

AGREEMENT
Between
PORTLAND TERMINAL RAILROAD COMPANY
and its Employees Represented by the
UNITED TRANSPORTATION UNION
SWITCHMEN DIVISION

EFFECTIVE JANUARY 1, 2007

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AGREEMENT

between

PORTLAND TERMINAL RAILROAD COMPANY

and its Employees Represented by the

UNITED TRANSPORTATION UNION

SWITCHMEN DIVISION

EFFECTIVE JANUARY 1, 2007

PREAMBLE:

It is understood and agreed that this Agreement between Portland Terminal Railroad Company (hereinafter called "Company" or "Carrier") and its **Employees** represented by the United Transportation Union Switchmen Division (hereinafter called "Organization") is only superseded by and subordinate to any municipal, state, or federal legislation. This Agreement constitutes the collective bargaining agreement between the Parties. National agreements not specifically eliminated, cited, reproduced or in conflict with this Agreement, remain in full effect. Where conflict exists and such is not associated with an error in reproduction, this Agreement will apply.

The parties hereto pledge that there will be no discrimination against any **employee** because of race, color, creed, national origin or sex. This obligation to not discriminate in employment includes, but is not limited to, placement, upgrading, transfer, demotion, rates of pay or other forms of compensation, selection for training including apprenticeship, lay-off or termination.

The use of such words as "he", "his", and "him", as they appear within this Agreement, are not intended to restrict the application of the Agreement or a particular rule to a particular sex but are used solely for the purpose of grammatical convenience and clarity.

ARTICLE I: APPLICATION FOR EMPLOYMENT

- Section 1. Probationary Period.** Applications for employment will be rejected within sixty (60) calendar days after seniority date is established, or applicant shall be considered accepted. Applications rejected by the Company shall be declined in writing to the applicant.
- Section 2. Trainee Rate of Pay:** An applicant while training shall be paid 50% of the current Yard Helper's hourly rate of pay for each hour or portion thereof while performing on-job training or testing.
- Section 3.** New employees, after completion of the required training, examination and having qualified as a Yard Helper, shall be placed in service on the extra board. If two or more qualified at same time, they will be placed on extra board in the order as hired, except, however, that new employees laying off for any reason during training period shall forfeit the right to be placed in service in the order hired.
- Section 4. Omission or Falsification of Information.** An employee who has been accepted for employment in accordance with Section 1 of this Article will not be terminated or disciplined by the Company for furnishing incorrect information in connection with an application for employment or for withholding information therefrom unless the information involved was of such a nature that the employee would not have been hired by the Company.

ARTICLE II: BASIS OF PAY

- Section 1. Rates of Pay.** Wage schedule rates of pay for yardmen covered by this Agreement as of its effective date are listed in *Appendix A* hereof. When rates of pay are revised, copy of the revised wage schedule will be furnished to each of the yardmen, the Local Chairman and the General Chairman.
- Section 2. Weekly Guarantee.** Yardmen holding a regular assigned position on a Regular Yard Crew who do not lay off of their own accord, will be guaranteed the equivalent of not less than five (5) days per week straight time pay.
- Section 3. Rate Progression – Service Scale.**
- (a) In any class of service or job classification, rates of pay, additives, and other applicable elements of compensation for a yardman whose seniority is established on or after July 1, 2004, will be 85% of the rate for present yardmen and will increase in increments of 5 percentage points for each year of active service until the new yardmen's rate is equal to that of present yardmen. A year of active service shall consist of a period of 365 calendar days in which the yardman performs a total of 80 or more tours of duty.

- (b) Yardmen who have previously had an employment relationship with the Company as a yardman and are rehired shall be paid at the applicable progressive rates of pay for length of service determined by combination of former service in this craft and current service.
- (c) A yardman subject to subsection (a) of this Section 3 shall have his position on the rate progression scale adjusted to the next higher level upon promotion to Yard Foreman, engineer, and/or yardmaster.
- (d) The next adjustment to an yardmen's position on the rate progression scale, after the adjustment specified in subsection (c) of this Section 3, shall be made when such yardman completes one year of "active service", as defined in subsection (a) hereof, measured from the date on which that yardman would have attained the position on the rate progression scale provided pursuant to subsection (a) of this Section 3.
- (e) If a yardmaster applicant is disapproved during the 60-shift test period, thereby failing to establish yardmaster seniority, the 5% adjustment for promotion to yardmaster as provided pursuant to subsection (c) hereof will be reduced from his pay percentage position on the rate progression scale, effective with the date he is notified in writing that he has been disapproved as a yardmaster applicant.

Section 4. Yardmen relieved during a tour of duty due to insubordination or illness will be paid only for actual time worked. Yardmen relieved as a result of an injury received while working will be paid not less than a basic day's pay regardless of time worked. Extra board yardmen available at straight time rate that are called to complete a tour of duty for yardmen relieved account of insubordination, illness or injury, will be paid not less than a basic day's pay of the position, regardless of time on duty. Yardmen available at over time rate that are called to complete a tour of duty for yardmen relieved above will be paid in accordance with Rule 6 – Overtime.

Section 5. Yardmen required to perform other than their regular assigned duties will receive the rate of service performed, but not less than the basic rate of their regular position.

ARTICLE III: RULES & WORKING CONDITIONS AGREEMENT

Rule 1. SCOPE AND CLASSIFICATION. The rules contained herein shall govern the hours of service, working conditions and rates of pay of yardmen represented by the United Transportation Union – Switchmen Division as follows:

- (a) Yard Foremen
- (b) Yard Helpers
- (c) Utility Yardmen

Rule 2. UTILITY YARDMAN. Utility Yardman is a single position assignment working within switching limits compensated at the Yard Foreman's basic day rate of pay. A yardman qualified as a Yard Foreman shall be utilized to fill the position of a Utility Yardman. The duties of the Utility Yardman may include:

- Assist self-propelled machines
- Couple air hoses, bleed air, and set or release handbrakes.
- Perform air tests.
- Line switches for yard transfer and train movements and for movement of engines between trains, roundhouse, ready track or any other location.
- Perform flagman duties, pilot duties and assist hostlers.
- Assist a yard crew or a road crew operation within switching limits.

If called to work as Utility Yardman on a calendar day and on that day a member of a yard crew fails to report for duty or discontinues duty before the completion of that assignment, the Utility Yardman may be used to fill the vacancy.

Rule 3. SENIORITY

- (a) The seniority rights of yardmen covered by this Agreement will date from the time they first perform compensated service as a qualified Yard Helper, after being placed on the extra board.
- (b) Except as otherwise provided in these rules, seniority rights of yardmen may be exercised only when new positions are established, vacancies occur, yardmen are displaced, and/or forces are reduced.

Note: Exceptions to this rule may be agreed to between the Organization and Company Management.

- (c) Yardmen voluntarily leaving the service of the Company will forfeit all seniority and will not be reinstated.
- (d) Yardmen absenting themselves from the service of the Company for ten (10) consecutive calendar days without proper authority shall be considered as voluntarily forfeiting their seniority rights and employment relationship, unless justifiable reason is shown as to why proper authority was not obtained.
- (e) Yardmen covered by this Agreement accepting official positions either with the Company, BNSF, UP or the United Transportation Union shall retain and accumulate their seniority rights.

- (f) Yardmen promoted to yardmasters or engineers in this Company's service will retain and accumulate seniority as yardmen, subject to Article IX – Seniority Accumulation of the “May 8, 1996 Award of National Arbitration Board No. 559”, which reads as follows:

“Section 1: This Section shall apply only to those carriers on which an organization other than the United Transportation Union (UTU) is exercising the exclusive right to represent all locomotive engineers in company-level grievance, claim and disciplinary proceedings. Sixty (60) days after service of written request on the carrier by the organization's authorized representative, any employee with Switchmen seniority working as a locomotive engineer will be required, during the period of time he is working as a locomotive engineer, to pay monthly dues to the UTU in order to accumulate any additional seniority as a Switchman. The organization shall be responsible for administration of such arrangements.”

(g) **Seniority Rosters.**

1. Seniority rosters will show the names and seniority dates of yardmen and will be brought up-to-date and posted in January and July of each year at places accessible to yardmen affected.
2. Prior to posting, seniority rosters will be approved by the General Chairman and will be open for correction for sixty (60) days from date posted. Upon receipt of error, correction will be made by agreement between the Manager of the Company and the General Chairman and seniority dates so established will not be subject to further protest.

- (h) **Contiguous Seniority Roster of Designated Owning Railroad.** *(See Appendix C for “Memorandum of Agreement between BNSF, CPRC, LSC, PTRR and UTU” dated July 22, 1997 providing for terminal companies seniority on BNSF in accordance with Article X – Terminal Companies of “May 8, 1996 Award of National Arbitration Board No. 559”).*

Rule 4. PROMOTION

- (a) The rights to preference of work and promotion will be governed by seniority in service, everything being equal.
- (b) Yardmen that establish seniority on or after November 1, 1985 must accept promotion to Yard Foreman in proper turn. Those who decline such promotion or fail to qualify for promotion will forfeit their seniority and all employment rights with the Company inclusive therefrom.

Note: To “qualify” as a Yard Foreman means yardman has had one hundred twenty (120) working days experience as a Yard Helper at this and/or some other railroad operating under standard train rules, and who, in the judgement of a Company officer, is competent to act as a Yard Foreman. A yardman qualifying as a Yard Foreman shall also qualify as a Utility Yardman.

- (c) **Relinquish Rights as Yard Foreman.** A Yardman that established seniority prior to November 1, 1985 may temporarily relinquish his rights as a Yard Foreman (including Utility Yardman), giving written notice of such intention. However, if there are no qualified Yard Foremen available on the extra board at straight time (except on holidays), the yardman may be required to work as a Yard Foreman on a day-to-day basis. He may also retract such notice at any time after thirty (30) days, giving written notice of such intention.
- (d) **Promotion to Engine Service.**
1. Subject to the Company's legal obligations, when selecting new applicants for engine service, opportunity shall first be given to yardmen on the basis of their relative seniority standing, fitness and other qualifications being equal.
 2. If a sufficient number of yardmen do not make application for engine service to meet the Company's needs, such needs will be met by requiring yardmen who establish seniority on or after November 1, 1985, to take engine service assignments or forfeit their seniority and all employment rights arising therefrom.
 3. If the Company's needs for engine service employees are not met during a period when there are not sufficient Yard Foremen and Yard Helpers in service with a seniority date on or after November 1, 1985, who must accept promotion to engine service or forfeit seniority, the Company may hire qualified engineers or hire and train others for engine service.
 4. **Vehicle Operator's License & Record.** As a requirement for administering this Rule 4 (d), all yardmen with a seniority date prior to November 1, 1985, must maintain a vehicle operator's license with record of same reflecting suitable criterion as required by FRA Regulations for engine service applicants, or yardmen shall have no claim to any position of crew where this criterion is a requirement. Yardmen with a seniority date of November 1, 1985, or subsequent thereto, must maintain a vehicle operator's license with record of same reflecting suitable criterion as required by FRA Regulations for engine service applicants, or yardmen may be subject to forfeiture of seniority and all employment rights arising therefrom, in accordance with subsection 2 of this Rule 4 (d).
- (e) **Promotion to Yardmaster Service.** In the appointment of yardmasters the most senior qualified yardman will be given consideration.

Rule 5. HOURS OF SERVICE & JOB ASSIGNMENTS

- (a) Eight consecutive hours or less shall constitute a day's work.
- (b) Except as otherwise provided in these rules, regular positions shall not be assigned to less than five (5) days per week.

