration, administrative and litigation expenses, arising out of claims or grievances made, or lawsuits brought, by or on behalf of its own employees or their collective bargaining representatives, either pursuant to employee protective conditions imposed by a governmental agency or pursuant to a collective bargaining agreement. It is the Parties' intention that each Party shall bear the full costs of protection of its own employees under employee protective conditions that may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

(h) This Agreement shall be governed and interpreted in accordance with the laws of the State of Delaware, without regard to application of the choice of law principles thereof.

(i) This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

MICHIGAN CENTRAL
RAILWAY COMPANY, LLC

NORFOLK SOUTHERN
RAILWAY COMPANY

Per: _____

Per: _____

Appendix N – LLC Management Access and Qualification Agreement and Right of Entry

**LLC MANAGEMENT ACCESS AND
QUALIFICATION AGREEMENT
AND RIGHT OF ENTRY**

THIS AGREEMENT (the "Agreement") is entered into as of this ____ day of _____, 200 __, by and between MICHIGAN CENTRAL RAILWAY, LLC, a Delaware limited liability company (the "Company"), and NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation ("NSR"). The Company and NSR are referred to individually herein as a "Party" and collectively as the "Parties".

RECITALS:

WHEREAS, on [_____], 2007, NSR, the Company and Watco Transportation Services, Inc. ("Watco") entered into a transaction agreement (the "Transaction Agreement") that, among other things, provides for the transfer, subject to the retention of certain rights, from NSR to the Company of the Subject Trackage, as defined in the Transaction Agreement; and

WHEREAS, the Company has previously qualified certain Company supervisory management personnel in certain specified operating and safety rules and timetables ("Management Trainees"); and

WHEREAS, in order to operate over the Subject Trackage, the Management Trainees need to be qualified over the Subject Trackage; and

WHEREAS, NSR, the Company and Watco have filed with the STB for any necessary STB-governed regulatory approvals, or exemptions from STB-governed regulatory approval, to effectuate the transactions described in the Transaction Agreement; and

WHEREAS, in the case of any necessary STB-governed regulatory approvals, the STB has served decisions that would permit NSR, Watco and the Company to effectuate the transactions described in the Transaction Agreement, and, in the case of exemptions from STB-governed regulatory approval, the exemptions from STB-governed regulatory approval is effective; and

WHEREAS, in anticipation of the contribution of said lines to the Company for operation following the effective date of any necessary regulatory approvals, the Company desires that its Management Trainees be permitted to be on or about NSR's premises, property, rolling stock, equipment and/or facilities, including but not limited to the Subject Trackage (called "NSR Property") during the period following the execution of this Agreement; and

WHEREAS, NSR has advised the Company that NSR will permit the Company's Management Trainees to be on or about NSR Property at times to be mutually set by the Parties hereto; and

WHEREAS, the Company represents that each Management Trainee to be on or about the NSR Property pursuant to this Agreement shall have been previously qualified (passing a written examination) on the NORAC operating rules, the Norfolk Southern Railway NSR Operating Rules, the Norfolk Southern Railway NSR Safety and General Conduct Rules, the CORA Rule Book, and the Norfolk Southern timetables covering the territory over which said Trainee will be present, and any other safety or operating rules or special instructions governing operations over this territory (collectively, the “Safety and Operating Rules”), as determined by the NSR.

NOW THEREFORE, the Parties agree as follows:

SECTION 1. DEFINITIONS AND INTERPRETATION

(a) Interpretation Generally.

(i) Unless otherwise defined herein, all words, terms and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.

(ii) Each definition in this Agreement includes the singular and the plural, and references in this Agreement to the neuter gender include the masculine and feminine where appropriate. References herein to any agreement or contract mean such agreement or contract as amended. As used in this Agreement, the word “including” means “without limitation”, and the words “herein”, “hereof” and “hereunder” refer to this Agreement as a whole. All dollar amounts stated herein are in United States currency.

(b) Capitalized Terms.

All terms defined in this Agreement shall have the defined meanings when used in this Agreement, unless otherwise defined or the context otherwise requires. The following terms shall have the following meanings:

“Equipment” shall mean and be confined to hi-rail vehicles, track inspection equipment and other non-revenue vehicles and machinery (other than locomotives) capable of being operated on railroad tracks that, at the time of an occurrence, are (i) being operated on the trackage upon which such occurrence takes place, or (ii) are on the trackage upon which such occurrence takes place, or on the adjoining right-of-way, for the purpose of maintenance or repair thereof or the clearing of wrecks thereon.

“STB” shall mean the Surface Transportation Board or any successor entity thereto.

(c) Successor Laws.

A reference to any particular statute or regulation shall include a reference to any successor statute or regulation.

(d) Railroad Industry.

All words, terms and phrases used in this Agreement, and not otherwise defined, shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.

SECTION 2. CONSENT FOR ACCESS

(a) NSR hereby grants to Company its consent for each Management Trainee to be on or about NSR Property on the dates to be determined by the parties, subject to the terms and conditions of this Agreement, and only after each Management Trainee executes and delivers an Indemnity Agreement, a copy of which is attached hereto.

(b) This consent is granted only for the following purpose: to permit the Management Trainees to ride on NSR's trains over the aforementioned lines in an effort to become qualified. Pursuant to this Agreement, NSR is not obliged in any way or for any reason to reimburse the Company for any costs it incurs in the effort to have its employees qualified. This consent in no way obligates NSR to ensure, and NSR does not ensure, that said Management Trainees will become qualified. This consent may be terminated at will by NSR as to any one or more or all Management Trainees without NSR having to provide advance notice of said termination to the Company, and said termination shall not relieve the Company of any obligation or liability incurred prior to such termination.

SECTION 3. COMPANY AND TRAINEE REQUIREMENTS

(a) The Company shall require each Management Trainee to be: (i) subject to NSR's direction when upon NSR Property, and (ii) subject to NSR's removal from NSR Property for negligence, misconduct, unsafe actions, breach or termination of this Agreement.

(b) The Company shall prohibit the presence of any Management Trainees, and no Management Trainee will be permitted, on NSR Property until such time that NSR and the Company have mutually agreed to specific dates, times and locations for the presence of such Management Trainees. No Trainee shall be permitted on NSR Property unless and until that Management Trainee has executed the attached Indemnity Agreement.

(c) The Company shall indemnify and save harmless NSR from and against any and all claims, demands, losses, suits, judgments, expense and liability resulting from injury to or death of any person or persons, including, without limitation, the Management Trainee(s), and damage to or loss of any property, including, without limitation, that belonging to or in the custody of the Company or Trainee(s) (the "Associated Property"), arising or in any manner arising from, or caused or contributed by, the presence of either the Management Trainee(s) or Associated Property or both on or about the NSR Property regardless of whether negligence on the part of NSR, its directors, officers, agents or employees causes said loss of life, personal injury or property loss or damage in whole or in part.

(d) The Company shall reimburse NSR for any material, labor, supervisory and protective costs (including flagging) and related taxes and overhead expenses required or deemed necessary by NSR because of the presence of either Management Trainee(s) or Associated Property on NSR Property; provided, however, that the Company shall not be obliged to

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reimburse NSR pursuant to this Section 3(d) until the aggregate amount otherwise due for reimbursement hereunder reaches at least \$50,000.

(e) The Company shall exercise, and shall cause all Management Trainees to exercise, all reasonable care and precautions to protect NSR's premises, property rolling stock, equipment and facilities and to avoid interference with NSR's operations.

(f) The Company represents and warrants to NSR that all persons it presents to NSR for access as Management Trainees hereunder have been certified in the Safety and Operating Rules.

SECTION 4. INVOICES AND PAYMENT OF BILLS

(a) Generally.

