AGREEMENT
BETWEEN
FLORIDA EAST COAST RAILWAY COMPANY
AND
MAINTENANCE OF WAY & STRUCTURES AND ROADWAY SHOP
DEPARTMENTS
REPRESENTED BY
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
EFFECTIVE July 16, 2011

PREAMBLE

The parties to this agreement acknowledge that the fundamental objective of the railway, its management, and its employees is to provide service to its customers in the most safe, efficient manner. To accomplish this objective, it is further acknowledged that the track and the related equipment of the railway must function as designed, with a minimum of interruption. Accordingly, the parties agree that, in the implementation of this agreement, paramount emphasis shall be placed on providing efficient and economical workmanship in the maintenance of railway, track maintenance of the right of way, bridges, buildings, and structures.

The Organization, in the implementation of this agreement, has its rights as are specified herein, as well as rights granted by law. The Company’s rights in the control and direction of its forces covered by this agreement are limited only to the extent provided by this agreement and law.

RULE 1 – SCOPE

(a) This agreement is intended to define the understanding between the Company and the Organization in those job classifications listed in paragraph (e), henceforth known as the “employees,” as it relates to the employee/employer relationship of the classifications outlined herein.

(b) Employees covered by this agreement will be furnished copy hereof and these rules shall govern rates of pay, rules, and working conditions of employees assigned by the Company to job classifications listed in paragraph (e).

(c) Employees covered by this agreement shall perform any work assigned them by the Company, including work not normally performed by them in the job classifications to which the Company has assigned them. Assignment of an employee to work not normally performed by him in the job classification to which the Company has assigned him shall not be a grievance process able under these rules and shall not constitute a dispute involving interpretation or application of these rules, subject to redress in any forum or by any means apart from processing grievances under these rules. However, it is understood that the Company shall not assign employees to work that they are not qualified to perform.

(d) Nothing in these rules shall limit or be construed to restrict or suppress the right of the Company to contract work (including work normally performed by employees assigned by the Company to job classifications listed in or added to paragraph [e]) to independent contractors of the carrier’s sole selection, however, utilization of sub-contractors will not be to the extent that the employees listed on
master seniority roster on the date this agreement is signed will be adversely affected. This provision supersedes all prior agreements or understandings pertaining to this subject.

Note 1: While it is not the carrier's intention to contract work as a basis for laying off or to avoid recalling furloughed employees, it is recognized that contracting of such work may be necessary notwithstanding the provisions of the foregoing paragraph in cases of large or one-time projects which are of a scope, urgency, or complexity that cannot be completed in a timely or competitive basis even with the use of furloughed personnel. In the event the Company seeks to contract work under these circumstances, the Company will advise the General Chairman in advance and fully explain the business case for entering into such arrangement. The Organization may, within ten (10) days of being informed of the subcontracting, request a meeting to discuss the matter.

Railroad Officials will be permitted to perform work normally performed by a craft represented by the BMWED, as long as it is only "incidental work", such as a derailment, emergency, work that requires immediate attention and BMWED employees are not reasonably available. Such incidental work will not be expected to exceed thirty (30) minutes and is not intended to deprive employees of overtime.

(e) Job classifications covered by this agreement are:

Roadway Foreman
B&B Foreman
Assistant Foreman
Welder
Welder Helper
Machine Operator 1
Machine Operator 2
Machine Operator 3
Carpenter
Trackman
Bridgeman
Production Foreman
Heavy Equipment Mechanic
Operator/Mechanic

These job classifications may be eliminated or consolidated by the Company, however, it is understood that the Company will notify the General Chairman of its desire to add additional sub-classifications as soon as practicable. In the event the Company and the Organization are unable to agree, the Company will implement its provisions and the Organization may follow the grievance procedure as set forth in Rule 13.

RULE 2 - REPRESENTATION

(a) The Company recognizes the Brotherhood of Maintenance of Way Employees as the sole and exclusive bargaining agent with respect to rates of pay, wages, hours, and all other conditions of employment. Where the term "duly accredited representative" appears in this agreement, it shall be understood to mean the regularly constituted committee and/or the officers of the Brotherhood of Maintenance of Way Employees of which such committee or officers is a part.

(b) The term "employee" as used in this agreement shall mean the individual accepting the rates of pay, wages, hours, and all other conditions of employment covered by this agreement.

(c) The Organization shall be granted reasonable access to the property of the Company for the sole purpose of investigating grievances with the appropriate supervisor, representing employees
within this craft in hearings or investigations scheduled by the Company, or to confer with officials of the Company at advanced scheduled meetings.

This permission is not to be interpreted as authorizing the Organization the right to confer with or in any way interrupt the work of any other employees while they are on duty or to engage in Organizational activities for any organized labor union.

Employee representatives, when called to attend to the affairs of their offices, will not be required to have a leave of absence, unless the time required off shall exceed ten (10) calendar days. Further reasonable time off will be granted upon written request to the appropriate supervisor.

