

**COLLECTIVE BARGAINING
AGREEMENT**

Between

**NEWBURGH & SOUTH SHORE
RAILROAD COMPANY, LLC
("NSR")**

And

**UNITED TRANSPORTATION UNION
("UTU")**

Effective July 1, 2010 through June 30, 2013

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PREAMBLE

This following Agreement between the Newburgh & South Shore Railroad Company, L.L.C, ("NSR") and the United Transportation Union ("UTU") recognizes the unusual principles and conditions existing within the short line railroad industry that would not be applicable to the major trunk line railroads.

NSR, UTU, and the Employees further recognize that they have a common and sympathetic interest in the railroad industry. Therefore, a working system of harmonious relationships is necessary to maintain a rapport among NSR, UTU, and the Employees and with the customers and public. All concerned will benefit by continued peace and harmonious relationships, and any differences must be settled through rational common sense methods.

Therefore in consideration of the mutual promises and agreements herein contained, NSR and UTU mutually agree as follows:

ARTICLE 1 **REPRESENTATION AND DEFINITIONS**

1.1 NSR recognizes that the UTU represents the engine and train service employees on the NSR. Further, NSR, UTU, and the Employees recognize their respective rights and responsibilities under the Railway Labor Act, as amended.

1.2 Definitions

1.2.1 The term "Employee" shall mean all engine and train service employees represented by the UTU.

1.2.2 The provisions of this Agreement shall be applied, by both NSR, UTU, without discrimination based on UTU membership, race, color, creed, religion, national origin, age, sex or disability. The use of such words as "he", "his" and "him" are not intended to restrict the application of this Agreement to a particular gender, but are used solely for the purpose of grammatical convenience.

ARTICLE 2 **SENIORITY**

2.1 An Employee who leaves the service of NSR of his own accord shall forfeit his seniority rights and shall not be reinstated.

2.2 Revised seniority rosters shall be prepared as of January 1st of each year and the revised roster shall be posted on bulletin boards in convenient places. Copies of such rosters shall be furnished to the UTU. All appeals from new or revised roster dates must be filed within thirty (30) days from the date posting of the seniority poster.

2.3 An Employee who is promoted or reassigned outside engine and train service will retain and continue to accumulate seniority. Any such Employee who voluntarily or involuntarily leaves the promoted or reassigned position must return to engine and train service within ten (10) days or forfeit all seniority rights and may be dismissed by NSR at its discretion

ARTICLE 3 **PROBATIONARY PERIOD**

Employees hired after the effective date of this Agreement shall be employed on a probationary basis for a period of ninety (90) compensated days of actual work. During the probationary period, NSR has the right to dismiss the Employee and neither the Employee nor the UTU shall have any right to grieve or otherwise challenge the dismissal. Falsification by an individual of his application is reason for dismissal of the Employee whenever such falsification is discovered by NSR if such falsification would have resulted in the disapproval of the application initially.

ARTICLE 4 **REDUCTION IN FORCE**

4.1 When the force shall be reduced, junior Employees shall be demoted or furloughed in reverse order of seniority.

4.2 When forces are restored, Employees will be recalled to service in seniority order and will retain their original seniority date and standing, provided they report for duty within fourteen (14) days from: (1) the date such letter is first received as evidence by the return receipt, or (2) if delivery is unsuccessful, the date such letter is first attempted to be delivered. A copy of the recall letter will be furnished to the UTU. After an Employee has received a recall letter, he must contact NSR within (3) business days and state when he will return within the fourteen (14) day period described above.

4.3 All Employees are required to keep NSR informed of their current address. Failure to do so or failure to report for duty within the designated in the proceeding paragraph will result in forfeiture of seniority.

ARTICLE 5 **VACANCIES**

5.1 Newly established positions or positions vacated due to exercise of seniority, retirement, death, dismissal, resignation or reassignment expected to last thirty (30) calendar days shall be permanent vacancies.

5.2 Temporary vacancies are those due to illness, injury, vacation and all other except those referred to in paragraph (a) above.

ARTICLE 6
CONTRACTING OUT

NSR reserves the right to contract with suppliers for maintenance-of-way and maintenance of equipment work.

ARTICLE 7
QUALIFICATION, CERTIFICATION, AND TRAINING

7.1 All employees shall be qualified on NSR operating rules in the service position of each Employee. NSR shall have the right to qualify or place restrictions on the Employees.

7.2 All engine and train service employees shall be certified to perform both the engineer and conductor positions.

7.3 NSR shall conduct periodic training programs designed to enable the Employees to become certified for the engineer and conductor positions. Employees who fail the certification test will be afforded additional training and the opportunity to test a second time.