- (c) Workweek for regular assigned Yard Crews shall consist of five (5) consecutive days of work, with a fixed starting time each day, followed by two days of rest. Starting time of a Yard Crew will not be changed without at least forty-eight (48) hours' advance notice to yardmen or re-bulletined per Rule 8(h).
- (d) **Crew Consist.** The consist of all regular assigned and extra Yard Crews for all shifts will be one Yard Foreman and one Yard Helper. However, the Company is not restricted by this Rule 5(d) from operating a Yard Crew in excess of number of positions required herein, should the Company deem it necessary.

Note: All national and other applicable agreements pertaining to remote control operation (including crew consist) continue to apply.

- (e) Where three eight-hour shifts are worked in continuous service, the time for the first shift to begin work will be between 6:30 a.m. and 8:00 a.m.; time for the second shift to begin work will be between 2:30 p.m. and 4:00 p.m.; and time for the third shift to begin work will be between 10:30 p.m. and 11:59 p.m.
- (f) Where two shifts are worked in continuous service, the first shift may be started during any one of the periods designated in (e) of this Rule 5. Where two shifts are worked not in continuous service, the time for the first shift to begin work will be between the hours of 6:30 a.m. and 10:00 a.m., and the second shift not later than 10:30 p.m.
- (g) At points where only one (1) Yard Crew is regular employed, it can be started at any time, subject to (b) of this Rule 5.
- (h) Except in cases of emergency created by storm, flood, fire or wrecks, extra Yard Crews will be started between the hours of 6:30 a.m. and 8:00 a.m.; 2:30 p.m. and 4:00 p.m.; and 10:30 p.m. and 11:59 p.m.
- (i) Exceptions to the starting time of crews may be agreed upon by the Company and the General Chairman to cover local service requirements.
- (j) When service is required on rest days of regular assignments, regular relief assignment may be established. Regular relief assignment shall have five (5) consecutive days of work followed by two rest days and may have different starting times on different days within the periods specified within this rule.
- (k) **Regular Assignments Discontinued.**
 - 1. When regular Yard Crew assignments are discontinued, regular assigned yardmen on such assignments will be so notified at or prior to completion of the last tour of duty.
 - 2. When a Yard Crew assignment is discontinued and notice is not given so as to enable yardmen assigned to the crew to exercise seniority, such assigned yardmen who are available for the crew at the time it was discontinued, will be allowed a minimum basic day of pay at pro rata rate of their regular assigned position.

Rule 6. OVERTIME

- (a) Except as otherwise indicated within this rule or when changing off where it is the practice to work alternately day and nights for certain periods, working through two shifts to change off, or where exercising seniority rights, all time worked in excess of eight hours continuous service in a twenty-four hour period shall be computed on an actual minute basis and paid for at time and one-half rate.
- (b) Where an extra board yardman commences work on a second shift in a twenty-four hour period he shall be paid at time and one-half for such second shift except when it is started twenty-two and one-half to twenty-four hours from the starting time of the first shift. A twenty-four hour period, as referred to in this rule, shall be considered as commencing for the individual yardman at the time he started to work on the last shift on which his basic day was paid for at the pro-rata rate.
- (c) An extra board yardman being assigned to a regular position or a regular position yardman being assigned to the extra board shall be paid at the pro-rata rate, not overtime rate, for the first eight hours of work following such change.
- (d) For yardmen holding a regular position, time worked in excess of forty (40) straight time hours in any work week shall be paid for at one and one-half times the basic straight time rate except where such work is performed by a yardman due to moving from one assignment to another, or to or from the extra board, or where the rest days are being accumulated. It was agreed that payments in lieu of working an assignment is considered as working when qualifying for overtime on the rest days. Those payments include but are not limited to paid personal leave days, single day vacation and jury duty.
- (e) A regular assigned Yard Foreman filling a Yard Helper position under this rule will be paid Yard Foreman's rate of pay.
- (f) A yardman holding a regular position that is worked more than five (5) days in a work week shall be paid one and one-half times the basic straight time rate for work on the sixth and seventh days of his work week, except where such work is performed by a yardman due to moving from one assignment to another, or to or from the extra board, or where days off are being accumulated.
- (g) **Working on Holiday.** Regular assigned yardmen and extra board yardmen required to perform service on any of the designated holidays will be paid at the overtime rate.
- (h) There shall be no overtime on overtime, neither shall overtime hours paid for other than hours not in excess of eight (8) paid for at overtime rates on holidays or for changing shifts be utilized in computing the forty (40) hours per week for regular assigned yardmen.
- (i) **Doubling or Filling Portion of Another Job Prior to an 8-Hour Shift.** When a yardman is required by the Company to double over on another job at a time when he has less than eight hours to work under the Hours of Service Law, or is required to work portion of another job immediately preceding his regular assigned 8-hour position or, for an extra board yardman, immediately preceding a vacancy on an 8-hour tour of duty for

which he stands to be called and no other extra board yardmen are available, he will be allowed payment at time and one-half on a per minute basis for the actual time he works on the other job that follows or precedes an 8-hour tour of duty.

1. For crew calling purposes, a list of regular assigned yardmen in seniority order will be maintained for those yardmen who desire to be called for doubling or for filling portion of another job prior to their 8-hour regular shift, as described above, and those regular assigned yardmen on the list will be called first to fill these vacancies. If vacancy still exists then regular assigned yardmen NOT on the list will be called in seniority order, with extra board yardmen called last.
 2. A yardman will NOT have any claim to a job if he has less than eight hours to work under the Hours of Service Law as of the starting time of the job.
- (j) **Rest Required - 12 Hours of Service.** Regular assigned yardmen required to work a full 12 hours will resume their regular assignment after completion of ten- (10) hours' rest period in accordance with the HOS Law. Extra board yardmen required to work a full 12 hours will be placed back on the extra board after completion of ten- (10) hours' rest period.
- (k) Under the Hours of Service Laws it is the obligation of the yardman to apprise his Foreman or the yardmaster when he is nearing the completion of twelve (12) hours of continuous service.
- (l) **Exceeding Eleven Straight Time Shifts – Extra Board.**
1. Extra board yardmen having worked eleven (11) straight-time shifts in a semi-monthly pay period will be paid at the overtime rate for each shift worked while on the extra board in excess of the eleven (11) straight-time shifts. Days paid for but not worked, such as vacation days, called and not used, runarounds, and other penalty payments, will not be included in the count of 11 straight-time shifts.
 2. Work performed on holidays will count as one of the eleven (11) straight time shifts ONLY if the premium time paid is due solely to working on the holiday.

Rule 7. MEAL PERIOD

- (a) Members of Yard Crews will be allowed not less than twenty (20) minutes for meal periods, without pay deduction, within their eight (8) hour shift, between the ending of 4 ½ hours on duty and beginning of 6 hours on duty.
- (b) The time for beginning meal periods is to be calculated from the time the Yard Crew went on duty as a unit, without regard to preparatory or individual duties or individual hours of service for employees doubling.
- (c) Yardmen will not be required to work more than six (6) hours without being allowed time off to eat.

- (d) When yardmen are required to double onto another crew with four (4) hours or less to work under HOS, they will be released just prior to expiration of twelve (12) total hours on duty or at beginning of the crew's lunch period, whichever occurs first.

Rule 8. JOB BULLETINS & VACANCIES

- (a) All new or vacant Yard Crew positions will be promptly bulletined, and the senior qualified applicant will be assigned. Bids on positions will be made in writing to Company officer on forms provided for that purpose. Bulletins will specify the position/s to be filled, Yard Crew number, starting time/s, workweek, and days off.
- (b) All job bulletins for vacancies, after being posted for three days, will close at 10:00 a.m. for the second shift jobs and at 4:00 p.m. for the third and first shift jobs. Awards will be posted at the same times, as nearly as practical.
- (c) No yardman may be permitted to work a second tour of duty on any calendar date when such second shift would be worked as the result of the exercise of seniority, either by bidding or by displacing, when there are extra board yardmen available to work.
- (d) **Permanent Vacancies.**
 - 1. A permanent position or vacancy is a new position authorized for continuing service or an existing position to which previous incumbent has surrendered his rights. Successful applicant for a permanent position or vacancy will acquire continuing rights to such position and surrender all previous rights to the position from which transferred.
 - 2. Vacancies of over ten (10) consecutive workdays duration, except those created by vacations granted under applicable "Vacation Agreement", will be bulletined as a permanent vacancy. Regular assigned yardmen losing their jobs on account of being absent over ten (10) consecutive workdays will have displacement rights upon return to service.
 - 3. When it is known in advance that an absence for any reason, other than vacation, will be over ten (10) consecutive workdays' duration, the position is to be bulletined immediately. However if duration is not known in advance, the vacancy will be filled from the extra board on a day to day basis for the ten (10) consecutive work days, then position will be bulletined immediately on the tenth day.
- (e) **Temporary Vacancies – Not Bulletined.**
 - 1. A vacancy of ten (10) consecutive workdays or less duration will not be bulletined and will be filled by extra board yardmen, subject to (f) of this rule.
 - 2. Vacancies of over ten (10) consecutive work days due to vacations granted under applicable "Vacation Agreement" will not be bulletined and will be filled by extra board yardmen, subject to (f) of this rule. Vacation days taken under any other agreement will be so counted.

3. Vacancies of over ten (10) consecutive work days due to the incumbent filling yardmaster position/s on a day to day basis as an extra yardmaster will not be bulletined and will be filled by extra board yardmen, subject to (f) of this rule. If incumbent however is assigned a temporary yardmaster position which will absent him from his Yard Crew position for more than ten (10) consecutive workdays, his Yard Crew position will be bulletined immediately.

(f) Yard Foreman Temporary Vacancies.

1. When a regular assigned Yard Foreman is temporarily absent from his position, it will be filled by the regular assigned Yard Helper on the same Yard Crew, if qualified as a Yard Foreman. If Yard Helper is not qualified Foreman, then vacancy will be filled by first out qualified Foreman on the extra board. If no qualified, available Foreman on the extra board, then vacancy will be filled by the junior qualified yardman holding a regular assignment as a Helper on any other crew working same shift/hours as the crew with the Foreman's vacancy. Extra board yardmen not called in turn, due to not being qualified Foremen, will hold their place on the extra board and no runaround will be involved.
 2. When an extra Yard Crew is placed in service, the crew will be made up from yardmen on the extra board first. The position of Yard Foreman will be filled by the first out qualified Foreman on the yardmen's extra board. If no qualified, available Foreman on the extra board, then position of Foreman will be filled by the junior qualified yardman holding a regular assignment as a Helper on any other crew working same shift/hours as the extra Yard Crew and his Helper's position will be filled from the yardmen's extra board. Extra board yardmen not called in turn, due to not being qualified Foremen, will hold their place on the extra board and no runaround will be involved.
- (g)** No yardman will be allowed to place his name on any bids for bulletined assignments while such yardman is absent for any reason. Only yardmen who are actually working or reporting in for work after being absent will be allowed to place their bids on bulletined positions, or make a displacement.
- (h)** When the starting time of a Yard Crew assignment is changed thirty minutes or more, positions will be re-bulletined.
- (i)** Any Yard Crew working five (5) consecutive days will be considered regular assigned and will be open to bids.
- (j)** Where no bids are received on Helper vacancies bulletined in accordance with this rule, such vacancies will be filled by assignment of the junior yardman on the extra board. Where no bids are received on Foreman vacancies bulletined in accordance with this rule, such vacancies will be filled by assignment of the junior qualified yardman holding a regular assignment as a Helper or on the extra board.
- (k) Using Regular Assigned Yardmen To Fill Temporary Vacancies.** When there are no extra board yardmen available who are rested or have at least eight (8) hours to work under the Hours of Service Law, the senior qualified regular assigned yardman, exclusive

of those exercising seniority, will be used who is rested and can, within the provisions of the Hours of Service Law, fill the vacancy. Such use of regular assigned yardmen will not be considered as the exercise of seniority as contemplated in this Agreement. A regular assigned Yard Foreman filling a Yard Helper position under this rule will be paid Yard Foreman's rate of pay.