NSR shall invoice the Company periodically for charges incurred pursuant to this Agreement. The invoices shall be delivered to the Company's designee in electronic format, and shall contain such details as the Company may reasonably request. The Company shall make reasonable efforts to effect payment on an invoice to NSR within thirty (30) days, but in any event within sixty (60) days, after the date of submission of the invoice.

(b) Disputes.

Any dispute regarding the amounts set forth in an invoice shall be reconciled between the Parties. If the Company disputes any portion of an invoice, it shall nevertheless pay the invoice in full (unless such dispute involves a material amount in relation to the total amount of such invoice), subject to adjustment upon resolution of the dispute; provided, however, that (i) no exception to any charge in an invoice shall be honored, recognized or considered if filed after the expiration of three (3) years from the date of the invoice, and (ii) no invoice shall be rendered more than three (3) years (a) after the last day of the calendar month in which the expense covered thereby is incurred, or (b) in the case of charges disputed as to amount or liability, after the amount owed or liability therefore is established. Any claim for the adjustment of an invoice shall be deemed to be waived if not made in writing within three (3) years after the date of the relevant invoice.

(c) Labor and Material.

Invoices rendered pursuant to the provisions of this Agreement shall include direct labor and material costs, together with the surcharges, overhead percentages and Equipment rentals as specified by NSR at the time any work is performed by NSR for the Company, or shall include actual costs and expenses, upon mutual agreement of the parties.

SECTION 5. INDEMNITY COVERAGE

(a) As a part of the consideration hereof, the Company agrees that each and all of its indemnity commitments in this Agreement in favor of NSR hereto shall extend to and indemnify NSR's parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents and employees.

(b) The Company shall indemnify and hold harmless NSR against any and all costs and payments, including benefits, allowances, and arbitration, administrative and litigation expenses, arising out of lawsuits, claims or grievances brought by or on behalf of the Company's own employees or their collective bargaining representatives, either pursuant to employee protective conditions imposed by a governmental agency upon the agency's approval or exemption of this Agreement, if any, and operations hereunder or pursuant to a collective bargaining agreement. It is the Parties' intention that the Company shall bear the full costs of protection of its own employees under employee protective conditions that may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

SECTION 6. TERM

(a) Effective Date.

This Agreement shall become effective on the date first appearing above ("Effective Date").

(b) Term.

This Agreement shall commence on the Effective Date, and shall continue until terminated by mutual agreement of the Parties.

(c) Termination.

Termination of this Agreement shall not relieve or release either Party hereto from any obligations assumed or from any liability which may have arisen or been incurred by such Party under the terms of this Agreement prior to termination hereof.

SECTION 7. ARBITRATION

Any dispute arising among the Parties with respect to this Agreement shall be referred to their respective senior operating officers. In the event such officers are unable to resolve the dispute, any Party may submit the dispute for binding arbitration by an independent arbitrator before the American Arbitration Association under the Commercial Arbitration Rules, who shall render a written decision on the controversy. The written decision of the arbitrator shall be final and conclusive upon the Parties. Each Party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator, if any, shall be borne by the Parties, with each Party paying fifty percent of such costs. The arbitrator shall not have the power to award consequential or punitive damages or to determine violations of criminal or antitrust laws. Pending the written decision of the arbitrator, there shall be no interruption in the transaction of business under this Interchange Agreement, and all payments in respect thereto shall be made in the same manner as prior to the arising of the dispute until the matter in dispute shall have been fully determined by arbitration, and thereupon such payment or restitution shall be made as required by the decision of the arbitrator.

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SECTION 8. NOTICES

Any notice required or permitted to be given by one Party to another under this Interchange Agreement shall be sent to each of the Company and NSR, and deemed given on the date sent by certified mail, or by such other means as the Parties may agree, and shall be addressed as follows:

If to the Company:

President
Michigan Central Railway, LLC
315 West 3rd Street
Pittsburg, Kansas 66762

With a copy to:

Mr. Ed McKechnie
Chief Commercial Officer
Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

With a copy to:

Mr. Craig Richey
General Counsel
Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

If to NSR:

Executive Vice President Operations
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

With a copy to:

Senior Director – Joint Facilities
Norfolk Southern Corporation
1200 Peachtree Street, N.E., Box 158
Atlanta, Georgia 30309

With a copy to:

Vice President Law
Norfolk Southern Corporation

Executed Copy

Three Commercial Place
Norfolk, VA 23510

The Company and NSR may provide changes in the above addresses to the other Party by personal service or certified mail.

SECTION 9. FORCE MAJEURE

The obligations, other than payment obligations, of the Parties to this Agreement shall be subject to force majeure (including flood, earthquake, hurricane, tornado, or other such severe weather or climatic condition, riot, accident, wreck, derailment, washout, explosion, Acts of God, act of terrorism and public enemy, war, blockage, insurrection, vandalism or sabotage, fire, strike, lockout or labor dispute, embargoes or AAR service orders, or governmental laws, orders or regulations, and other causes or circumstances beyond the control of the Party invoking such force majeure as an excuse for nonperformance), but only as long as, and to the extent that, such force majeure shall reasonably prevent performance of such obligations by the affected Party. In the event that an event of force majeure impairs either Party's ability to fulfill its obligations to the other Party under this Agreement, said Party shall take all commercially reasonable measures to restore performance of its obligations in a timely manner.

SECTION 10. SUCCESSORS AND ASSIGNS

(a) This Agreement shall inure to the benefit of and be binding upon each of the Parties and their respective successors and permitted assigns.

(b) Neither Party may assign this Agreement, or any of its rights, interests or obligations hereunder, including by operation of law, without the prior consent in writing of the other Party, which consent may be withheld at the discretion of such other Party.

SECTION 11. GENERAL

(a) This Agreement and each and every provision hereof is for the exclusive benefit of the Parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of damages or otherwise against either of the Parties hereto.

(b) This Agreement contains the entire understanding of the Parties hereto with respect to the subject matter hereof and supersedes any and all oral understandings between the Parties.

(c) No term or provision of this Agreement may be changed, waived, discharged or terminated except by an instrument in writing and signed by both Parties.

(d) All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

(e) This Agreement is the result of mutual negotiations between the Parties hereto, none of whom shall be considered the drafter for purposes of contract construction.

(f) If any provision of this Agreement or the application thereof to any Party hereto or to any circumstance shall be determined by a court of competent jurisdiction to be invalid or unenforceable to any extent or for any reason, the remainder of this Agreement or the application of the provisions thereof to such Party or circumstance, other than those determined to be invalid or unenforceable, shall not be affected thereby and shall be enforced to the fullest extent permitted by law, and the Parties shall promptly enter into such other agreement(s) as their respective legal counsel may deem appropriate in order to replace such invalid or unenforceable provisions in a manner that produces a result which is substantially equivalent to the terms of this Agreement in all material respects.

(g) Nothing herein shall be interpreted as creating an association, partnership, joint venture or other joint undertaking between the Company and NSR. Each Party shall indemnify and hold harmless the other Party against any and all costs and payments, including benefits, allowances, and arbitration, administrative and litigation expenses, arising out of claims or grievances made, or lawsuits brought, by or on behalf of its own employees or their collective bargaining representatives, either pursuant to employee protective conditions imposed by a governmental agency or pursuant to a collective bargaining agreement. It is the Parties' intention that each Party shall bear the full costs of protection of its own employees under employee protective conditions that may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

(h) This Agreement shall be governed and interpreted in accordance with the laws of the State of Delaware, without regard to application of the choice of law principles thereof.