7.4 Unless waived by NSR, failure of the second test, or failure to pass the certification tests within twelve (12) months of the effective date of this Agreement or within twenty-four (24) months of hire (whichever is later), shall result in the forfeiture of seniority rights and dismissal.

ARTICLE 8
LEAVE OF ABSENCE

8.1 Employees may be granted a leave of absence of up to ninety (90) calendar days upon approval and at the discretion of NSR, but not for a longer period except by mutual agreement of NSR and UTU or as required by law. An Employee granted such leave shall sign a copy of the written authorization for NSR's records.

8.2 Any Employee on leave of absence from NSR may not work for another rail carrier, except on another OmniTRAX, Inc. railroad unless so approved by NSR and UTU.

ARTICLE 9
GRIEVANCE AND ARBITRATION PROCEDURE

9.1 If the employee feels he is aggrieved, he must submit a written, detailed grievance within ten (10) business days from the date of the alleged grievance to the General Manager of ATN. The General Manager must respond in writing within thirty (30) days of the date of receipt of the grievance, either allowing or denying the grievance.

9.2 If the employee is not satisfied with the General Manager's decision, the General Chairman must appeal the decision in writing to the Highest Designated Officer (HDO) of NSR in writing within sixty (60) calendar days of the date of the General Manager's decision. The HDO shall render a decision regarding the appeal no later than sixty (60) calendar days from the date of receipt of the appeal.

9.3 If ATN and the UTU fail to settle the grievance, the UTU will notify ATN that it intends to refer the matter for handling in accordance with the Railway Labor Act, as amended, within sixty (60) calendar days after ATN's response in the step in Section 9.2 above.

9.4 Any party who fails to comply with any of the time limitations outlined above shall be deemed to have abandoned all rights and the decision given by either party at the last applicable step shall be final and binding without prejudice or precedent. The parties may agree in writing to waive any of the time limitations outlined above.

9.5 The UTU shall supply NSR with names of all officers and/or persons who shall function in behalf of the UTU in the grievance procedure.

ARTICLE 10

DISCIPLINE PROCEDURES

10.1 NSR shall not suspend or discharge an employee without just cause and without a fair and impartial hearing. NSR may, however, withhold an employee from service pending such a hearing if NSR charges the employee with serious misbehavior including but not limited to theft, altercation, use, possession or under the influence of alcoholic beverages or drugs while on duty or on NSR's or its customers' property, insubordination, major accidents, willful destruction of NSR's property, is in violation of a federal statute or regulation or is endangering the safety of himself, a fellow employee or the public.

10.2 NSR shall notify the employee in writing of an investigation concerning the incident(s) within fifteen (15) calendar days of the discovery of the incident(s). This notice shall summarize the nature of the incident(s), give the time, date, and place of occurrence, set the time and date of the hearing, and inform the employee he has the right to UTU representation and to bring witnesses. NSR shall send the UTU a copy of the notice.

10.3 An employee may waive the hearing at any time after notice. If he waives the right to a hearing, he shall accept the level of discipline NSR determines appropriate.

10.4 If a hearing is held, NSR will schedule it within thirty (30) calendar days of the date of notice and the General Manager or his designee shall preside over the hearing. Reasonable requests to postpone a hearing will be allowed with the concurrence of both parties. NSR shall provide the employee and the UTU with a list of witnesses it believes are pertinent to the matter and that it may call not later than twenty-four (24) hours in advance of the hearing. If the UTU believes there are additional pertinent witnesses, it

may present a list of those potential witnesses to NSR along with an explanation of why it feels the individuals should be called. NSR will then determine whether to call any of the witnesses. The UTU will supply NSR with this list of the witnesses no later than twenty-four (24) hours in advance of the hearing.

10.5 The General Manager of NSR or his designee shall conduct the hearing. NSR will sequester any witnesses. NSR may take the employee's personnel record into account when determining the level of discipline, if any, to be imposed. NSR shall compensate pertinent witnesses who attend a hearing for time lost or if called in while off duty pay them a minimum of two hours or actual time spent whichever is greater and be reimbursed for reasonable out-of-pocket expenses incurred. Employees who are already receiving compensation for the day or days serving as a witness will not be paid any additional compensation for time spent testifying. The General Manager or his designee will ensure that a record of the hearing is made through the use of a recording device, by the use of a court reporter or by the use of a computer. Only one official transcript of the hearing will be kept. A decision will be rendered in no longer than sixty (60) days after the hearing. Such decision will be in writing and served on the employee and the UTU Local Chairman by mail. Requests to extend these time limits will be allowed with the concurrence of the parties.