(l) Semi-Annual Bulletining.

1. All regular assignments will be bulletined for seniority choice on March 1st and September 1st of each year. Bids will close on March 4th and September 4th, and assignments will be effective with first shift on March 10th and September 10th.
2. Yardmen who are absent during the period from the 1st to the 4th or who are not absent but fail to bid will be force assigned in reverse seniority order, subject to Foreman qualifications, to regular position vacancies then lastly to extra board.
3. Yardmen who are absent during the bulletining period and force assigned to a position, may exercise displacement rights upon return to work, as provided in existing rules.
4. Yardmen who are not absent but fail to bid on positions before they expire, will not be privileged to displace any of the successful applicants on those particular assignments after the bids close in accordance with Rule 13(e).
5. This rule does not change the rules applicable to bulletins or bids on other occasions.

Rule 9. REGULAR ASSIGNED YARDMEN USED ON PRECEDING OR SUCCEEDING SHIFT. A regular assigned yardman held off his regular assignment in an emergency, and used on any position on a Yard Crew working a preceding or succeeding shift, will be paid a basic day of pay at pro rata rate for his regular job assignment in addition to a basic day of pay at pro rata rate of the position he fills on the preceding or succeeding shift, with overtime pay for any continuous time worked after eight (8) hours.

Rule 10. GUARANTEED ROTATING EXTRA BOARD

- (a) The Guaranteed Rotating Extra Board will protect all service requirements on Yard Crew positions. The Company will regulate the number of positions on the extra board and maintain a sufficient number of yardmen thereon to permit reasonable lay off privileges and to protect the assignments including vacations and other vacancies.
- (b) Qualified yardmen shall be placed on the extra board until they are awarded or assigned by bulletin or seniority displacement rights to a regular assigned position, in accordance with the scheduled rules.
- (c) Yardmen who are displaced from a regular position and whose seniority will not allow them to hold a regular assigned Yard Crew position will be automatically assigned to the Extra Board.

- (d) **Computing Guarantee Compensation for a Pay Period.** The payroll period guarantee compensation shall be an amount equal to the monetary equivalent of eleven (11) minimum basic day's pay at the Yard Helper pro rata rate, at progressive rates of pay if applicable, subject to the following activities and guarantee pay reductions ("offset days") applicable thereto:

1. Yardmen assigned to or reduced from the extra board shall utilize that calendar day in the computation of the amount of the yardman's payroll period guarantee compensation, as long as the yardman is available on the extra board for a minimum of two (2) work shifts in that calendar day.
2. The payroll period guarantee compensation amount for yardmen that are not available on the extra board for all days in the payroll period due to being awarded or assigned a regular position for the other days in the payroll period, will be calculated based on the number of days the yardmen were available on the extra board, with a minimum of two (2) shifts per day. Guarantee compensation will be calculated on the basis of 1/13, 1/14, 1/15 or 1/16 (depending on number of days in the payroll period) for each day employee is available on extra board for minimum of two (2) shifts per day.

Example: A yardman holding a regular assignment during a 15 day pay period that is displaced on the 11th day of the payroll period and forced to the extra board at time when he is available on the extra board for two (2) shifts that calendar day, will have a guarantee amount equal to 5/15 (5 days available on the board in a 15 day period) of the normal 11-day guarantee amount, subject to reductions stated within this rule. If yardman forced to extra board at time that does not allow his availability on board for two (2) shifts, then he will have a guarantee amount equal to 4/15 of the normal 11-day guarantee amount, subject to reductions stated within this rule.

3. The payroll period guarantee compensation will be reduced by monetary equivalent of one (1) basic day for all days an extra board yardman is not available on the extra board due to working as an extra yardmaster or working in any other craft for the Company.
4. If an extra board yardman misses a call during any regular calling period, or lays off on call at anytime, the payroll period guarantee compensation shall be reduced as follows:

1st occurrence: Monetary equivalent of two (2) basic days

2nd occurrence: Monetary equivalent of four (4) additional basic days

Special Note: The parties recognize that there may be exceptional circumstances that require a yardman to lay off on call, e.g., a sudden death or serious illness in the family, or a serious accident. In such a case, with documentation provided to Company as verification when requested, the on-call penalty shall not apply.

5. If an extra board yardman misses a call outside the regular calling period, the payroll period guarantee compensation shall be reduced as follows:

1st occurrence: Monetary equivalent of one (1) basic day

2nd occurrence: Monetary equivalent of two (2) additional basic days

6. If an extra board yardman lays off sick or lays off for personal business, other than during any regular calling period, the payroll period guarantee compensation shall be reduced as follows:

1st occurrence: Monetary equivalent of one (1) basic day

2nd occurrence: Monetary equivalent of two (2) additional basic days

7. If an extra board yardman comports himself in such a manner so as to accumulate any three of the activities listed in (4), (5) and/or (6) of this Rule 10 (d), the guarantee for the payroll period will be eliminated.
8. The reductions listed in (6) or (7) of this Rule 10 (d) shall NOT apply to absences account jury duty, vacation, paid personal leave, bereavement leave, safety meetings, rules classes, or when the Local Chairman is required to be off for union business.
9. If an extra board yardman's payroll period guarantee compensation, computed pursuant to the reductions and provisions of this rule, exceeds the yardman's actual compensation for that payroll period (including all wages in all crafts, pay for jury duty, bereavement leave, arbitraries, claims, penalties, punitive, vacation, and benefits payable under any federal or state unemployment insurance program), the yardman shall be paid the difference. Special allowances paid for attending operating rules class, safety meetings, and for personal leave days shall be paid in addition to the guaranteed amount.

- (e) Payment of the guarantee compensation, if any, shall be made in the payroll period in which the guarantee was incurred.
- (f) There shall be no duplication or pyramiding of benefits to any yardmen under this rule and/or other agreements or rules.

Rule 11. EXTRA BOARD SERVICE REQUIREMENTS

- (a) Extra board yardmen shall be run first in, first out, except when held for needed rest.
- (b) **Regular Calling Periods.** Extra board yardmen will hold themselves available for call at their designated calling place to cover known vacancies prior to beginning of each shift between the hours of 5:00 a.m. and 8:00 a.m.; 1:00 p.m. and 4:00 p.m.; and 9:00 p.m. and 12 Midnight. An extra board yardman who misses a call during these specified periods will be marked at the bottom of the board behind all extra board yardmen completing the shift for which he missed call, except those whom may have made one hour or more overtime, and the yardman will be subject to guarantee pay deduction under Rule 10.
- (c) Extra board yardmen will be called as near as practicable to 1 ½ hours prior to the starting time of assignment for which called.
- (d) When a call of less than 1 ½ hours is given to an extra board yardman, the yardman will report for duty as soon as possible thereafter, but not to exceed 1 ½ hours after time called.

- (e) **Other Than Regular Calling Periods.** Extra board yardmen shall be available for calls to fill vacancies that occur outside the regular calling period. Extra board yardmen shall advise Company representative of where they can be reached if not at their designated calling place. An extra board yardman who misses a call outside the regular call times will retain his position on the board and yardman will be subject to guarantee pay reduction under Rule 10.
- (f) Vacancies occurring after normal calling period and after extra board yardmen placed, will be filled without regard to extra board yardmen already called and placed, and no runaround will be involved.
- (g) Extra board yardmen will be given choice of positions starting at the same time for which they stand to be called.
- (h) **Runaround.** Except as otherwise provided within this Agreement, a first-out extra board yardman not called in turn through no fault of his own will be allowed four (4) hours' pay at the basic rate of the position for which he stood to be called and hold his turn for the next assignment. If the yardman should not work on that calendar day, through no fault of his own, he shall receive eight (8) hours' pay at the basic rate of the position for which he stood to be called and retain the same position on the board.
- (i) Extra board yardmen, at the completion of shift worked, will be marked up in the same relative order as they commenced work that shift except when overtime of one hour or more is worked, in which case actual tie-up time will govern.
- (j) **Called and Not Used.** When an extra board yardman is called for work and not used for any reason, he shall receive a minimum of four (4) hours' of basic pay at the rate of the position for which called and shall stand first out subject to rest. Except, if yardman called and released before departing home, he shall be paid two (2) hours' of basic pay at the rate of the position for which called and hold his turn on the extra board. An extra board yardman called or notified while working on one shift to double on a succeeding shift, will not be considered as called if he is released from the service on succeeding shift prior to the tie-up time of shift on which he is working.
- (k) **Eleven Straight-Time Shifts.**
 - 1. An extra board yardman who has worked eleven (11) straight-time shifts in the pay period and is subject to premium pay for any additional shifts worked while on the extra board in the pay period, shall not be used to fill vacancies in the pay period as long as there are other extra board yardmen available who have not yet worked eleven (11) straight-time shifts in said pay period, and are available to fill vacancies at straight time rate of pay.
 - 2. An extra board yardman who has worked eleven (11) straight-time shifts in the pay period shall still be available for service and shall be used at overtime basis ahead of a regular assigned yardman, as long as such extra board yardman has eight (8) hours to work under the Hours of Service Law at the time he is needed for service.

3. Days paid for but not worked, such as vacation days, personal leave days, called and not used, runarounds, and other penalty payments, will not be counted or considered as part of the 11 straight-time shifts.
4. Work performed on holidays will count as one of the eleven (11) straight time shifts ONLY if the premium time paid is due solely to working on the holiday.

(l) Laying Off.

1. Extra board yardmen desiring to lay off for sickness or personal business must obtain permission from a Company officer or designated representative not later than 4:00 a.m. for the first shift, 12:00 noon for the second shift, and 8:00 p.m. for the third shift. Mark up will be automatic at the expiration of approved time of leave for a specified period.
2. Extra board yardmen marking up after laying off for a non-specified period shall do so no later than 4:00 a.m. for the first shift, 12:00 noon for the second shift, and 8:00 p.m. for the third shift.
3. An extra board yardman who lays off cannot mark up for service until eight (8) hours have elapsed from the time he laid off, at which time he shall be marked at the bottom of the board behind all extra board yardmen completing the prior shift who have not worked one hour or more overtime.
4. Absent extra board yardmen marking up will not be placed on the extra board between 6:30 a.m. and 8:00 a.m.; 2:30 p.m. and 4:00 p.m.; and 10:30 p.m. and 12:00 Midnight, as provided in the following examples:
 - "A" calls in to mark up at 4:00 a.m., prior to the 6:30 a.m. deadline. "A" will be placed on the extra board ahead of all extra yardmen working the preceding third shift.
 - "A" has been off eight hours or more. He marked up at 8:05 a.m. after the permissible starting time period for first shift. "B" and "C" worked the preceding third shift but did not work one hour or more of overtime. "A" is placed on extra board behind both "B" and "C".
 - "A" calls in to mark up at 7:00 a.m. He will be placed on the extra board behind "B" and "C" unless "A" is needed on first shift due to no other extra board yardmen available.