(i) This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

MICHIGAN CENTRAL
RAILWAYS, LLC

NORFOLK SOUTHERN
RAILWAY COMPANY

By _____
Print or type name:

By _____
Print or type name:

Title _____

Title _____

Date: _____, 20 ____

Date _____, 20 ____

Appendix O – Lansing Assignment and Assumption Agreement

Execution Copy

LANSING ASSIGNMENT AND ASSUMPTION AGREEMENT

This **LANSING ASSIGNMENT AND ASSUMPTION AGREEMENT** (this "Agreement") is dated as of the ____ day of _____, 200_ by and between Norfolk Southern Railway Company, a Virginia corporation ("Assignor"), and Michigan Central Railway, LLC, a Delaware limited liability company ("Assignee"). All capitalized terms used but not otherwise defined in this Agreement shall have the meaning ascribed to such terms in the Transaction Agreement by and among Watco Transportation Services, Inc., Assignee and Assignor, dated _____, 200[] (the "Transaction Agreement").

RECITALS:

WHEREAS, there exists that certain trackage rights agreement dated April 21 1995 by and between CSX Transportation, Inc. ("CSXT") and Conrail, with Assignor as successor, as it has been from time to time amended and assigned, and the underlying right of movement in and about Lansing, MI; and

WHEREAS, there exists that certain trackage rights agreement dated October 13, 1924 by and between the Pere Marquette Railway Company, with CSXT as successor, and Michigan Central Railroad Company, with NSR as successor, as it has been from time to time amended and assigned, and the underlying right of movement in and about Lansing, MI (collectively with the trackage rights and agreement identified in the first recital, the "Lansing Trackage Rights"); and

WHEREAS, on the terms and subject to the conditions set forth in the Transaction Agreement, Assignor agreed to assign the Lansing Trackage Rights to Assignee, upon receiving consent from CSXT; and

WHEREAS, CSXT has consented to such assignment; and

WHEREAS, Assignee desires to accept such assignment.

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants and agreements contained herein and in the Transaction Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. Assignment. Assignor hereby contributes, assigns, sets over and transfers to Assignee, its successors and assigns, all of Assignor's right, title and interest, in, to and under the Lansing Trackage Rights.

Section 2. Assumption. Subject to the terms and conditions of the Transaction Agreement, Assignee hereby accepts the assignment of all of Assignor's right, title and interest in, to and under the Lansing Trackage Rights.

Execution Copy

Section 3. Effect of the Assignment and Assumption. All rights and responsibilities under the Lansing Trackage Rights accruing prior to the effectiveness of this Agreement shall be the rights and responsibilities of Assignor. All rights and responsibilities under the Lansing Trackage Rights accruing after the effectiveness of this Agreement shall be the rights and responsibilities of Assignee.

Section 4. The Transaction Agreement. Nothing herein shall be deemed to amend, modify, alter, expand or diminish the terms and conditions of the Transaction Agreement, including, without limitation, the covenants, representations, warranties and indemnification obligations contained therein.

Section 5. Further Assurances. Assignor shall, from time to time upon the reasonable request of Assignee, execute and deliver all such further documents and instruments, and take all such further acts as shall be necessary or desirable to give full effect to the intent and meaning of this Agreement.

Section 6. Governing Law. The laws of the state of Delaware shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties arising hereunder, without regard to the laws that might otherwise govern under the applicable principles of conflicts of law thereof.

Section 7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

Section 8. Successors and Assigns. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and their respective successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any rights, interests, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

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

**NORFOLK SOUTHERN RAILWAY
COMPANY**

By: _____
Name:
Title:

MICHIGAN CENTRAL RAILWAY, LLC

Execution Copy

By: _____
Name:
Title:

Appendix P – Battle Creek Assignment and Assumption Agreement

Execution Copy

BATTLE CREEK ASSIGNMENT AND ASSUMPTION AGREEMENT

This **BATTLE CREEK ASSIGNMENT AND ASSUMPTION AGREEMENT** (this "Agreement") is dated as of the ____ day of _____, 200_ by and between Norfolk Southern Railway Company, a Virginia corporation ("Assignor"), and Michigan Central Railway, LLC, a Delaware limited liability company ("Assignee"). All capitalized terms used but not otherwise defined in this Agreement shall have the meaning ascribed to such terms in the Transaction Agreement by and among Watco Transportation Services, Inc., Assignee and Assignor, dated _____, 200[] (the "Transaction Agreement").

RECITALS:

WHEREAS, there exists that certain trackage rights agreement, dated September 14, 1979, by and between Grand Trunk Western Railroad Company ("Grand Trunk") and Consolidated Rail Corporation ("Conrail"), as it has been from time to time amended and assigned, and the underlying right of movement in and about Battle Creek, MI (the "Battle Creek Trackage Rights"); and

WHEREAS, on the terms and subject to the conditions set forth in the Transaction Agreement, Assignor agreed to assign the Battle Creek Trackage Rights to Assignee, upon receiving consent from Canadian National Railways Company ("CN"), successor to Grand Trunk; and

WHEREAS, CN has consented to such assignment; and

WHEREAS, Assignee desires to accept such assignment.

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants and agreements contained herein and in the Transaction Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. Assignment. Assignor hereby contributes, assigns, sets over and transfers to Assignee, its successors and assigns, all of Assignor's right, title and interest, in, to and under the Battle Creek Trackage Rights.

Section 2. Assumption. Subject to the terms and conditions of the Transaction Agreement, Assignee hereby accepts the assignment of all of Assignor's right, title and interest in, to and under the Battle Creek Trackage Rights.

Section 3. Effect of the Assignment and Assumption. All rights and responsibilities under the Battle Creek Trackage Rights accruing prior to the effectiveness of this Agreement shall be the rights and responsibilities of Assignor. All rights and responsibilities under the

Execution Copy

Battle Creek Trackage Rights accruing after the effectiveness of this Agreement shall be the rights and responsibilities of Assignee.

Section 4. The Transaction Agreement. Nothing herein shall be deemed to amend, modify, alter, expand or diminish the terms and conditions of the Transaction Agreement, including, without limitation, the covenants, representations, warranties and indemnification obligations contained therein.

Section 5. Further Assurances. Assignor shall, from time to time upon the reasonable request of Assignee, execute and deliver all such further documents and instruments, and take all such further acts as shall be necessary or desirable to give full effect to the intent and meaning of this Agreement.

Section 6. Governing Law. The laws of the state of Delaware shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties arising hereunder, without regard to the laws that might otherwise govern under the applicable principles of conflicts of law thereof.

Section 7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

Section 8. Successors and Assigns. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and their respective successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any rights, interests, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

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

**NORFOLK SOUTHERN RAILWAY
COMPANY**

By: _____
Name:
Title:

MICHIGAN CENTRAL RAILWAY, LLC

By: _____
Name:
Title:

Appendix Q – Grand Rapids Assignment and Assumption Agreement

Execution Copy

GRAND RAPIDS ASSIGNMENT AND ASSUMPTION AGREEMENT

This **GRAND RAPIDS ASSIGNMENT AND ASSUMPTION AGREEMENT** (this "Agreement") is dated as of the ____ day of _____, 200_ by and between Norfolk Southern Railway Company, a Virginia corporation ("Assignor"), and Michigan Central Railway, LLC, a Delaware limited liability company ("Assignee"). All capitalized terms used but not otherwise defined in this Agreement shall have the meaning ascribed to such terms in the Transaction Agreement by and among Watco Transportation Services, Inc., Assignee and Assignor, dated _____, 200[] (the "Transaction Agreement").