10.6 If the employee disagrees with the decision rendered by the hearing officer, he may have his Local Chairman appeal the decision to the General Manager of NSR. Such an appeal must be filed within sixty (60) days of the date of the decision. The General Manager shall render a decision within sixty (60) days from the date he receives the appeal.

10.7 If the Local Chairman disagrees with the decision rendered, he will forward the matter to the General Chairman who may appeal the decision to the Highest Designated Officer of NSR. If the General Chairman determines to file an appeal from the General Manager's decision, he must do so within sixty (60) calendar days of receipt of the decision. Such appeal must be in writing and must specify the grounds or reasons the decision is wrong or the level of discipline inappropriate. Failure to file an appeal by the due date shall render the decision final and not subject to appeal.

10.8 The Highest Designated Officer of the NSR shall render a decision within sixty (60) calendar days from the date of the receipt of the appeal. Such decision must be in writing and served on the employee and the UTU. Failure to render a decision by the due date shall mean the decision is final and not subject to appeal. The decision of the HDO shall be final unless appealed under the provisions of the Railway Labor Act, as amended.

10.9 Requests to extend the time limits in Section 10.6 through 10.8 will be allowed with the concurrence of the parties.

ARTICLE 11
HOLIDAYS

11.1 NSR recognizes the following days as paid holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve Day, Christmas Day, and New Years Eve Day.

11.2 Holiday pay is paid in addition to the Employee's base wages, and is computed as one (1) straight-time day's pay at the Employee's base rate of pay. To be eligible for holiday pay, and employee must have worked or been available for work on his last regularly assigned workday before the holiday, as well as his first normally assigned workday following the holiday Employee's who are on vacation or bereavement leave when the holiday occurs ore considered to have met this requirement. An Employee required to work on a holiday will receive time and one-half (1½) pay, in addition to normal holiday pay.

ARTICLE 12
PAID TIME OFF

12.1 Employees who qualify will receive paid time off ("PTO") on the following schedule according to their NSR service:

After one (1) years of service.....	Twelve (12) days
After two (2) years of service	Eighteen (18) days
After four (4) years of service.....	Twenty-four (24) days

Paid time off cannot be accumulated from one year to another.

12.2 To be counted as a year of service and Employee must have one hundred forty (140) starts in the previous calendar year. An Employee who has completed the minimum number of starts to qualify for PTO will receive his hourly straight time rate of pay times eight (8) hours for each PTO day.

12.3 It is the intent of the parties that PTO will normally be taken in increments of one (1) week or more. Employees may, however, take up to twenty-five percent (25%) of their PTO allotment in less than a week increment.

12.4 PTO requests must be submitted on the form supplied to the Employee by NSR. Those Employees with the greater amount of NSR service will have priority if duplicate requests for the same PTO times are received by NSR. When submitting requests for weekly increments of PTO, employees should include a least three (3) choices in case of duplicate requests.

12.5 NSR reserves the right to grant or deny PTO requests based upon the needs of its service.

ARTICLE 13
BEREAVEMENT LEAVE

An employee will be given a leave of up to three (3) days with pay, calculated at the employee's straight time rate of pay to attend the funeral of his immediate family. The employee's immediate family is defined as the employee's spouse, child, parent, parent-in-law, grandparent, current step-parent, step-child, and sibling(s). The days of leave for which ATN shall pay the employee are limited to those days on which the employee is regularly scheduled to work and is unable to work because he is arranging for, traveling to and from, or attending the funeral. No pay will be granted to employees for this purpose who are already on vacation, leave of absence, lay off or paid holiday. Time paid for bereavement leave will not be included in the computation of overtime.

ARTICLE 14
JURY DUTY

14.1 Employees who serve jury duty will be paid the difference between the amount paid by the court for such service and the amount of their regular earnings at their straight time rate of pay that they would have otherwise earned. No pay will be granted if an Employee is on leave of absence, lay off, vacation or holiday. Hours paid under this provision shall not be considered as time worked when computing overtime.

14.2 If an Employee is subpoenaed or requested by NSR to attend court, coroner's inquest or deposition, he will be reimbursed for reasonable expenses. This paragraph does not apply if the Employee is under criminal investigation nor is a party to civil suit, unless NSR and the UTU mutually agree.

ARTICLE 15
GROUP HEALTH BENEFIT PLANS

15.1 Employees are covered by the NSR Group Health Benefit Plans. A booklet outlining the coverage available can be obtained from NSR. Employees must first meet the qualifying criteria as described in the group summary plan description before they are eligible to receive benefits.