- (m)** Crew calling and yardmen mark up records shall be made available for inspection by the Local Chairman or General Chairman upon request. Records shall be retained by Company for up to 120 calendar days.

Rule 12. LAYING OFF – REGULAR ASSIGNED YARDMEN

- (a) A regular assigned yardman desiring to lay off for sickness or personal business must obtain permission from a Company officer or designated representative not less than two and one-half (2 ½) hours in advance of the time the yardman is due to report for duty. Mark up will be automatic at the expiration of approved time of leave for a specified period.
- (b) A regular assigned yardman marking up after laying off for a non-specified period must notify a Company officer or designated representative not less than two and one-half (2 ½) hours in advance of starting time of the yardman's assignment.

Rule 13. DISPLACEMENTS

- (a) A yardman with displacement rights shall exercise same within twenty-four (24) hours of the times stipulated hereafter in this rule, but not less than two and one-half (2 ½) hours prior to the starting time of assignment of his choice. Displacement rights are lost after the expiration of the 24-hour period. Displaced yardman failing to exercise displacement rights within the 24-hour period will be placed at the bottom of the extra board behind any extra board yardmen working the current shift.
- (b) A regular assigned yardman, who is displaced while off duty and whose seniority does not allow any displacements of regular positions, will be placed on the extra board ahead of those extra board yardmen working the current shift. If said yardman is displaced while on duty, he will be placed on the extra board ahead of all extra board yardmen working the same shift, unless he and possibly other extra board yardmen work one hour or more overtime, then off duty time will prevail.
- (c) For a regular assigned displaced yardman who had planned to work that day but was notified too late to enable him to exercise his displacement rights 2 ½ hours prior to starting time of the position upon which he wishes to displace on that day, such yardman may be used to fill any vacancy on the shift he planned to work that day without regard to the availability of extra board yardmen and no runarounds will be involved.
- (d) Yardmen making displacements shall do so in writing, except displacement may be arranged over telephone, and Company's designated representative will make a written record of same.
- (e) When a yardman having displacement rights and access to the bulletins, fails to bid on bulletined vacancies, including "semi-annual job bulletins", before they expire, he will not be allowed to displace any of the successful applicants on those particular assignments after the bids close.
- (f) A regular assigned yardman returning to work after being off for any reason during the life of a job bulletin will be permitted to exercise his seniority on regular positions bulletined and assigned to junior yardmen during his absence within twenty-four (24) hours of the starting time of crew to which he was assigned prior to absence, subject to (a) of this rule. During said twenty-four (24) hour period, such yardman will work on the

position he held prior to his absence or if displacement due to "semi-annual bulletins" then yardman will work on the position to which he was assigned in his absence.

- (g) An extra board yardman called to work after being off work for any reason during the life of a job bulletin, will be allowed twenty-four (24) hours from starting time of crew for which called, subject to Section (a) of this rule, to exercise his seniority on a regular position assigned to a junior yardman during his absence. During said twenty-four (24) hour period, such extra board yardman will be permitted to work only one (1) shift as an extra board yardman.
- (h) No yardman may be permitted to work a second tour of duty on any calendar date when such second shift would be worked as the result of the exercise of seniority, either by bidding or by displacing, when there are extra board yardmen available to work.
- (i) In the event a yardman with displacement rights lays off due to illness during the designated 24-hour period for placement of his bump, the twenty-four (24) hour restriction will not apply. When the yardman marks up for duty following the illness and after the expiration of the 24-hour period, he shall at the time of reporting in, be allowed to make a displacement on the position of his choice, seniority prevailing.
- (j) A yardman who has been awarded or assigned a regular position for sixty (60) days or more will be permitted, upon written request, to relinquish such regular position and place himself on the extra board, provided there is a junior yardman he can displace on said extra board at that time. This is contingent upon the yardman remaining on his regular position until it has been bulletined and awarded or assigned, whereupon he may then vacate same and he will be placed on the bottom of the extra board behind the extra board yardmen working the current shift.
- (k) Exercise of any of the foregoing options within this rule will not give rise to payment of runarounds to extra board yardmen by reason thereof.

Rule 14. REDUCTION IN FORCE

When reduction in force is made, yardmen junior in seniority will be reduced in reverse seniority order. A yardman furloughed on this account will retain his seniority, provided Company is kept informed of his mailing address. When furloughed yardman is notified by registered or certified letter from Company that he is being recalled to active service, upon receipt and/or first attempted delivery of the letter, the yardman must notify the Company immediately of his decision to accept such service or not, and shall report for duty within thirty (30) days for service. If the yardman does not respond to the Company's notification and does not report for duty within thirty (30) calendar days of receipt of such notification, the yardman's seniority and employment relationship with Company shall be terminated.

Exception: Company will give consideration to bona fide situations or circumstances beyond a yardman's control that prevent the yardman from responding and/or reporting for service within the thirty (30) day time period under this rule.

Rule 15. ATTENDING INVESTIGATION, SAFETY MEETING, RULES CLASS, ETC.

- (a) Yardmen required by the Company to attend court, attend investigations as a Company summoned witness, or other business on behalf of the Company during their off-duty hours, will be allowed one basic day's pay of assigned position or of Yard Helper's position for extra board yardmen for every calendar day or fraction thereof while thus engaged, and be allowed legitimate expenses while away from home station.
- (b) Yardmen required by the Company to attend rules class during their off-duty hours, shall be paid the actual time consumed in attending such rules class, with a minimum allowance of four (4) hours at the basic pro rata rate of the yardmen's regular assigned positions or of Yard Helpers' positions for extra board yardmen, provided no payment shall be made to such yardmen who voluntarily attend class without a requirement by the Company. This rule shall not apply to persons attending rules class and/or taking rules examination as a condition for employment with the Company.
- (c) A yardman required by the Company to attend a Safety Meeting as a designated representative on the Company's Safety Committee during his off-duty hours, shall be paid at the basic pro rata rate of the position to which he is assigned or at Yard Helper's Rate for an extra board yardman for each hour in attendance with a minimum of four (4) hours and a maximum of eight (8) hours on any calendar day. Time will be computed from the time the yardman is required to report until actual time released.

Rule 16. JURY DUTY

- (a) **Regular Assigned Yardman.** A regular assigned yardman that is summoned for jury duty and is required to lose time from his assignment as a result thereof, shall be allowed the pay difference between the basic daily pro rata rate of his regular assigned position and the amount allowed him for jury service for each day, up to a maximum of sixty (60) days per year, that the yardman's assignment works, subject to (c) of this rule. The yardman must submit documentation from the court for the amount paid him for jury service for each calendar day that he was unable to work his regular assigned position and the jury service allowance will be deducted from the basic daily rate of pay for the applicable calendar day/s.
- (b) **Extra Board Yardman.** An extra board yardman that is summoned for jury duty and therefore not available on the extra board to cover vacancies, shall be allowed the pay difference between the basic daily pro rata rate of a Yard Helper's position and the amount allowed him for jury service for each full calendar day the yardman is unavailable on the extra board, up to a maximum of sixty (60) days per year, subject to (c) of this rule.
- (c) It shall not be considered that a regular assigned yardman or extra board yardman is summoned for jury duty within the contemplation of this rule when the yardman fails to exercise his right to secure exemption from the summons and/or jury service under administrative, federal, state, or municipal regulations.

Rule 17. BEREAVEMENT LEAVE

- (a) **Regular Assigned Yardmen.** For regular assigned yardmen, bereavement leave, not in excess of three (3) assigned work days, following the date of death, will be allowed in case of death of a yardman's brother, sister, parent, child, spouse or spouse's parent. The three (3) workdays need not be consecutive calendar days if the intervening days are the yardman's non-paid rest days. Regular assigned yardmen will be allowed a maximum of three (3) days' pay at the basic daily pro rata rate of their assigned position for each work day lost during bereavement leave.
- (b) **Extra Board Yardmen.** For extra board yardmen, bereavement leave, not in excess of three (3) consecutive calendar days, following the date of death, will be allowed in case of death of a yardman's brother, sister, parent, child, spouse or spouse's parent. Extra board yardmen will be allowed a maximum of three (3) days' pay at the basic daily pro rata rate of a Yard Helper's position for each calendar day yardmen are not available on the extra board during bereavement leave.
- (c) Yardmen involved will make provision for taking bereavement leave with a Company Officer and documented verification of death may be required.

Rule 18. LEAVE OF ABSENCE. *(Company will give consideration to bona fide conditions, situations or circumstances beyond a yardman's control that may prevent the yardman from responding and/or reporting for service following a leave of absence as specified within this Rule 18. Each such case will be judged on its own merits.)*

- (a) Upon proper request to a Company Officer, Committeemen will be granted leave of absence to serve the Organization.
- (b) A leave of absence will not be granted in excess of ninety (90) calendar days, except in case of bona fide injury, sickness, or committee work.
- (c) A request for a leave of absence of five (5) consecutive work days or less duration for regular assigned yardmen, or five (5) consecutive calendar days or less duration for extra board yardmen, need not be made in writing, but yardmen desiring such a leave of absence must secure written approval from a Company officer. A request for a leave of absence in excess of each of the five (5) day periods above must be made in writing to the Company's Manager or his designated representative and written approval must be received from such Officer.
- (d) Yardmen granted a leave of absence in writing by proper authority of the Company will retain their seniority. Yardmen failing to return before the expiration of their authorized leave of absence will forfeit their seniority rights unless a written approval for an extension was obtained from the Company.
- (e) When a leave of absence or extension of leave is requested and is denied, the yardman will be so advised and will be required to return to service within five (5) calendar days after receipt of such Company notice or yardman will forfeit all seniority rights and employment relationship.

(f) Medical Leave.

1. Requests for leave of absence account sickness or injury which are less than five (5) consecutive work days for regular assigned yardmen or less than five (5) consecutive calendar days for extra board yardmen need not be in writing, but such requests must be made in advance, if possible, by the yardmen to a Company officer, in a timely manner, specifying the nature of the illness or injury and the number of days required for recuperation.
 2. Requests for medical leave of absence account sickness or injury in excess of five (5) days referenced in (f) 1 of this rule, must be made in writing to the Company's Manager or his designated representative and properly documented and supported by a statement from the yardman's physician, which includes the specific reason therefor and the expected duration of yardman's absence. A similar statement from the yardman's physician with estimated duration of yardman's absence thereof must also support written requests for extensions of the leave of absence.
 3. Yardmen granted a medical leave of absence of five (5) days or more, including any authorized extension thereof, must report for work upon expiration of authorized leave time by Company or yardmen will be considered absent without authority and will forfeit their seniority rights.
 4. Yardmen granted a medical leave of absence for a stated period and are released by their physician for full duty before expiration of the authorized stated period, shall report for duty in conjunction with the date they are released for duty by their physician or will be considered absent without authority and forfeit their seniority rights.
 5. In the event a dispute arises as to whether a request for a medical leave of absence is properly documented, such dispute shall be resolved by the Company's physician and the yardman's physician, however, the seniority of the yardman involved shall not be terminated as a result of such issue during the pendency of such dispute. If a leave request is denied, the yardman will be so advised by certified letter from the Company and he will be required to return to service within five (5) calendar days after receipt of such notice or forfeit all seniority rights and employment relationship.
- (g)** Yardmen on leave of absence that engage in other employment without the written approval of the Company's Manager and the General Chairman will forfeit their seniority rights and employment relationship.
- (h)** Yardmen who are elected or appointed to a federal, state or local office (excluding positions subject to civil service or similar arrangements) shall be granted a leave of absence to cover the period and duration of their term of office or appointment.
- (i)** The General Chairman will be furnished a notification of all leaves of absences of thirty (30) days or more applicable to yardmen governed by this Agreement.