RECITALS:

WHEREAS, there exists that certain trackage rights agreement, dated January 24, 1984, by and between The Chesapeake & Ohio Railway Company ("C&O") and Consolidated Rail Corporation, as it has been from time to time amended and assigned, and the underlying right of movements in and about Grand Rapids, MI (the "1984 Agreement"); and

WHEREAS, there exists that certain trackage rights agreement, dated February 6, 1980, by and between the C&O and Conrail, as it has been from time to time amended and assigned, and the underlying right of movements in and about Grand Rapids, MI (the "1980 Agreement"), as amended from time to time, including by a Supplemental Agreement dated July 6, 1993, by and between CSXT and Conrail, to which NSR is successor; and

WHEREAS, on the terms and subject to the conditions set forth in the Transaction Agreement, Assignor agreed to assign the Battle Creek Trackage Rights to Assignee, upon receiving consent from CSXT, successor to C&O; and

WHEREAS, CSXT has consented to such assignment; and

WHEREAS, Assignee desires to accept such assignment.

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants and agreements contained herein and in the Transaction Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. Assignment. Assignor hereby contributes, assigns, sets over and transfers to Assignee, its successors and assigns, all of Assignor's right, title and interest, in, to and under the Battle Creek Trackage Rights.

Section 2. Assumption. Subject to the terms and conditions of the Transaction Agreement, Assignee hereby accepts the assignment of all of Assignor's right, title and interest in, to and under the Battle Creek Trackage Rights.

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Section 3. Effect of the Assignment and Assumption. All rights and responsibilities under the Grand Rapids Trackage Rights accruing prior to the effectiveness of this Agreement shall be the rights and responsibilities of Assignor. All rights and responsibilities under the Grand Rapids Trackage Rights accruing after the effectiveness of this Agreement shall be the rights and responsibilities of Assignee.

Section 4. The Transaction Agreement. Nothing herein shall be deemed to amend, modify, alter, expand or diminish the terms and conditions of the Transaction Agreement, including, without limitation, the covenants, representations, warranties and indemnification obligations contained therein.

Section 5. Further Assurances. Assignor shall, from time to time upon the reasonable request of Assignee, execute and deliver all such further documents and instruments, and take all such further acts as shall be necessary or desirable to give full effect to the intent and meaning of this Agreement.

Section 6. Governing Law. The laws of the state of Delaware shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties arising hereunder, without regard to the laws that might otherwise govern under the applicable principles of conflicts of law thereof.

Section 7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

Section 8. Successors and Assigns. This Agreement shall be binding upon and inure solely to the benefit of each party hereto and their respective successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any rights, interests, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

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

**NORFOLK SOUTHERN RAILWAY
COMPANY**

By: _____
Name:
Title:

MICHIGAN CENTRAL RAILWAY, LLC

By: _____
Name:
Title:

Appendix R – Support Services Agreement

SUPPORT SERVICES AGREEMENT

This Support Services Agreement (the "Agreement") is dated as of [date] (the "Effective Date"), between Michigan Central Railway, LLC, a limited liability company organized and existing under the laws of the state of Delaware (the "Company") and Watco Companies, Inc., a corporation organized and existing under the laws of Kansas (the "Representative").

Company is engaged in the business of offering railroad transportation and related services in Company's name; and

Representative employs a staff of personnel that has expertise in the provision of certain management support systems unique to the railroad business, its management, administration, and other commercial enterprises; and

Company desires to obtain certain of these management support services from Representative in connection with the implementation and administration of certain business functions for Company's business.

Therefore, for an in consideration of the mutual benefits and obligations set forth in this Agreement, the parties agree that the following terms and provisions shall govern Company's use of Representative's management services as follows:

1. SERVICES

1.1. During the term of this Agreement, the Company agrees to purchase from Representative and Representative agrees to provide to the Company, management support services specified in Schedule "1" attached hereto (the "Support"). The Company agrees to provide such management support services at the direction of, and in support of, the Company. In providing the Support Services, Representative will perform all such duties and activities as are normal and customary or as are reasonably requested by the Company in connection with the provision of the management support services listed.

1.2. Where appropriate to the expeditious and efficient performance by Representative of services under this Agreement and upon authorization by Representative and Company, officers and employees of Representative may be provided by Representative to Company to act as an officer or agent of the Company, provided, however, that Company shall not be obligated to compensate either the Representative or the person(s) provided by Representative pursuant to this Section 1.2. For all purposes (including but not limited to taxes, liability, and other such purposes) such person(s) provided by Representative pursuant to this Section 1.2 shall be considered as an officer or employee of Representative, as an independent contractor to the Company. The Company shall have the right to require removal of any such person provided by Representative pursuant to this Section 1.2 for any or no reason whatsoever.

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1.3. Nothing in this Agreement shall prevent any officer or employee of Representative to be elected or appointed as a director of the Company. Such person shall serve as director independent of such persons services provided hereunder.

1.4. The Company shall make reasonable accommodation to Representatives for the use of such facilities, equipment, furniture, fixtures and vehicles of the Company as are reasonably required in connection with the performance by Representative of services under this Agreement. Representative shall use such Company facilities, equipment, furniture, fixtures and vehicles only to provide the Support Services pursuant to this Agreement, and for no other purposes. In the use of said Company facilities, equipment, furniture, fixtures and vehicles, Representative shall exercise reasonable care.

1.5. In providing any purchasing services to the Company pursuant to this Agreement, Representative, Representative shall use its best efforts to obtain volume pricing or other discounts from outside vendors (for materials) or outside providers (for contract services) obtained by Representative for the Company. With the Company's consent, Representative may combine purchases of materials or contract services with purchases of the same for Representative, provided, however, that full and detailed reports (including copies of all material or contract services agreements) are provided by Representative to the Company as to the

1.6. Representative shall use the same care and provide the same level of service pursuant to this agreement as it provides to itself, provided, however, that, except as set forth in Section 6, the sole remedy for breach of this service standard shall be immediate termination of this agreement and forfeiture of (or, if prepaid, repayment of) any payment for the service that are found to have failed to comply. The services provided by Representative set forth in this section shall be performed on a good faith best effort basis and Representative does not represent or guarantee that the performance goals or objectives of the parties will be accomplished.

2. PAYMENT

2.1. During the term of this Agreement, Company shall pay Representative a "Support Service Fee" as set forth in Schedule "2", as amended and adjusted from time to time. Representative shall be obligated to provide all normal and customary tools, equipment and support services necessary for Representative to provide the Support Services, so covered by the Support Service Fee shall be all reasonable and necessary expenses incurred by Representative in the performance of Support Services under this Agreement.

2.2. The Company agrees to pay extraordinary expenses of the Representative ("Extraordinary Expenses") when reasonable and necessary in order to provide the Support Services. Material (including but not limited to insurance coverage, material for maintenance, maintenance of way, office equipment) and services (including, but not limited to major reconstruction assistance, major repairs of locomotives and advertising services) obtained from third parties by Representative on behalf of the Company shall be paid for by

the Company to said third parties pursuant to written agreements between the third parties and the Company and provided to the Company.

2.3. The Support Services Payment and expenses shall be paid by Company to Representative in twelve equal monthly installments on the first day of each month. Each such payment shall be made prospectively for the services rendered and to be rendered in the month in which such payment is made. Payments on extraordinary expenses will be made upon an invoice provided by Representative to the Company (with a copy to NSR) and supported by: (1) invoices and (2) such other documentation as may be reasonably request.

2.4. The amount of the Support Services Payment and the amount of the corresponding monthly installment payments shall be subject to appropriate adjustments based on any adjustments to the management support services set forth on Schedule 1..

3. TERM AND TERMINATION

3.1. The term of this Agreement shall commence on the Effective Date and, unless and until terminated in the manner provided in this section, shall continue for an initial period of three (3) years and shall be automatically extended without further action by the parties for successive periods of one (1) year, each such period to commence on the anniversary of the Effective Date.

3.2. Either of the parties hereto may terminate this Agreement effective ninety (90) days after written notice of its election to terminate is received by the other party.