15.2 NSR will pay its share of the premium as long as the Employee qualifies for coverage under the qualifying criteria described in the summary plan description. An employee must perform at least one (1) day's service during the month to be covered. If the Employee fails to qualify for coverage during a calendar month, he will be afforded the option to continue coverage as defined in the summary plan description. The Employee will be responsible for paying his share of the premium.

15.3 Employees should refer to the Group Policy Summary Plan Description for exact details of the insurance policy. This insurance is only effective as long as the Employee is eligible for insurance and becomes and remains insured as provided in the Group Policy.

15.4 NSR reserves the right to change insurance carriers and policies as long as the benefit levels are substantially similar. NSR shall make changes to the insurance plan that are required by national legislation governing health care.

ARTICLE 16
PAYROLL DEDUCTION

16.1 Subject to the conditions set forth below, NSR will deduct from wages earned by an Employee all sums for periodic union dues and assessments payable to the UTU upon written and unrevoked authorization of an Employee in the form agreed upon by the parties (Exhibit "A").

16.2 Payroll deduction authorizing forms may be revoked by executing the form agreed upon by the parties (Exhibit "B").

16.3 Both authorization and revocation forms shall be reproduced and furnished to Employees by the UTU. The UTU shall be responsible for obtaining the authorization forms from the Employees and for delivering such forms to NSR. The Employee shall furnish revocation forms directly to NSR. NSR will then send a copy of the revocation form to the UTU.

16.4 Deductions will be made monthly by NSR from wages due Employees in the second pay period in each calendar month and NSR will remit to the UTU the total amount of such deduction on or before the first day of the month following the month in which such deductions are made. With such remittance, NSR will furnish the UTU a statement showing Employees from whom deductions were made and the amount of deductions. In the event earnings of an Employee are insufficient to permit the full amount of deduction, no deduction will be made.

ARTICLE 17
RAILROAD OFFICIALS PERFORMING WORK

NSR management will be permitted to perform work normally performed by an Employee in the event of the unavailability of an Employee, no Employee accepts the work or in the event of work of an urgent or emergency nature.

ARTICLE 18
REPORTING PAY – CALLING PROCEDURE

18.1 When an Employee is called and reports for duty and, for any reason other than his own, is not used, he will be allowed pay at his straight time rate for a minimum of

four (4) hours, provided he is not held for service longer than four (4) hours. If he is held longer than four (4) hours, he will be paid for actual time worked at the applicable rate of pay.

18.2 When possible, NSR will provide at least one and one-half (1½) hours call in advance of the on-duty time.

ARTICLE 19 **EQUIPMENT AND SUPPLIES**

NSR will provide the necessary equipment and supplies required by Employees during their tour of duty. The NSR will provide each active employee with a boot allowance in accordance with the company's boot allowance policy.

ARTICLE 20 **EMPLOYEE INFORMATION AND SERVICE LETTERS**

20.1 NSR will provide the UTU with a list of Employees who are hired or terminated, their home address, telephone numbers and social security numbers, if available. The data will be supplied within thirty (30) days after the month in which the Employee is hired or terminated. If NSR cannot meet the thirty (30) day requirement, the notice will be given at the earliest opportunity.

20.2 If an Employee leaves the service of NSR, the Employee may request, and NSR will provide, a letter stating his term of service and the capacities in which he was employed.

ARTICLE 21 **PHYSICAL EXAMINATION**

21.1 Physical examinations will not be more frequent than once a year, unless required by law or unless, in the opinion of NSR, the Employee's health or physical condition is such that an examination should be made to determine if the Employee is physically able to perform service, and to determine what, if any reasonable accommodations may be required.

21.2 If an Employee should be disqualified upon examination by NSR's physician and feels such that disqualification is not warranted, the following procedure will apply:

21.2.1 The Employee, at his expense, will select a physician to represent him. NSR, at its expense, will select a physician to represent it. If the two (2) physicians selected concur, the conclusions reached by them will be final.

21.2.2 If the two (2) physicians selected disagree as to the physical condition of such Employee, they will select a third (3rd) physician, at the joint and equal expense of NSR and the Employee, who shall be a practitioner of recognized

standing in the medical profession and a specialist in the disease, condition or injury from which the Employee is alleged to be suffering. The third (3rd) physician will examine the Employee and render a report within a reasonable time not exceeding fifteen (15) calendar days after such examination (unless waiting for test results or laboratory reports) setting forth the Employee's physical condition and the physician's opinion as to the Employee's fitness to continue service in his regular employment, including the need for any reasonable accommodations. The opinion of any two (2) such physicians will be accepted as final.