Rule 19. HANDLING END OF TRAIN DEVICES. A single arbitrary payment will be allowed in the amount of \$13.60 to a Yard Foreman or \$13.01 to a Yard Helper for handling an end-of-train device during his work shift. These payments are the maximum allowed for each tour of duty regardless of the number of end-of-train devices handled during the tour of duty, and are not subject to GWI, COLA or other wage increases.

Special Note: Provisions providing for special arbitrary "air pay" allowance to yardmen with pre-1985 seniority dates are eliminated in exchanged for the above arbitrary "end-of-train device handling" allowance effective January 1, 2007 for all yardmen, regardless of seniority date.

Rule 20. HOLIDAYS

(a) The following enumerated holidays are observed by the Company:

| | | |
|----------------------|------------------------|----------------|
| New Year's Day | Fourth of July | Christmas Eve |
| President's Birthday | Labor Day | Christmas Day |
| Good Friday | Thanksgiving Day | New Year's Eve |
| Memorial Day | Day After Thanksgiving | |

- (b) When any of the above listed holidays fall on Sunday, the day observed by the State or Nation shall be considered the holiday.
- (c) Yardmen required to perform yardmen service on any of the specified holidays enumerated above shall be compensated at the rate of time and one-half of the position worked.
- (d) If a regular assigned yardman has his job annulled on a holiday, that yardman will be paid a basic day's pay at the straight time rate for the annulment.
- (e) All provisions that provided for payment of a basic day account holiday were eliminated January 1, 2007.

Rule 21. VACATIONS *(See Appendix B – Synthesis of Operating Vacation Agreement, as Amended, as of December 1997.)*

- (a) **Eligibility.** Yardmen shall be granted vacations with pay or payment in lieu thereof whose eligibility has been established in accordance with the provisions of the National Vacation Agreement of April 29, 1949, as amended.
- (b) Eligible yardmen having laid off for any reason a sufficient number of days to cover a weekly vacation period may designate same as vacation, subject to the approval of the Manager of the Company.
- (c) **Scheduling Weekly Vacation Periods.** Vacations may be taken in any number of weekly increment periods, with the exception that one week of annual vacation may be taken in single day increments of five (5) days in accordance with (d) of this rule. The term "period" shall mean a minimum of seven (7) consecutive calendar days that includes five (5) working days with vacation pay and two (2) rest days without vacation pay.

1. It is intended that an approximately equal number of yardmen be on vacation each period January 1 to December 31 of each year, subject to service requirements. The designated representative of the Company and Organization will determine the number of vacation periods to be bulletined for each month, and each week therein, or the "quota", so that vacations will be afforded all yardmen entitled to same within the calendar year.
2. Bulletin for weekly vacation periods for each subsequent year will be posted no later than November 15th of the prior year. Closing date for vacation bids will be between December 1st and December 5th with vacation assignments made and posted no later than December 31st.
3. Vacation bids may be made for any number of consecutive weekly periods, only one (1) period at a time or up to five (5) consecutive periods, subject to number of qualifying vacation periods for each yardman. Bid must include yardman's preference for 1st, 2nd, 3rd, etc. choices.
4. A yardman may start his vacation on any calendar day provided the preponderant number of days of vacation must be within the period bid on or assigned.
5. Vacation periods will be assigned to yardmen in seniority order.
6. In cases where, at the time vacations are bid and assigned, a yardman has not yet qualified for a vacation in the following year and the parties are in accord that he should reasonable expect to qualify, he shall be assigned a vacation period according to seniority, subject to having his vacation denied should he fail to qualify. In cases where a yardman has not qualified by assignment date and either party considers that he reasonable may not qualify, he will not be assigned a vacation period, subject to be granted an open period of his choice should he be found to qualify.
7. If insufficient vacation bids are received to fill each monthly quota, then those yardmen not yet assigned vacation due to quota already filled for their choice of period/s, will be assigned available period/s beginning with earliest month in year, in reverse seniority order.
8. **Changes after Vacation Periods Assigned and Posted.** Any vacation period not assigned will be known as an **open period**. The annual vacation assignment bulletin, posted by December 31st of prior year, will also advertise the **open periods** available in the subsequent year. Changes in assigned vacation periods may occur as follows:
 - (i) Bids for open periods will be accepted until the 10th day of the month preceding the month of the open period. A yardman bidding on an open period shall indicate the previously assigned period he wishes to relinquish on the bid form. If this yardman is successful bidder on the open period, his relinquished period will then be posted as an open period. If he is not the successful bidder, then he must take his originally assigned vacation period.

- (ii) A yardman who wishes to relinquish an assigned vacation period must request same in writing to a Company Officer no later than the 10th of the second (2nd) month preceding the month in which the vacation is assigned, in order that it can be posted as an open period. If there is a successful bidder on this relinquished vacation period, the yardman will then be assigned the vacation period that the successful bidder relinquished. If there is no bid, the yardman must take the original vacation period as assigned.
 - (iii) A revised annual vacation assignment bulletin, for remaining weeks of year, will be posted whenever changes have occurred in assigned vacation periods and/or open periods due to this procedure.
 - (iv) If there is a change in a yardman's workweek following the assignment of vacation periods, a corresponding change in the vacation may be made by Company officer, subject to advance notice and the service requirements of the Company.
9. In no event will a yardman be denied his scheduled vacation period with less than forty-eight (48) hours of advance notice of cancellation.
10. **Laying Off and Marking Up for Weekly Vacation Period/s.** Yardmen must complete prescribed Company form for weekly vacation period/s and submit to Company's designated representative at least forty-eight (48) hours prior to last work day or available day before assigned vacation period. The number of vacation days and dates entered on the lay-off form must be accurate and must be in increments of seven (7) days, including two (2) rest days for each week.
- (d) **Scheduling Single Vacation Day/s.** One week of vacation time may be taken in single day increments, not to exceed a total of five (5) separate compensated days.
- 1. A single vacation day may be requested by completing prescribed Company form, indicating "vacation day" as reason, and submitting form to Company officer for approval at least 48 hours in advance of requested time off. Approval in writing will be made by Company officer subject to seniority and service requirements.
 - 2. For regular assigned yardmen, a single vacation day may not be requested or taken on an assigned rest day.
 - 3. Yardmen shall be automatically marked up for service upon the expiration of any single vacation day (or combination of single days).
 - 4. Weekly vacation periods will supersede any and all requests for single vacation days, regardless of yardman's seniority.
 - 5. Should a yardman be forced to vacation with only single days not yet taken, the single days will be used until exhausted.
- (e) It is recognized that the exigencies of the Company's service create practical difficulties in providing vacations in all instances. Due regard, consistent with requirements of the service, shall be given to the preference of the yardmen in seniority order when granting

vacations. Representatives of the Company and of the Organization will cooperate in arranging vacation periods, administering vacations and releasing yardmen when requirements of the service will permit.

Rule 22. PERSONAL LEAVE

- (a) Beginning in 2007, each January 1st yardmen shall be provided with eleven (11) personal leave days, adjusted to equal the number of holidays provided by the UTU National Agreement and any subsequent amendments thereto, and shall be paid one basic day at the rate of service last performed as a yardman for each personal leave day taken.
- (b) Personal leave days shall be scheduled with the approval of the proper Company officer upon forty-eight (48) hours advance notice. The Company shall grant requests for personal leave unless it can be shown that granting the request will result in an inability to fill any vacancy and operate the Company in the usual manner.
- (c) Yardmen may elect to accumulate up to sixty (60) personal leave days as a "bank" to protect against extended personal or family illnesses or personal or family emergency. The parties recognize that this "banking" of personal leave is for specific purposes and when used, the yardman will be required to provide verifiable documentation of the illness or personal emergency for which "banked" days will be used toward.
- (d) Any personal leave days not taken during a previous calendar year shall be automatically "banked" on January 1st of the subsequent year. In the event personal leave days cannot be "banked" because the yardman has already accumulated sixty (60) "banked" personal leave days, the unused personal days shall be claimed by the yardman and paid for at the rate specified herein on the last payroll period of the applicable year.
- (e) Yardmen may upon request receive payment of any "banked" personal leave days at the basic daily rate of service last performed as a yardman.
- (f) The parties specifically recognize that the spirit and intent of this rule is to grant personal leave days and that the provisions under this rule providing for the payment thereof, should be rarely, if ever, used.
- (g) There shall be no duplicating or pyramiding of benefits as far as personal leave days, as a result of the provisions of this Agreement and any other agreements.

Rule 23. PROTECTIVE ITEMS & OTHER EQUIPMENT. The Company will provide protective clothing, equipment and items that are required by legislative local, state or federal law. Yardmen must exercise reasonable care in the use of such items and upon leaving the service of the Company, or when requested by Company, must return such items entrusted to them. If such items are not returned, the yardman will reimburse the Company the value thereof by deduction from any wages due.

Rule 24. INVESTIGATIONS AND DISCIPLINE

- (a) A yardman who has been in service more than sixty (60) calendar days whose application has not been disapproved, shall not be dismissed or otherwise disciplined until after being accorded a fair and impartial hearing, except as provided in 1 through 4 of (a) of this rule.

1. Waiver Method.

- (i) When, in the judgment of a designated officer of the Company, an occurrence arises which warrants assessment of discipline, same may be assessed without a formal hearing provided the yardman is given written notice of the charges and the amount of discipline proposed, providing a copy to the Local Chairman and General Chairman, and the yardman waives his right to a formal hearing by accepting in writing the discipline proposed by the designated officer within forty-eight (48) hours of receipt of the officer's proposal.
 - (ii) When the waiver method is used and the yardman accepts officer's proposal in writing, officer's proposal and yardman's written acceptance shall be placed on the yardman's personal record and the discipline assessed shall not be subject to challenge thereafter. The officer's proposal shall not be considered as evidence of prejudgment and if not accepted shall not thereafter be used in argument by either party.
 - 2. Yardmen absenting themselves from their assignments for five (5) consecutive working days without proper authority shall be considered as voluntarily forfeiting their seniority rights and employment relationship, and need not be granted an investigation hearing prior to their dismissal, unless justifiable reason is shown as to why proper authority was not obtained.
 - 3. Yardmen need not be granted an investigation hearing prior to dismissal in instances where they refuse to work, voluntarily leave the work site without proper authority, involuntarily leave their job as a result of apprehension by civil authorities, willfully engage in violence or deliberately destroy Company property.
 - 4. The Company will be under no obligation to give a yardman a formal investigation hearing where the yardman's relationship is terminated under other provisions of this Agreement.
- (b) When investigations are to be held a written notice will be given to the yardmen involved containing the specific charge/s and time and place investigation is to be held, sufficiently in advance to afford them the opportunity to secure desired witnesses and arrange representation by a fellow employee and/or a representative of the United Transportation Union. A copy of notice will be provided to the Local Chairman and the General Chairman.
 - (c) Investigations will be held at a time that will insure that the yardmen receive adequate time for sleep during their rest periods. Eight (8) hours is considered adequate time in these instances.
 - (d) Investigations will be initially scheduled to be held within ten (10) days after charges have been made, and not in excess of thirty (30) days from the date Company has knowledge of the occurrence on which the charges are based. When charges are based on incidents that are pending before a court of other such tribunal, the Company may elect to take the date of such tribunals decision as the date of such knowledge. All principals and

representatives shall be present throughout the entire investigation, unless excused by consent of all parties concerned.