3.3. If an "Event of Default" (as defined below) occurs, and if the default is not cured within thirty (30) days, or such extended time period as the parties may agree to, after written notice specifying the default is received by the defaulting party, the party not in default may, by giving written notice of termination to the defaulting party, terminate this Agreement as of the date specified in the notice of termination. The occurrence of any of the following will constitute an "Event of Default":

3.3.1. The material or repeated failure by a party to perform any of its duties or obligations under this Agreement.

3.3.2. The making of any false or fraudulent representation or claim by Representative relating to the costs and expenses incurred by Representative in the performance of services under this Agreement.

3.4. If an "Event of Default" (as defined above) occurs, and if the default is not cured within thirty (30) days, or such extended time period as the parties may agree to, after written notice specifying the default is received by the defaulting party, the party not in default may, by giving written notice of termination to the defaulting party, terminate this Agreement as of the date specified in the notice of termination. An Event of Default as described in Section 3.3.1 that involves the failure of Representative to perform any of the Support Services shall have, as an additional remedy, a refunding of any payments made for Support Services not provided or not provided in accordance with this Agreement. An Event of Default as

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described in Section 3.3.2 shall have, as an additional remedy, a refunding of any payments made for the Support Services that were the subject of the false or fraudulent representation or claim by Representative, and shall further have, as an additional remedy, indemnification by Representative of all costs, expenses and damages related to, or arising out of the false or fraudulent representation or claim by Representative.

3.5. Upon the occurrence of any of the following events, either party may terminate this Agreement, upon the giving of written notice, effective immediately:

- 3.5.1. The other party becomes insolvent or admits its inability to pay its debts generally as they come due.
- 3.5.2. Any sheriff, marshal, custodian, trustee or receiver is appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of the other party's property.
- 3.5.3. A case is filed by the other party under the Bankruptcy Code or any other insolvency law.
- 3.5.4. A case is filed against the other party without such party's application or consent under the Bankruptcy Code or any other insolvency law and such case continues without dismissal for thirty (30) days.
- 3.5.5. The other party makes a general assignment for the benefit of creditors.
- 3.5.6. The other party is dissolved or liquidated, or takes any corporate action for such purpose.

3.6. In the event this Agreement is terminated as provided in this section, Company shall have no obligation to pay the Support Services Payment or the costs and expenses of Representative applicable to the period following the date of such termination; provided, however, that Company shall be obligated to pay (1) a pro rata portion of the amount it would have been obligated to pay for such services during the monthly period in which the termination occurred, based upon the number of days during the applicable monthly period that shall have passed prior to the date of termination, and (2) the amount of any extraordinary expense incurred prior to the date of termination by Representative in the performance of services under this Agreement, and otherwise reimbursable in accordance with its terms, that accrues prior to the date of termination but that cannot be avoided or otherwise is not recoverable by Representative.

3.7. Upon termination of this Agreement, the parties shall immediately cease any operation pursuant to the Agreement and shall not conduct their respective business and affairs in a manner that would tend to give the general public the impression that the Agreement is still in effect.

3.8. The obligations of the parties set forth in Section 6 below relating to indemnification and exoneration shall survive the termination of this Agreement for a period of three (3) years.

4. BOOKS, RECORDS AND REPORTS

4.1. Representative shall keep and maintain such books and records pertaining to services provided by Representative to Company as Company shall from time to time reasonably direct. Any all such books and records shall be the sole property of Company.

4.2. Representative, the Company and NSR shall each have the right to audit the records of the other Parties pertaining to the subject matter of this Agreement, with each Party bearing its own expenses, provided such audit is initiated at any time within three (3) years of the date of the date of any payment to be made in relation therefore. All such audits shall be conducted at reasonable intervals, locations, and times. All such audits will be prosecuted with reasonable due diligence. Each agrees that all information disclosed to it or its representatives in connection with such an audit will be held in strictest confidence and will not be disclosed to any third party (other than to an arbitrator in connection with an arbitration conducted pursuant to this Agreement or as required by applicable law). Any adjustment resulting from an audit conducted pursuant to this Section 4 shall be make upon completion of such audit.

4.3. Representative shall prepare and disseminate to Company, on a monthly basis, such management and accounting reports as may be reasonably requested by Company, which shall include, at a minimum, a report of all Extraordinary Expenses.

5. RELATIONSHIP

5.1. In the performance of the services described herein, Representative shall be an independent contractor of Company. Representative shall have managerial control with respect to the provision of the Support Services provided hereunder. All personnel of Representative shall be subject to the direction, supervision and control of Representative, and not the Company.

5.2. The relationship between Representative and Company shall be limited to the specific authority set forth in this Agreement. Neither party shall be the general agent of the other for any purpose whatsoever, and shall have no power or authority to make or give any promise, warranty or representation, to execute any contract, or otherwise create, issue or assume any liability, obligation or commitment in the name of or on behalf of the other party. Representative shall, at all times conduct itself in a manner so as to clearly indicate the capacities in which it is acting and that it has only limited authority to bind Company.

5.3. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of damages or otherwise against any of the Parties hereto, other than specifically provided herein.

5.4. Nothing contained in this Agreement shall be interpreted as the creation of a partnership, association, joint venture or other joint undertaking between Representative and the Company.

6. INDEMNIFICATION

6.1. Representative and Company shall indemnify and hold harmless the other party, its officers, directors, employees, agents, successors and assigns in accordance with the following procedures:

- 6.1.1. The party entitled to indemnification under subsection 6.1 (the "Indemnified Party") shall promptly notify the party which is obligated to provide such indemnification (the "Indemnifying Party") in writing upon receipt of notice of the commencement (or threatened commencement) of any civil, criminal, administrative or investigative action involving a claim of which indemnification will be sought. Failure to notify the Indemnifying Party shall relieve it of its obligation to indemnify under this Agreement.
- 6.1.2. The Indemnifying Party will be entitled to have sole control over the defense and settlement of, provided that, within fifteen (15) days of the receipt of the written notice, the Indemnifying Party notifies the Indemnified Party of its election to assume full control. After notice is given, the Indemnified Party shall be entitled to participate in the defense of the claim and to employ counsel at its own expense to assist in the handling of the claim, and the Indemnifying Party shall obtain the prior written approval of the Indemnified Party before entering into any settlement of the claim.
- 6.1.3. After notice is given by the Indemnifying Party to the Indemnified Party of its election to assume full control of the defense in the action, the Indemnifying Party shall not be liable to the Indemnified Party for any legal expenses incurred by the Indemnified Party in connection with the defense of the claim.
- 6.1.4. If the Indemnifying Party does not assume sole control over the defense, the Indemnified Party will have the right to defend the claim in the manner it may deem appropriate, at the cost and expense of the Indemnifying Party. The Indemnifying Party shall promptly reimburse the Indemnified Party for any of those costs and expenses. An Indemnifying Party shall not be required to pay the Indemnified Party for any amount paid or payable by the Indemnified Party in the settlement of the claim which was agreed to without the written consent of the Indemnifying Party.

7. INSURANCE

Company shall maintain in full force and effect, such general and comprehensive liability insurance coverage as may be acceptable to Representative. Company shall name Representative on such policies as an additional insured and such policies will be at the expense of Company.

8. RIGHT OF REPRESENTATIVE TO PERFORM SERVICES FOR OTHERS

Company understands and agrees that Representative may perform management, administrative and other services for third parties, some of whom may be competitors of Company.

9. SUCCESSORS AND ASSIGNS

9.1. This Agreement shall inure to the benefit of and be binding upon each of the Parties and their respective successors and permitted assigns.

9.2. Except as otherwise specifically provided hereinafter, neither Party may assign this Agreement, or any of its rights, interests or obligations hereunder, including by operation of law, without the prior consent in writing of the other Party, which consent may be withheld at the discretion of such other Party.