21.2.3 If an Employee is held from service for an examination or alleged impaired physical condition and, upon examination, is found to be physically fit to resume duty, he will be reinstated and paid for lost time.

ARTICLE 22 **MANAGEMENT RIGHTS**

It is recognized that the management of the business is vested in NSR, whose discretion and judgment shall control as to the selection and retention of Employees, and the work and duties to which they are assigned, including the right to hire, transfer, promote, demote, suspend and discharge for cause, so long as the same are not in conflict with the provisions of this Agreement.

ARTICLE 23 **STRIKES AND LOCKOUTS**

The UTU agrees that, during the life of this Agreement, it will not sanction, encourage or condone the participation by its members in any unauthorized strike, slowdown, stoppage (total or partial) of work covered by this Agreement, or interfere, directly or indirectly, by picketing or otherwise with the operation of NSR. NSR agrees that it will not engage in a lock-out of Employees during the lifetime of this Agreement.

ARTICLE 24 **HOURS OF WORK**

24.1 There are no guaranteed hours of work.

24.2 A work week will usually be forty (40) hours but may be changed at NSR's discretion.

24.3 Employees shall have a twenty (20) minute paid lunch period. The lunch period must not be taken at a time which would interrupt a switch in progress or would otherwise inconvenience a customer.

ARTICLE 25
RATES OF PAY

25.1 NSR shall pay the following wages during the term of this Agreement:

	<u>07/01/10</u>	<u>07/01/11</u>	<u>07/01/12</u>
Train and Engine Employees	\$17.66/hr	\$18.01/hr	\$18.37/hr

25.2 Employees hired after the effective date of this Agreement shall be paid eighty percent (80%) of the rate for the position worked for the first year, eighty-five percent (85%) of the rate for the position worked for the second year, ninety percent (90%) of the rate for the position worked in the third year, ninety-five percent (95%) of the rate for the position worked in the fourth year, and one hundred percent (100%) of the rate for the position worked for the fifth and subsequent years of employment. NSR reserves the right to waive this section based on the level of experience of the individual hired.

25.3 Overtime at time and one-half (1½) base rate of pay shall be paid for all hours worked in excess of forty (40) hours in a weekly pay period.

25.4 Employees shall be permitted to participate in the 401(k) plan of NSR.

25.5 NSR will pay each active, full-time Employee a ratification bonus of seven hundred fifty dollars (\$750.00) following ratification of this Agreement.


ARTICLE 26
MORATORIUM

The parties signatory to this Agreement further agree that no notice to change this Agreement pursuant to Section 6 of the Railway Labor Act, as amended, will be served by either party more than four (4) months before the termination date of the Agreement.

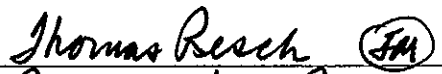
This Agreement will become effective on July 1, 2010 and shall remain in effect through June 30, 2013

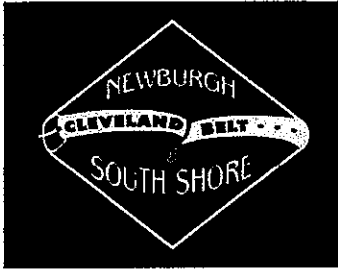
Signed this 31 day of December, 2010.

FOR THE
UNITED TRANSPORTATION UNION

By: 
Its: General Chairperson

FOR THE NEWBURGH & SOUTH
SHORE RAILROAD COMPANY, L.L.C.

By:  (FR)
Its: Regional Vice President




December 16, 2010

Mr. Doyle Turner
General Chairman
United Transportation Union
3025 Sherwood Court
Flatwoods, KY 41139

Dear Mr. Turner:

This refers to the collective bargaining agreement on the Newburgh & South Shore Railroad, effective July 1, 2010 and the ratification bonus of \$750.00. It is understood the ratification bonus encompasses all retroactivity under the agreement and the increase in wage rates will commence following ratification of the agreement.

Yours truly,

Thomas Resch 
Thomas Resch
Regional Vice President



December 16, 2010

Mr. Doyle Turner
General Chairman
United Transportation Union
3025 Sherwood Court
Flatwoods, KY 41139

Dear Mr. Turner:

This refers to the collective bargaining agreement on the Newburgh & South Shore Railroad, effective July 1, 2010. It is understood the agreement will not be referred to by either party in any future negotiation on a property represented by the UTU, which includes mediation and/or arbitration.

Yours truly,

A handwritten signature in cursive script that reads "Thomas Resch". To the right of the signature, the initials "TR" are circled in a simple line.

Thomas Resch
Regional Vice President