- (e) Investigations may be postponed or time limits referred to herein extended by mutual agreement between the Company and the yardmen or their representative.
- (f) When a transcript of an investigation is taken, all questions, answers, statements, objections, exceptions, or other data and a mention of all exhibits introduced, shall be included. The General Chairman and/or Local Chairman shall be furnished a copy of the transcript upon request.
- (g) Decision assessing discipline must be rendered within twenty (20) days after completion of the investigation and the yardman involved will be notified of such decision in writing, with copy to the Local Chairman and the General Chairman.
- (h) If the decision rendered is considered unsatisfactory, written claim may be filed by the yardman or his representatives with the officer of the Company authorized to receive same within sixty (60) calendar days from the date the decision is rendered and thereafter may be progressed through appeal under the provisions of Rule 25 of this Agreement.
- (i) If the charge/s against the yardman is not sustained, the record of the yardman shall be cleared and if suspended or dismissed, the yardman will be returned to service and compensated for net wage loss, if any, which the yardman may have incurred.
- (j) Ordinarily, a yardman will not be held out of service prior to investigation or pending decisions. Exceptions include serious cases such as theft, dishonesty, altercations, drug/alcohol violations, insubordination or other serious misconduct whereby the yardman's retention in service could be hazardous.
- (k) Yardmen required by the Company to attend investigations shall be compensated for such attendance, when found not at fault, as follows:
 - 1. If investigation is conducted continuous with completion of the working shift, or is begun not to exceed two (2) hours after completion of the shift, or is begun not to exceed two (2) hours in advance of the starting time of the shift, work and time in attendance at investigations shall be combined and paid for as continuous time.
 - 2. If investigation is conducted during the working shift, no additional payment will be made for attending investigations.
 - 3. If attendance at investigation necessitates a yardman to lose time on his assignment or extra board rotation, he shall be paid for the time lost. Yardmen required by the Company to attend investigations, and who are compensated for time lost in accordance with this subsection, will not receive additional compensation under any other subsection of this rule.
 - 4. If investigation is not conducted in accordance with subsections 1, 2, or 3 of this rule, a minimum basic day's pay at pro rata rate will be allowed.

Rule 25. CLAIMS, GRIEVANCES & APPEAL PROCESS

- (a) All claims or grievances must be presented in writing by or on behalf of the yardman involved, to the officer of the Company authorized to receive same, within sixty (60) days from the date of the occurrence on which the claim or grievance is based. Should any such claim or grievance be disallowed, the Company shall, within sixty (60) days from the date same is filed, notify the yardman and/or his representative of the reasons for such disallowance in writing. If not so notified, the claim or grievance shall be considered valid and settled accordingly, but this shall not be considered as a precedent or waiver of the contentions of the Company as to other similar claims or grievances.
- (b) If a disallowed claim or grievance is to be appealed, such appeal must be made in writing within sixty (60) days from receipt of notice of disallowance, and the representative of the Company shall be notified in writing of the rejection of his decision. Failing to comply with this provision, the matter shall be considered closed, but this shall not be considered as a precedent or waiver of the contentions of the employees as to other claims or grievances.
- (c) The procedure outlined in (a) and (b) of this rule shall govern in appeals taken to each succeeding officer. Decision by the highest designated officer of the Company to handle claims and grievances shall be final and binding unless within sixty (60) days after written notice of the decision of said highest designated officer the General Chairman rejects said officer's decision and requests conference in accordance with the Railway Labor Act. Highest designated officer must reply to conference request within thirty (30) days of receipt of request with a mutual agreement by both parties of date, time and place of conference.
- (d) All claims or grievances involved in a decision of the highest designated officer shall be barred unless within six (6) months from the date of said officer's decision following the conference, proceedings are instituted by the yardman or his duly authorized representative with a board established in accordance with the Railway Labor Act. It is understood however, that the parties may, by agreement in any particular case, extend the six (6) month period herein referred to.
- (e) This rule recognizes the right of representatives of the Organization party hereto to file and prosecute claims and grievances for and on behalf of the yardmen they represent.
- (f) This rule shall not apply to requests for leniency.
- (g) For all established claims adjusted by the committee, payment will be made to claimant on next succeeding payroll.
- (h) When time claims are settled between the Company and the Local Chairman, Company will notify yardmen in writing, to whom payments are to be made, stating the amount, reasons for allowance and when payment will be made, sending a copy of such notification to the Local Chairman. When claims are settled by the General Chairman, copy of notification of payment will be furnished to the General Chairman.

Rule 26. EXTRA YARDMASTER or ENGINEER SERVICE

- (a) A regular assigned yardman working a shift as a yardmaster or engineer on any calendar day will not be permitted to work on said calendar day as a yardman, except when a vacancy occurs and there are no extra board yardmen available.
- (b) An extra board yardman working a shift as an extra engineer or extra yardmaster will, upon completion of such shift, take his place on the yardman extra board in the same manner as though he had completed a shift as an extra yardman.
- (c) A yardman who is assigned to or displaces on a regular assigned or temporary engineer or yardmaster bulletined position, may not work as a yardman until relieved from his yardmaster or engineer position (including rest days), unless no rested yardmen are available. This also applies when a yardman bids or displaces on a succession of yardmaster or engineer jobs regardless of intervening rest days.
- (d) Displacement rights of yardmen relieved from yardmaster or engineer positions and returning to yardmen service are governed by Rule 13.

ARTICLE IV: EMPLOYEE BENEFITS

Section 1. Health Care

(1) Refer to separate booklet entitled "*National Railway Carriers and United Transportation Union (NRC/UTU) Health and Welfare Plan*", dated January 1, 2006, and as amended subsequent thereto.

(2) Refer to separate booklet entitled "*Railroad Employees National Early Retirement Major Medical Benefit Plan GA-46000*", amended through January 1, 2006, and as amended subsequent thereto.

(3) Refer to separate booklet entitled "*Group Health Insurance Plans for Former Railroad Employees and their Dependents*", Group Policy Number GA 23111, amended January 1, 2006, and as amended subsequent thereto.

Section 2. Life Insurance - Refer to separate booklet entitled "*Life Insurance Benefits for U.S. Employees and Retirees and Accidental Death and Dismemberment Insurance benefits for U.S. Employees Under National Railway Carriers and United Transportation Union Health and Welfare Plan*" dated July 1, 2004, and as amended subsequent thereto.

Section 3. Dental Care - Refer to separate booklet entitled "*Railroad Employees National Dental Plan*", dated January 1, 2005, and as amended subsequent thereto.

Section 4. Vision Care – Refer to separate booklet entitled "*Railroad Employees National Vision Plan VSP Select Network Benefits 2003*," as amended thereafter.

ARTICLE V: UNION SHOP AGREEMENT and DUES CHECK-OFF AGREEMENT

A. UNION SHOP AGREEMENT dated May 17, 1954, as amended.

Section 1. In accordance with and subject to the terms and conditions hereinafter set forth, all employees of the Carrier now or hereafter subject to the Rules and Working Conditions Agreement between the parties hereto, except as hereinafter provided, shall, as a condition of their continued employment subject to such Agreement, become members of the Organization, party to this Agreement, representing their craft or class within sixty (60) calendar days of the date they first perform compensated service as such employees after the effective date of this Agreement, and thereafter shall maintain membership in such Organization: except that such membership shall not be required of any individual until he has performed compensated service on thirty (30) days within a period of twelve consecutive calendar months. Nothing in this Agreement shall alter, enlarge or otherwise change the coverage of the present or future rules and working condition agreements.

Section 2. This Agreement shall not apply to employees while occupying positions that are excepted from the bulletining and displacement rules of the individual agreements, but this provision shall not include employees who are subordinate to and report to other employees who are covered by this Agreement. However, such excepted employees are free to be members of the Organization at their option.

Section 3. (a) Employees who retain seniority under the Rules and Working Conditions Agreement governing their class or craft and who are regular assigned or transferred to full time employment not covered by such Agreement, or who, for a period of thirty days or more, are (1) furloughed on account of force reduction, or (2) on leave of absence, or (3) absent on account of sickness or disability, will not be required to maintain membership as provided in *Section 1* of this Agreement so long as they remain in such other employment, or furloughed or absent as herein provided, but they may do so at their option. Should such employees return to any service covered by the said Rules and Working Conditions Agreement and continue therein thirty (30) calendar days or more, irrespective of the number of days actually worked during that period, they shall, as a condition of their continued employment subject to such Agreement, be required to become and remain members of the Organization representing their class or craft within thirty-five calendar days from date of their return to such service.

(b) The seniority status and rights of employees furloughed to serve in the Armed Forces or granted leaves of absence to engage in studies under an educational aid program sponsored by the federal government or a state government for the benefit of ex-servicemen shall not be terminated by reason of any of the provisions of this Agreement but such employees shall, upon resumption of employment, be considered as new employees for the purposes of applying this Agreement.

(c) Employees who retain seniority under the Rules and Working Conditions Agreement governing their class or craft and who, for reasons other than those specified in *subsections (a) and (b)* of this section, are not in service covered by such Agreement, or leave such service, will not be required to maintain membership as provided in *Section 1* of this Agreement so long as they are not in service covered by such Agreement, but they may do so at their option. Should such employees return to any service covered by the said Rules and Working Conditions Agreement they shall, as a condition of their continued employment, be required, from the date of return to such service, to become and remain members in the Organization representing their class or craft.

(d) Employees who retain seniority under the Rules and Working Conditions Agreement of their class or craft, who are members of an Organization signatory hereto representing that class or craft and who in accordance with the Rules and Working Conditions Agreement of that class or craft temporarily perform work in another class of service shall not be required to be members of another Organization party hereto whose agreement covers the other class of service until the date the employees hold regular assigned positions within the scope of the agreement covering such other class of service.

Section 4. Nothing in this Agreement shall require a employee to become or to remain a member of the Organization if such membership is not available to such employee upon the same terms and conditions as are generally applicable to any other member, or if the membership of such employee is denied or terminated for any reason other than the failure of the employee to tender the periodic dues, initiation fees, and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership. For purposes of this Agreement, dues, fees, and assessments, shall be deemed to be "uniformly required" if they are required of all employees in the same status at the same time in the same Organizational unit.

Section 5. (a) Each employee covered by the provisions of this Agreement shall be considered by the Carrier to have met the requirements of the agreement unless and until such Carrier is advised to the contrary in writing by the Organization. The Organization will notify the Carrier in writing by Registered or Certified Mail, Return Receipt Requested, or by personal delivery evidenced by receipt, of any employee who it is alleged has failed to comply with the terms of this Agreement and who the Organization therefore claims is not entitled to continue in employment subject to the Rules and Working Conditions Agreement. The form of notice to be used shall be agreed upon by the individual railroad and the Organization involved and the form shall make provisions for specifying the reasons for the allegation of noncompliance. Upon receipt of such notice, the Carrier will, within ten (10) calendar days of such receipt, so notify the employee concerned in writing by Registered or Certified Mail, Return Receipt Requested, or by personal delivery evidenced by receipt. Copy of such notice to the employee shall be given the Organization. A employee so notified who disputes the fact that he has failed to comply with the terms of this Agreement, shall within a period of ten (10) calendar days from the date of receipt of such notice, request the Carrier in writing by Registered or Certified Mail, Return Receipt Requested,

or by personal delivery evidenced by receipt, to accord him a hearing. Upon receipt of such request the Carrier shall set a date for hearing which shall be held within ten calendar days of the date of receipt of request therefor. Notice of the date set for hearing shall be promptly given the employee in writing with copy to the Organization, by Registered or Certified Mail, Return Receipt Requested, or by personal delivery evidenced by receipt. A representative of the Organization shall attend and participate in the hearing. The receipt by the Carrier of a request for a hearing shall operate to stay action on the termination of employment until the hearing is held and the decision of the Carrier is rendered.