9.3. In the event of a sale of substantially all of the assets or business of NSR, or the merger or consolidation of NSR, NSR may, without the prior consent of Landlord, assign this Agreement to such firm or corporation acquiring substantially all of the assets or business of NSR, or merging or consolidating with NSR; provided, however, that such assignment shall not transfer or extinguish any liability or obligation to or of Landlord under this Agreement that existed prior to such assignment. Furthermore, NSR may assign this Agreement to any NSR Affiliate without the prior consent of Landlord, provided that such assignment shall not transfer or extinguish any liability or obligation to or of Landlord under this Agreement that existed prior to such assignment. The term "NSR Affiliate" shall mean any entity that directly or indirectly controls, is controlled by, or is under common control with NSR.

9.4. In the event of a sale of substantially all of the assets or business of Landlord, or the merger or consolidation of Landlord, Landlord may, without the prior consent of NSR, assign this Agreement to such firm or corporation acquiring substantially all of the assets or business of Landlord, or merging or consolidating with Landlord; provided, however, that such assignment shall not transfer or extinguish any liability or obligation to or of NSR under this Agreement that existed prior to such assignment. Furthermore, Landlord may assign this Agreement to any Landlord Affiliate that controls all of the Subject Trackage without the prior consent of NSR, provided that such assignment shall not transfer or extinguish any liability or obligation to or of Landlord under this Agreement that existed prior to such assignment. The term "Landlord Affiliate" shall mean any entity that directly or indirectly controls, is controlled by, or is under common control with Landlord. The term "control" as used in the immediately preceding sentence shall mean exercising day-to-day control over the rail operations of the Subject Trackage.

10. CONFIDENTIALITY

Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement, or as may be necessary or appropriate for a Party hereto to enforce its rights under this Agreement, during the term of this Agreement (including any extensions thereof), and for a period of three (3) years after termination or expiration of this Agreement, the terms and provisions of this Agreement and all information to which access is provided or which is obtained hereunder will be kept confidential and will not be disclosed by either Party to any person other than members, officers, employees, and attorneys, without the prior written approval of the other Party. Notwithstanding the foregoing, either party may disclose this Agreement to its outside auditors and to Federal, State and local tax authorities when under audit.

11. INDEMNITY COVERAGE

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

11.2. Each of MCR and Watco shall indemnify and hold harmless the other Party against any and all costs and payments, including benefits, allowances, and arbitration, administrative and litigation expenses, arising out of lawsuits, claims or grievances brought by or on behalf of its own employees or their collective bargaining representatives, either pursuant to employee protective conditions imposed by a governmental agency upon the agency's approval or exemption of this Agreement and operations hereunder or pursuant to a collective bargaining agreement. It is the Parties' intention that MCR and Watco each shall bear the full costs of protection of its own employees under employee protective conditions that may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

12. MISCELLANEOUS PROVISIONS

12.1. This Agreement contains the entire understanding of the Parties hereto with respect to the subject matter hereof and supersedes any and all oral understandings between the Parties.

12.2. No term or provision of this Agreement may be changed, waived, discharged or terminated except by an instrument in writing and signed by all Parties.

12.3. The division of this Agreement into articles, sections and subsections and the insertion of headings and references are for convenience of reference only, and shall not affect the construction or interpretation of this Agreement. Unless the context otherwise requires, all references to articles, sections or subsections are to articles, sections or subsections of this Agreement.

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12.4. This Agreement is the result of mutual negotiations between the Parties hereto, neither of whom shall be considered the drafter for purposes of contract construction.

12.5. No consent or waiver, expressed or implied, by a Party of any breach or default by the other Party in the performance by such other Party of its obligations hereunder shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance hereunder by such other Party. Failure on the part of a Party to complain of any act or failure of the other Party or to declare the other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such first mentioned Party of its rights hereunder.

12.6. If any provision of this Agreement or the application thereof to any Party hereto or to any circumstance shall be determined by a court of competent jurisdiction to be invalid or unenforceable to any extent or for any reason, the remainder of this Agreement or the application of the provisions thereof to such Party or circumstance, other than those determined to be invalid or unenforceable, shall not be affected thereby and shall be enforced to the fullest extent permitted by law, and the Parties shall promptly enter into such other agreement(s) as their respective legal counsel may deem appropriate in order to replace such invalid or unenforceable provisions in a manner that produces a result which is substantially equivalent to the terms of this Agreement in all material respects.

12.7. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same instrument.

12.8. The Parties do not intend that the execution or administration of this Agreement shall be a default or, with the elapse of time, shall become an event of default of any other agreement to which Landlord is a party and which is effective as of the Effective Date ("Other Agreement"). If, subsequent to the execution of this Agreement, the Parties discover that the execution or administration of this Agreement is a default or, with the elapse of time, shall become an event of default of any Other Agreement, then the Parties agree to immediately take such further action and execute such further instruments as may be reasonable and necessary in order to both: (1) effectuate the intent of the Parties to this Agreement; and (2) modify the Agreement in such a manner as to cause the execution or administration of the Agreement no longer to be a default or, with the elapse of time, become an event of default of such Other Agreement.

13. ARBITRATION

13.1. Any dispute, controversy or claim arising out of or otherwise with respect to this Agreement (a "Dispute") shall be referred to their respective senior operating officers for resolution. In the event such officers are unable to resolve the Dispute, either party may submit the Dispute for binding arbitration by a sole, disinterested arbitrator in accordance with the Delaware Uniform Arbitration Act (the "Act") and the Commercial Arbitration Rules of the American Arbitration Association (the "Rules"). In the event of any inconsistency between this Article, the Act and/or the Rules, this Article shall take precedence over the Act

and the Rules, and the Act shall take precedence over the Rules. The arbitrator shall be jointly selected by the parties and shall have not less than ten (10) years of experience in railroad operations. The arbitrator shall have the power to require, and shall require, the performance of acts found to be required by this Agreement and the cessation or nonperformance of acts found to be prohibited by this Agreement. The arbitrator shall not have the power to award damages that are inconsistent with this Agreement or special, consequential or punitive damages or to determine violations of criminal or antitrust laws. The arbitrator shall render a written decision on the Dispute that shall include findings of fact and conclusions of law and shall be final and conclusive upon the parties. Judgment upon the award rendered may be entered in any court of competent jurisdiction, which court may order appropriate relief at law or equity. Notwithstanding the foregoing, each party shall have the right to seek vacation or modification of any award that is based, in whole or in part, on an incorrect or erroneous ruling of law by appeal to a court of competent jurisdiction, with any such application for vacation or modification to be filed with such court within thirty (30) days from the date the award is rendered.

13.2. Each party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expenses of the arbitrator, if any, shall be borne by NSR and Landlord, with each paying fifty percent (50%) of such compensation, costs and expenses. Pending the written decision of the arbitrator, there shall be no interruption in the transaction of business under this Agreement, and all obligations in respect thereto shall be fulfilled in the same manner as prior to the arising of the Dispute until the matter in dispute shall have been fully determined by arbitration, and thereupon such remedy shall be made as required by the written decision of the arbitrator. In the event either party fails in its obligations under the preceding sentence, the other party is entitled to apply to the arbitrator seeking interim or provisional relief until the arbitration award is rendered or the Dispute is otherwise resolved, and the arbitrator shall have the authority to issue orders granting interim or provisional relief.

13.3. No provision of, nor the exercise of any rights under, this Agreement regarding arbitration shall limit the right of either party to seek provisional or ancillary judicial remedies with respect to any Dispute, such as preliminary injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction before, during or after the pendency of any arbitration. The institution and maintenance of an action for such judicial remedies shall not constitute a waiver of the right of any party, including the claimant in such action, to submit to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

13.4. No provision of, nor the exercise of any rights under, this Agreement regarding arbitration shall limit the right of either party to join the other party in litigation in the event of any litigation or proceeding commenced by any third party against a party to this Agreement in which the other party is an indispensable party or potential third party defendant (e.g., where such other party may be obligated to indemnify the defendant in such third party action).