In the event the employee concerned does not request a hearing as provided herein, the Carrier shall proceed to terminate his seniority and employment under the Rules and Working Conditions Agreement not later than thirty (30) calendar days from receipt of the above described notice from the Organization, unless the Carrier and the Organization agree otherwise in writing.

(b) The Carrier shall determine on the basis of the evidence produced at the hearing whether or not the employee has complied with the terms of this Agreement and shall render a decision within twenty (20) calendar days from the date that the hearing is closed, and the employee and the Organization shall be promptly advised thereof in writing by Registered or Certified Mail, Return Receipt Requested. If the decision is that the employee has not complied with the terms of this Agreement, his or her seniority and employment under the Rules and Working Conditions Agreement shall be terminated within twenty (20) calendar days of the date of said decision except as hereinafter provided or unless the Carrier and the Organization agree otherwise in writing.

If the decision is not satisfactory to the employee or to the Organization it may be appealed in writing, by Registered or Certified Mail, Return Receipt Requested, directly to the highest officer of the Carrier designated to handle appeals under this Agreement. Such appeals must be received by such officer within ten (10) calendar days of the date of the decision appealed from and shall operate to stay action on the termination of seniority and employment, until the decision on appeal is rendered. The Carrier shall promptly notify the other party in writing of any such appeal, by Registered or Certified Mail, Return Receipt Requested. The decision on such appeal shall be rendered within twenty (20) calendar days of the date the notice of appeal is received, and the employee and the Organization shall be properly advised thereof in writing by Registered or Certified Mail, Return Receipt Requested.

If the decision of such appeal is that the employee has not complied with the terms of this Agreement, his or her seniority and employment under the Rules and Working Conditions Agreement shall be terminated within twenty (20) calendar days of the date of said decision unless selection of a neutral is requested as provided hereinafter, or unless the Carrier and the Organization agree otherwise in writing. The decision on appeal shall be final and binding unless within ten (10) calendar days from the date of the decision the Organization or the employee involved requests the selection of a neutral person to decide the dispute as provided in *Section 5 (c)* hereinafter. Any request for selection of a neutral

person as provided in *Section 5 (c)* shall operate to stay action on the termination of seniority and employment until not more than ten (10) calendar days from the date decision is rendered by the neutral person.

(c) If within ten (10) calendar days after the date of a decision on appeal by the highest officer of the Carrier designated to handle appeals under this Agreement the Organization of the employee involved requests such highest officer in writing by Registered or Certified Mail, Return Receipt Requested, that a neutral be appointed to decide the dispute, a neutral person to act as sole arbitrator to decide the dispute shall be selected by the highest officer of the Carrier designated to handle appeals under this Agreement or a designated representative, the Chief Executive of the Organization or his or her designated representative, and the employee involved or his or her representative. If they are unable to agree upon the selection of a neutral person any one of them may request the Chairman of the National Mediation Board in writing to appoint such neutral. The Carrier, the Organization and the employee involved shall have the right to appear and present evidence at a hearing before such neutral arbitrator. Any decision by such neutral arbitrator shall be made within thirty (30) calendar days from the date of receipt of the request for appointment and shall be final and binding upon the parties. The Carrier, the employee and the Organization shall be promptly advised thereof in writing by Registered or Certified Mail, Return Receipt Requested. If the position of the employee is sustained, the fees, salary and expenses of the neutral arbitrator shall be borne in equal shares by the Carrier and the Organization; if the employee's position is not sustained, such fees, salary and expenses shall be borne in equal shares by the Carrier the Organization and the employee.

(d) The time periods specified in this section may be extended in individual cases by written agreement between the Carrier and the Organization.

(e) Provisions of investigation and discipline rules contained in the Rules and Working Conditions Agreement between a Carrier and Organization will not apply to cases arising under this Agreement.

(f) The General Chairman of the Organization shall notify the Carrier in writing of the title(s) and address(es) of its representatives who are authorized to serve and receive the notices described in this Agreement. The Carrier shall notify the General Chairman of the Organization in writing of the title (s) and address(es) of its representatives who are authorized to receive and serve the notices described in this Agreement.

(g) In computing the time periods specified in this Agreement, the date on which a notice is received or decision rendered shall not be counted.

Section 6. Other provisions of this Agreement to the contrary notwithstanding, the Carrier shall not be required to terminate the employment of an employee until such time as a qualified replacement is available. The Carrier may not, however, retain such employee in service under the provisions of this section for a period in excess of sixty (60) calendar days from the date of the last decision rendered under the provisions of *Section 5*, or ninety (90) calendar days from date of receipt of notice

from the Organization in cases where the employee does not request a hearing. The employee whose employment is extended under the provisions of this section shall not, during such extension, retain or acquire any seniority rights. The position will be advertised as vacant under the bulletining rules of the respective agreements but the employee may remain on the position he held at the time of the last decision, or at the date of receipt of notice where no hearing is requested pending the assignment of the successful applicant, unless displaced or unless the position is abolished. The above periods may be extended by agreement between the Carrier and the Organization involved.

Section 7. A employee whose seniority and employment under the Rules and Working Conditions Agreement is terminated pursuant to the provisions of this Agreement or whose employment is extended under *Section 6* shall have not time or money claims by reason thereof.

If the final determination under *Section 5* of this Agreement is that an employee's seniority and employment in a craft or class shall be terminated, no liability against the Carrier in favor of the Organization or other employees based upon an alleged violation, misapplication or non-compliance with any part of this agreement shall arise or accrue during the period up to the expiration of the 60 or 90 day periods specified in *Section 6*, or while such determination may be stayed by a court, or while a discharged employee may be restored to service pursuant to judicial determination. During such periods, no provision of any other agreement between the parties hereto shall be used as the basis for a grievance or time or money claim by or on behalf of **any employee** against the Carrier predicated upon any action taken by the Carrier in applying or complying with this Agreement or upon an alleged violation, misapplication or noncompliance with any provision of this Agreement. If the final determination under *Section 5* of this Agreement is that a employee's employment and seniority shall not be terminated, his or her continuance in service shall give rise to no liability against the Carrier in favor of the Organization or other employees based upon an alleged violation, misapplication or non-compliance with any part of this Agreement.

Section 8. In the event that seniority and employment under the Rules and Working Conditions Agreement is terminated by the Carrier under the provisions of this Agreement, and such termination of seniority and employment is subsequently determined to be improper, unlawful, or unenforceable, the Organization shall indemnify and save harmless the Carrier against any and all liability arising as the result of such improper, unlawful, or unenforceable termination of seniority and employment; provided, however, that this section shall not apply to any case in which the Carrier involved is the plaintiff or the moving party in the action in which the aforesaid determination is made or in which case such Carrier acts in collusion with any employee; provided further, that the aforementioned liability shall not extend to the expense to the Carrier in defending suits by employees whose seniority and employment are terminated by the Carrier under the provisions of this Agreement.

Section 9. A employee whose employment is terminated as a result of non-compliance with the provisions of this Agreement shall be regarded as having terminated his employee relationship for all purposes, including vacation.

B. DUES DEDUCTION AGREEMENT dated May 18, 1956, as amended.

NOTE - The term "Carrier" as used throughout this Dues Deduction Agreement shall mean the "BNSF Railway Company Payroll Department performing payroll functions on behalf of the Portland Terminal Railroad Company".

Section 1. Subject to the conditions herein set forth, the Carrier will withhold and deduct from wages due employee represented by the Organization amounts equal to periodic dues, initiation fees and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership in the Organization.

Section 2. No such deduction shall be made except from the wages of a **employee** who has executed and furnished to the Carrier a written assignment, in the manner and form herein provided, of such periodic dues, initiation fees and assessments. Such assignment shall be on the form specified in **Attachment "A"** hereto and shall, in accordance with its terms, be irrevocable for one year from the date of its execution, or until the termination of this Agreement, or until the termination of the Rules and Working Conditions Agreement between the parties hereto, whichever occurs sooner. The Organization shall assume full responsibility for the procurement of the execution, and for the delivery to the Carrier, of said wage assignments.

Section 3. Deductions as provided for herein will be made by the Carrier in accordance with an initial deduction list furnished by the Secretary-Treasurer of the Organization thirty (30) days prior to the effective date of this Agreement. Such list will show employee's name; working number, social security number, work location and amount to be deducted. The list will be accompanied by an executed wage assignment, as provided in **Section 2** of this Agreement, for each employee named on the list. Additions or deletions to this list will be made each month as provided in **Section 4** of this Agreement. Such additions or deletions will only apply to the number of employees named. Changes in the monetary amount to be deducted will not be changed more than twice a year and not less than a six-month interval.

Section 4. Deductions as provided for herein will be made monthly by the Carrier from wages due employees during the second half of month payroll period. The Carrier will pay, by draft, to the order of the Secretary-Treasurer, United Transportation Union – Switchmen Division, the total amount deducted promptly after each second half of month pay period payroll is processed. With said draft the Carrier will forward to the said Secretary-Treasurer of the Organization in duplicate a list setting forth the deductions that were actually made. The Secretary-Treasurer of the Organization will thereupon mark one copy of this list to show additions or deletions that should be made for the ensuing month and

return the corrected list to the Carrier so that list will be received by the 25th of the month for deductions are to be made. Each addition to the list must be accompanied by an executed wage assignment as provided in *Section 2* of this Agreement.

Section 5. No deduction will be made from the wages of any employee who does not have due for the pay period specified an amount equal to the sum to be deducted in accordance with this Agreement, after all deductions for the following purposes have been made:

- (1) Final settlement drafts and non-negotiable wage payment errors
- (2) Payroll taxes required by law
- (3) Railroad Retirement Board
- (4) Garnishes and wage assignments, percent required by law
- (5) Insurance

Section 6. Responsibility of the Carrier under this Agreement shall be limited to remitting to the Organization amounts actually deducted from the wages of employees pursuant to this Agreement and the Carrier shall not be responsible financially or otherwise for failure to make proper deductions. Any questions arising as to the correctness of the amount deducted shall be handled between the employee involved and the Organization and any complaints against the Carrier in connection therewith shall be handled by the Organization on behalf of the employee concerned.

Section 7. A employee who has executed and furnished to the Carrier a wage assignment may revoke said assignment by executing a revocation notice in duplicate and submitting such revocation to the Secretary-Treasurer of the Organization who in turn will send a copy to the Carrier to support the deletion from the current list of deductions. The revocation notice will be in writing and on the form specified in *Attachment "B"* hereto.

Section 8. The Organization shall reproduce and furnish as necessary the Wage Assignment Forms as specified in *Attachment "A"* and the Assignment Revocation forms as specified in *Attachment "B"* without cost to the Carrier.

Section 9. No part of this Agreement shall be used in any manner whatsoever, either directly or indirectly, as a basis for a grievance or time claim by or in behalf of any employee and no part of this or any other agreement between the Portland Terminal Railroad Company and the Organization shall be used as a basis for a grievance or time claim by or in behalf of any employee predicated upon any alleged violation of, or misapplication or non-compliance with, any part of this Agreement.