13.5. As a Third Party Beneficiary, NSR may initiate and prosecute arbitration pursuant to this Section 13 on behalf of the Company. Provided that the Company does not enter into the arbitration in its own stead, the Company shall cooperate with NSR in the preparation for, and the initiation and prosecution of, such arbitration, at its expense.

14. WAIVER OR MODIFICATION

Any waiver, alteration, or modification of any of the provisions of this Agreement, or cancellation or replacement of this Agreement, shall not be valid unless made in writing and signed by the parties hereto. No delay or omission by either party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waive by either party of any covenant or bread shall not be construed to be a waiver of any succeeding breach or any other covenant.

15. ASSIGNMENT AND BINDING EFFECT

15.1. The rights and obligations of the parties under this Agreement shall be binding upon any successors or permitted assigns of the parties. Neither party may assign this Agreement without the prior written consent of the other.

15.2. In the event of any consolidation or merger of Company or Representative into or with another legal entity, or the sale of substantially all of the assets of Company or Representative to another legal entity, such other legal entity will assume this Agreement and will become obligated to perform all of the terms and conditions pursuant to this Agreement, and the obligations of Representative or Company, as the case may be, will continue in favor of such other legal entity.

16. COUNTERPARTS

This Agreement may be executed in identical counterparts, each of which will be construed as an original for all purposes.

17. NOTICES

Any notice, consent or other communication required or permitted to be given under this Agreement must be provided to each of the parties and NSR and provided in writing and delivered in person, sent by registered or certified mail, or via facsimile to the addresses or fax numbers of the parties and NSR set forth below.

(i) if to the Representative, to:

Mr. Ed McKechnie
Chief Commercial Officer
Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

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with a copy to:

Mr. Craig Richey
General Counsel
Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

(ii) if to the Company, to:

President
Michigan Central Railway, LLC
315 W. 3rd Street
Pittsburg, Kansas 66762

with a copy to:

Mr. Ed McKechnie
Chief Commercial Officer
Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

with a copy to:

Mr. Craig Richie
General Counsel
Watco Transportation Services, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

(iii) if to NS, to:

Executive Vice President Operations
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

with a copy to:

Senior Director – Joint Facilities
Norfolk Southern Corporation
1200 Peachtree Street, N.E., Box 158
Atlanta, Georgia 30309

Execution Copy

with a copy to:

Vice President Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

Either Party may provide notice of changes in the above addressees to the other Party by personal service or certified mail.

18. THIRD PARTY BENEFICIARIES

This Agreement and each and every provision hereof is for the exclusive benefit of the Parties hereto and not for the benefit of any third party, except NSR.

19. ENTIRE AGREEMENT

This Agreement contains all of the terms and provisions and constitutes the entire agreement between the parties and supersedes all prior written, oral and implied understandings, representations and agreements of the parties with respect to the subject matter of this Agreement.

20. SEVERABILITY

20.1. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding and enforceable.

20.2. The parties shall negotiate in good faith in an attempt to agree to another provision (instead of the provision held to be invalid, illegal or unenforceable) that is valid, legal and enforceable and carries out the parties' intentions to the greatest lawful extent under this Agreement.

21. GOVERNING LAW

This Agreement is governed by and construed in accordance with the laws of the State of Delaware (without giving effect to its choice of law principles).

22. ANCILLARY DOCUMENT

The Parties and NSR acknowledge and agree that this is an Ancillary Document as that Term is used in the LLC Operating Agreement, and may only be amended in accordance with said Operating Agreement. In addition to other rights and remedies as set forth herein, as a Third Party Beneficiary, NSR shall specifically have the right to enforce the provisions of this

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Section 22 on its own behalf and on behalf of the Company. Provided that the Company does not enter into the arbitration in its own stead, the Company shall cooperate with NSR in the preparation for, and the initiation and prosecution of, such enforcement, at its expense.

MICHIGAN CENTRAL RAILWAY, LLC:

By: _____

Name: _____

Title: _____

WATCO COMPANIES, INC.:

By: _____

Name: _____

Title: _____

Acknowledgement:

NORFOLK SOUTHERN RAILWAY COMPANY

Per: _____

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Schedule 3

The charges set forth in Schedule 2 shall be revised upward or downward each year, beginning with the payment to be made for the month of July first following the "Effective Date" of this Agreement, to compensate for the increase or decrease in the cost of labor and material, excluding fuel, as reflected in 50% of the change from one year to the next year in the Rail Cost Adjustment Factor (Unadjusted) ("RCAFU") as approved by the Surface Transportation Board. The charges shall be revised by calculating the percent of increase or decrease in the index for the latest calendar year as related to the index for the previous calendar year and applying that percentage to the respective charge. In computing the adjusted charges, any fraction of a dollar less than one-half shall be dropped, and any fraction equal to or greater than one-half of a dollar shall be increased to the next whole dollar.

Schedule 1

List of services defined

Accounting (Actual Service Performed): Provide all accounting functions and the related management of those activities including but not limited to the following:

- Provide administration of accounting policies and procedures, preparation of financial statements and operating data, the coordination of systems and procedures, and special reports as required.
- All financial statements will be prepared in accordance with Generally Accepted Accounting Principles (GAAP)
- Compare performance with operating plans and standards
- Provide reports and interpret the results of operations to various levels of Company management
- Maintain accounts receivable, accounts payable, general ledger, and fixed assets subsidiary ledgers
- Prepare, verify, and control the entering of journal entries to the general ledger
- Review accounts payable aging, resolving any issues
- Review accounts receivable aging, resolving any issues
- Preparation of monthly, quarterly, and annual balance sheets, income statements, and statements of cash flow
- Review the financial statements to ensure that the information reported properly reflects the company's financial position
- Prepare monthly bank reconciliations
- Review present accounting practices and procedures

Finance and Control (Actual Service Performed): Provide all financial administrative functions of the Company, including but not limited to the following:

- Preparation of the Annual Operating Plan (AOP Budget) with the assistance of Service Design
- Coordination of the annual financial audit (audit fees excluded)
- Monitoring of AOP Budget compliance
- Preparation of periodic financial analyses
- Ensure that proper insurance coverage is in place
- Preparation of necessary state and federal reporting requirements (tax fees excluded)
- Assure protection of the assets of the Company through proper internal controls
- Obtaining credit lines and other corporate financing as necessary
- Other corporate finance review and support

Treasury (Actual Service Performed): Provides complete treasury services including but not limited to the following:

- Forecast short-range and long-range cash requirements and obligations, as a basis for maintaining adequate funds
- Provide invoicing / billing functions as well as the related cash receipts application (deposits and posting to accounts receivable subsidiary ledger)
- Vouchering of all vendor invoices for payment, and issuing all checks on Company's behalf
- Monitor credit and collection applications
- Approve terms above a predetermined dollar amount
- Execute cash disbursements for payment of expenditures in accordance with disbursement and policies
- Establish capital budgeting process for the Company

Communication (Oversight): Communication activities within the Company including but not limited to the following:

- Development of communication plan
- Press releases
- Presentations
- Web site, web page, and web maps
- Weekly internal communications
- Monthly newsletter
- Promotion of the Company
- Development and preparation of any other necessary communication materials, including marketing materials

Government Affairs Management (Actual Service): Provide management for the planning and development of a government affairs team (Public-Private-Partnership) with the appropriate public agencies that have jurisdiction in the Company area. The management will provide oversight for the appropriate lobbyists that are necessary, as well as representation at the American Short Line and Regional Railroad Association. Watco will provide senior personnel for government and public affairs meetings. The local lobbyist (included as part of this Support Service Agreement) will coordinate activities and give assistance to Company management and to Watco for execution of Company goals.

Strategic Planning (Oversight): Provide Strategic Planning services for the Company including but not limited to the following:

- Planning and analysis relating to mergers, acquisitions and development of the Company's assets
- Provide interline services for the Company for all other carriers
- Analysis of potential new markets
- Provide economic information about the industry and its trends, which aims at developing the capacity to anticipate and react quickly to market conditions

Car Hire Management (Actual Service Performed): Provide car hire processing and related management team to supervise, develop plans and procedures for the management of car hire (exclusive of car hire processing fees) including but not limited to the following:

- Administration of car hire payments to the equipment owner for the use of their equipment
- Encourage efficient utilization of equipment
- Prepare the proper car accounting reports and ensure that these car accounting reports are compiled, maintained, and filed on a timely basis
- Process and administer reclaims, claims, counter reclaims, and other disputed amounts with respective car owners as may be required

Customer Service Management (Oversight): Provide management team to supervise, develop plans and procedures for the management of Customer Service including but not limited to the following:

- Administration of timely and professional customer contact and notification
- Provide adequate staffing and scheduling of customer service representatives
- Coordination of all data entry, transmittal, and retrieval
- Work with customers, both internal and external, to resolve problems with a mutually acceptable results
- Provide timely and accurate customer information with the operations department
- Prepare monthly demurrage and storage invoices for A/R entry

Dispatch Management (Oversight): Provide management team to supervise, develop plans and procedures for the management of dispatching the Company including but not limited to the following:

- Administration and coordination of train operations and related switching activities
- Watco will provide supervision to ensure adequate staffing and scheduling of dispatching representatives

Executive Management (Oversight): Provide services to support the Company's senior management team with execution of all functions including but not limited to the following:

- Overall Strategic Planning advisory services(Executive, Operational, Business Development, and Finance) for the Company
- Oversight of all Support Service functions for the Company
- Ensure that adequate resources are maintained for the Support Service functions to be provided to the Company

Benefits Management (Actual Service Performed): Provide services to manage all employee benefits for the Company including but not limited to the following:

- Health care benefits
- Dental
- 401K
- Other benefits that may be in place from time to time

Human Resource Management (Oversight): Provide leadership team, processes and procedures, for all Human Resource Services including but not limited to the following:

- Provide a consistent flow of applicants to ensure positions are filled, via applicant screening, background check, drug screening, job testing, and screening of applicant job requirements.
- Provide benefits enrollment and benefits questions and follow up.
- Provide employee and management counseling on employment related issues.
- Provide employee orientation and on-boarding.
- Management training and development.
- Labor relations support.

Payroll (Actual Service Performed): Provide all payroll services for Company including but not limited to the following:

- Compilation of employee's time records
- Review timesheets / timecards for completeness and accuracy
- Compile payroll data, compute and post wages, and reconcile errors to maintain payroll records
- Review wages computed and correct errors to ensure accuracy of payroll
- Record changes affecting net wages, such as exemptions and insurance coverage for each employee to update master payroll records
- Prepare periodic reports of earnings, taxes, and deductions
- Maintain records of paid time off
- Issue paychecks according to Company specifications
- Perform other duties as requested or required

Recruiting (Actual Service Performed): Provide for all of the recruiting of all of the employees of the Company including but not limited to:

- Confer with Company senior management to identify personnel needs, workforce planning strategies, and search assignments
- Develop and maintain a network of contacts to help identify and source qualified leaders
- Review resumes and credentials for appropriateness of skills, experience and knowledge in relation to position requirements
- Manages and coordinates all communication with candidates

- Manages the scheduling and logistics of all interviews between candidates and hiring managers, as needed
- Maintain accurate and well-ordered documentation on all candidates, searches, hiring managers interactions, and other recruiting activities to ensure a safe and thorough audit if required.
- Uses effective communication approaches that include proactively keeping others informed, appropriately expressing ideas and thoughts verbally and in written form, and timeliness.
- Participates in the development of ongoing creative and cost-effective sourcing strategies.
- Works with and/or directs the efforts of a Recruiting Coordinator or Administrator.

Information Technology (Actual Service Performed): Provide all Information Technology Services for the Company, including but not limited to the following:

- Core software applications and hosting related to the Accounting software, operating system, file servers, and e-mail servers will be provided and hosted on Watco's hardware for the Company (Note that hardware needed at JV locations (i.e. – workstations) and monthly fees for data connectivity are excluded)
- Provide IT solutions aligned with the organization's objectives
- Setup and maintain Enterprise Accounting Software (Accpac / SAP)
- Setup and maintain operating system (RMI or comparable system) control tables
- Monitor operating system and maintain control tables (RMI or comparable system)
- Provide support and training for customer shipper tools
- Setup and maintain all internal systems including on –time delivery system, track maintenance system, safety systems, dispatching system.
- Setup and maintain track maintenance system
- Setup and maintain downloading of data from operating system for reporting
- Develop reports
- Analyze requirements and provide solutions for new systems
- Setup and maintain servers, network, wide area network, and databases
- Security administration
- Setup and maintain PC equipment
- Setup and maintain servers and databases
- Provide user assistance
- Setup and maintain email system including spam and virus protection systems
- Setup and maintain AEI reader system
- Setup and maintain phone systems

Marketing (Actual Service Performed): Provide all senior marketing leadership and all marketing services for the Company, including but not limited to the following:

- Provide leadership related to the planning, coordination and implementation of all marketing activities.
- Interface with executive management at the Company on the development of the Marketing Plan, the measurement in achieving the goals of the Marketing Plan, and the continual improvement of the Marketing Plan
- Negotiation of prices of new and existing contracts. Publication of Freight Tariffs and Fuel Surcharge Tariffs.

Purchasing Management (Actual Service Performed): Provide leadership team, processes and procedures, for the purchasing of all services or consumable items for the Company, including but not limited to the following:

- Ensure proper authorizations and purchasing controls are in place
- Provide purchasing related reports and inventory research
- Negotiate terms and maintain vendor master
- Issue purchase orders and secure items
- Inventory reconciliations as needed
- Inventory relief / transfers
- Coordination of physical inventories
- Investigate and resolve problem invoices / vendor issues
- Receipt of purchase orders
- Coordination and management of purchase requisitions

Real Estate (Actual Service Performed): Provide all services for the management of the assets of the Company including but not limited to the following:

- Management, administration and execution of rentals/easements, land sales and land purchases
- Establishment of uniform standards for management of Company assets
- Perform contract reviews as may be required from time to time
- Selection of consultants and / or contractors as may be required from time to time

Risk Management and Legal Services (Oversight): Provide for the management of Risk Management and Legal Services including but not limited to the following:
Administer risk management and loss prevention programs designed to minimize losses of the Company's operations and assets

- Ensure the acquisition and maintenance of proper insurance coverage
- Provide internal legal services related to line acquisitions, abandonments and other transactions
- Claims administration of the Company

- Manage a database to include loss trending, loss forecasting, and data analysis
- Hiring of legal counsel for the Company

Service Design (Actual Service Performed): Provide for the development, support, maintenance and review of the Annual Operating Plan for the Company including but not limited to:

- Analysis of current operations service plan
- Development of detailed marketing projections by customer
- Development of operating service plan based on marketing data
- Coordination with Finance and Accounting to develop financial Annual Operating Plan (AOP)
- Assist with other Strategic Marketing opportunities from time to time

Watco will be paid the following amounts, prorated on a monthly basis, with an escalator effective, Jan. 1, 2009. ½ the RCAF.

[REDACTED]

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