- Section 10.** The Organization shall indemnify, defend and save harmless Portland Terminal Railroad Company from any and all claims, demands, liability, losses or damage resulting from the entering into or complying with the provisions of this Agreement.
- Section 11.** In the event the Organization no longer represents any craft or class on the Portland Terminal Railroad Company, then this Agreement becomes void as of the date such representation terminates.
- Section 12.** In the event Section 2, Eleventh, of the Railway Labor Act, or any of its provisions, for any reason is declared unconstitutional or otherwise invalid, by a court of competent jurisdiction, then in such event this Agreement shall forthwith be and become terminated, void and of no effect whatsoever.

ATTACHMENT "A"

**WAGE DEDUCTION AUTHORIZATION
PORTLAND TERMINAL RAILROAD COMPANY
and
THE UNITED TRANSPORTATION UNION
SWITCHMEN DIVISION**

Employee
Identification No. _____ Social Security No. _____

Department Presently Assigned _____

Employee's Name _____
Print: (Last) (First) (Middle Initial)

Employee's Home Address _____
Street & No.

City State Zip Code

I hereby assign to the United Transportation Union – Switchmen Division that part of my wages to pay initiation fees, periodic dues and assessments (not including fines and penalties) as certified to the Carrier* by the Secretary-Treasurer of the Organization as provided in the Agreement, and I authorize the Carrier* to deduct such sum from my wages and pay it over to the Secretary-Treasurer, United Transportation Union – Switchmen Division, in accordance with the Deduction Agreement.

Date _____ Signature _____ Local No. _____

* "Carrier" – BNSF Railway Company Payroll Department in Topeka, Kansas, acting on behalf of the Portland Terminal Railroad Company.

ATTACHMENT "B"

**WAGE ASSIGNMENT REVOCATION
PORTLAND TERMINAL RAILROAD COMPANY
and
THE UNITED TRANSPORTATION UNION
SWITCHMEN DIVISION**

Employee Identification No. _____ Social Security No. _____

Department Presently Assigned _____

Employee's Name _____
(Print) (Last) (First) (Middle Initial)

Employee's Home Address _____
Street & No.

City _____ State _____ Zip Code _____

Effective in the next calendar month, I hereby revoke the Wage Assignment Authorization now in effect assigning to the United Transportation Union – Switchmen Division that part of my wages necessary to pay my periodic dues and assessments (not including fines and penalties), and authorizing the Carrier* to deduct such sum from my wages and pay it to the United Transportation Union – Switchmen Division. I hereby cancel the Authorization.

Date _____ Signature _____ Local No. _____

* "Carrier" – BNSF Railway Company Payroll Department in Topeka, Kansas, acting on behalf of the Portland Terminal Railroad Company.

Appendix "C"

MEMORANDUM OF AGREEMENT

Between

**THE BURLINGTON NORTHERN AND SANTA FE RAILWAY
COMPANY
CAMAS PRAIRIE RAILROAD COMPANY
LONGVIEW SWITCHING COMPANY
PORTLAND TERMINAL RAILROAD COMPANY**

And The

UNITED TRANSPORTATION UNION

Pursuant to Article X of Award of Arbitration Board No. 559, the following shall govern the terms and conditions providing for the employees of the Camas Prairie Railroad, Longview Switching Company, and Portland Terminal Railroad Company to be placed on the United Transportation Union's Pacific Seniority District Roster(s).

1. Subject to the exceptions set forth in Section 7 of this Agreement, the United Transportation Union shall furnish the Carrier a listing of individuals, from all three (3) Terminal Companies, properly ranked amongst themselves, to be placed on the Pacific Seniority District Roster(s).

1.1 These individuals shall be placed on the Roster(s) with a seniority date of October 16, 1996.

1.2. Individuals that establish seniority on any of the Terminal Companies after October 16, 1996, shall establish an identical seniority date on the Pacific Seniority District Roster(s).

2. Individuals who are placed on the Seniority Roster(s) under Section 1 shall only be allowed to exercise this newly-acquired seniority in the event that person cannot hold a position (including a position on an extra board) through the normal exercise of seniority on the Terminal Company.

2.1 Individuals desiring to exercise this newly-acquired seniority shall advise the appropriate Officer of Burlington Northern Santa Fe Railway Company of this desire within a thirty (30) day period following the date the individual was unable to hold a position through the normal exercise of seniority on the Terminal Company.

2.2 Individuals exercising this newly-acquired seniority shall be held to the same physical standards as existing Pacific Seniority District employees, and shall not be subjected to a "special" physical examination prior to exercising this newly-acquired seniority.

2.2.1 This Section does not eliminate the Carrier's right to require an individual to submit to physical examination for cause. The intent of the Section is to prohibit the Carrier from establishing a special physical examination or standard as a blanket policy to be applied only to terminal company employees exercising seniority on the Pacific Seniority District under the terms of this Agreement.

2.3 For purposes of determining the number of Personal Leave Days that an individual is entitled to under the current Crew Consist Agreement, the earliest seniority date that the individual established on the terminal company shall be used.

2.4 Individuals exercising seniority to the Pacific Seniority District under the terms of this Agreement shall not be considered as "new" employees for purposes of applying the provisions of health and welfare provisions, i.e., these individuals shall not be subject to any waiting period that may be applicable to "new-hires" before coverage becomes effective.

3. Individuals who are allowed to exercise seniority on the Pacific Seniority District pursuant to the terms of the Agreement are subject to a 30-day recall to their original Terminal Company.

3.1 Individuals who do not respond to recall to the original Terminal Company within thirty (30) days shall forfeit all seniority on the Pacific Seniority District, as well as all seniority on the original Terminal Company.

4. Subject only to familiarization trips deemed necessary by the UTU Training Coordinator and the Division Superintendent, individuals exercising seniority pursuant to the terms of this Agreement shall be considered to be qualified yard foremen, yard helpers, and brakemen.

4.1 Subject only to familiarization trips and training deemed necessary by the UTU Training Coordinator and the Division Superintendent, individuals exercising seniority pursuant to the terms of this Agreement who are qualified to perform service as a hostler shall be considered to be qualified hostlers.

5. Individuals exercising seniority under the terms of this Agreement shall not be considered as being qualified as a conductor, nor will they be considered as "new hires" subject to the terms of the Training Agreement dated March 3, 1997. In order to qualify as a conductor, the individual shall be allowed to attend the classroom portion of the program required under the Training Agreement. Employees who attend such classroom training will be paid for each week of classroom training on the same basis as if they were on vacation, they will be covered by the same provisions relating to travel, meal and lodging expenses that cover trainees under the Training

Agreement, and they shall be required to pass the examination(s) normally administered by the Carrier for promotion to conductor.

6. Individuals subject to recall to the original Terminal Company shall not make application for, nor will they be selected for or forced into, the Carrier's Locomotive Engineer Training Program, unless the individual has worked on the Pacific Seniority District for a continuous period of more than one (1) year.

7. The following categories of individuals shall not be placed on the Pacific Seniority District Roster(s), nor shall any individual meeting any of the following categories be placed on the Pacific Seniority District Roster(s) upon establishing an employment relationship with one of the Terminal Companies after the effective date of this Agreement:

7.1 Individuals who had an employment relationship with any owning Carrier and have been dismissed for cause, and not subsequently reinstated with seniority unimpaired

7.2 Individuals who had an employment relationship with Burlington Northern Santa Fe Railway Company, or any former railroad component thereof, and separated with the understanding that the railroad had no obligation to consider the individual for future employment.

7.2.1 Section 7.2 shall not apply to individuals who have separated pursuant to the terms of a collective bargaining agreement, or under the terms of a voluntary separation arrangement that was not associated with the settlement of a specific claim or dispute.

7.3 Individuals who had an employment relationship with Burlington Northern Santa Fe Railway Company, or any former railroad component thereof, and separated with the understanding that the individual would not seek re-employment with the railroad.

7.3.1 This section shall not apply to individuals who have separated pursuant to the terms of a collective bargaining agreement, or under the terms of a voluntary separation arrangement that was not associated with the settlement of a specific claim or dispute.

7.4 Individuals who had an employment relationship with any owning Carrier who are otherwise estopped from seeking re-employment with the railroad.

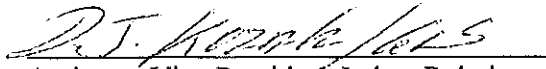
7.5 Employees who have voluntarily separated from Burlington Northern Santa Fe Railway Company in order to secure other employment, or failed to respond to recall and thereby lost seniority by operation of the collective bargaining agreements, shall be placed on the Pacific Seniority District Roster(s) as provided under Section 1 of this Agreement.

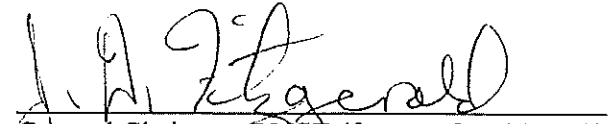
8. The effective date of this Agreement is July 22, 1997

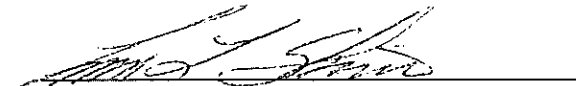
This Agreement signed at Fort Worth, TX., this 22nd day of July, 1997.

For: THE BURLINGTON NORTHERN
AND SANTA FE RAILWAY COMPANY

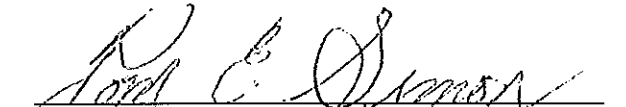
For: THE UNITED
TRANSPORTATION UNION


Assistant Vice President Labor Relations
BNSF

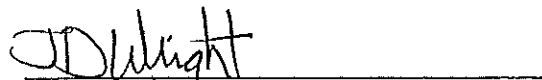

General Chairman BNSF (former GN / SP&S)

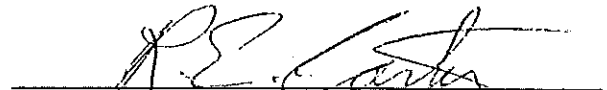

General Director Labor Relation BNSF


General Chairman BNSF (former GN Yard)


Manager Portland Terminal Railroad Company

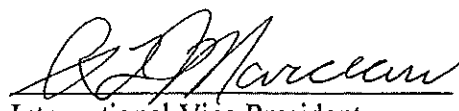
General Chairman BNSF (former NP)

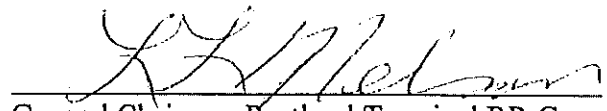

Manager Longview Switching Company


General Chairman Camas Prairie

APPROVED:


General Chairman Longview Switching Co.


International Vice President
United Transportation Union


General Chairman Portland Terminal RR Co.

Side Letter No. 1

Mr. R.L. Marceau
Vice President UTU
14872 250th Place S.E.
Issaquah, WA. 98207

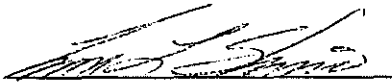
Dear Mr. Marceau,

During negotiations leading to the agreement providing for employees of the Camas Prairie, Longview Switching, and Portland Terminal Railroad Companies to be placed on the BNSF's Pacific Seniority District Roster(s), there was disagreement as to the propriety of applying Section 7.1 to employees who had established seniority on the Terminal Company prior to the effective date of this Agreement.

It was agreed that the parties would submit this dispute to arbitration in an expedited fashion.

Sincerely,

AGREED:



Gene L. Shire
General Director Labor Relations
Burlington Northern and Santa Fe Railway



R.L. Marceau
Vice President UTU

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