(d) Employee representatives, who are employed by the Organization on full time basis, will receive blanket leave of absence to cover the time so engaged and will retain their seniority if they claim rights to a position in accordance with their seniority within thirty (30) calendar days from the date released from such assignment.

(e) The provisions of Union Shop are outlined on Attachment “A.”

One half of Payroll deductions will be made from earnings of the first (1st) pay period of the month, with the remainder withheld from the second (2nd) pay period, with payment to be made to the Organization on the last day of the month.

It is understood that such payroll deduction authorization shall be without cost to the Organization or affected employees and shall include sums for periodic dues, initiation fees and assessments (not including fines and penalties).

(f) Qualifying days for vacation for up to four (4) Local Representatives of the Organization will be reduced to one hundred (100) compensated service days in the preceding year.

(g) The Company will provide the General Chairman, upon request, a list of employees who retire, die, resign, or employees promoted, hired or terminated with home addresses and telephone numbers.

**RULE 3 INTERPRETATIONS**

Interpretations and rulings upon the application of the rules in this agreement will not be valid or recognized unless such interpretations have been mutually agreed upon in writing between the Company and the Organization.

**RULE 4 - TIME LIMITS**

The time limits provided in this agreement may be extended by mutual agreement.

**RULE 5 - SENIORITY**

(a) Seniority date for new employees will be established as of the date of first rendering compensated service.

If two or more persons initially perform compensated service on the same day, then the hour of starting work shall govern or, in the event more than one person initially commences work at the same hour on the same date, the date of filing applications for employment shall govern.
(b) The seniority dates of employees established prior to execution of this agreement will not be changed by this agreement.

(c) Sub-classifications will be established and employees will be permitted to establish seniority in one or more sub-classifications. Classifications of the master seniority group will be made in accordance with job classifications. Employees will be placed on sub-classification seniority lists in accordance with their individual qualifications at such time as they demonstrate those qualifications and are approved by the Company.

A seniority date on sub-classification seniority lists will correspond with the seniority date of the individual involved on the master seniority list, i.e., each individual employee having only one seniority date, irrespective of the time that he qualifies for entry upon a given sub-classification seniority list. This will not prevent employees from qualifying for two or more sub-classification seniority lists.

(d) To qualify for a sub-classification seniority list, an employee must acquaint himself with the work and demonstrate his qualifications without expense to the Company. The Company will give those desiring to qualify for another sub-classification seniority list an opportunity to learn the work and requirements of such group.

In case of a grievance resulting from the promotion of a junior man out of his regular order, the aggrieved employee will be given a reasonable working examination dealing with items of work within the classification of the position in question to determine his qualifications, which will be given by an officer of the governing department.

(e) The Company may, as requirements of the service dictate, establish new sub-classification seniority lists or may consolidate existing sub-classification seniority lists. However, it is understood that the Company will notify the General Chairman of its desire to add additional sub-classifications as soon as practicable. In the event the Company and the Organization are unable to agree, the Company will implement its provisions and the Organization may grieve in accordance with Rule 13.

When consolidations are made, a consolidated sub-classification seniority list will be issued, dovetailing the employees in seniority sequence in accordance with their qualifications. When divisions are made, a separate sub-classification seniority list for each sub-classification will be issued, listing employees in seniority sequence according to their qualifications on each new sub-classification.

(f) Sub-classification seniority lists of the Maintenance of Way & Structures Department employees are as follows.

| MW - 1 | Roadway Foreman       |
| MW - 2 | B&B Foremen           |
| MW - 3 | Assistant Foremen     |
| MW - 4 | Welder                |
| MW - 5 | Welder Helper         |
| MW - 6 | Machine Operator 1    |
| MW - 7 | Machine Operator 2    |
| MW - 8 | Machine Operator 3    |
| MW - 9 | Carpenter             |
| MW - 10| Trackman              |
| MW - 11| Bridgeman             |
| MW - 12| Operator/Mechanic     |
Sub-classification seniority list of the Roadway Shop Department employees are as follows:

RS - 1    Heavy Equipment Mechanic

In the event qualified personnel cannot be employed when vacancies occur in the crafts covered by this agreement, non-qualified individuals may be employed. Non-qualified employees will be placed on the seniority roster as of the date so specified in paragraph (a) hereof without qualifications being shown. As each employee qualifies in his craft, the roster will be appropriately annotated to indicate such qualifications.

(g) Employees may acquire seniority in additional crafts or classes of employment unless prohibited by agreements covering those crafts or classes, the seniority date in each craft or class to be the date on which the employee commenced compensated service.

To establish seniority in an additional craft or class, the employee involved must acquaint himself with the work and demonstrate his qualifications to the Company officer in charge without expense to the Company. The Company will give those desiring to qualify for seniority in additional crafts or classes an opportunity to learn the work and requirements of such additional craft or class.

(h) The term “promotion” as used in this agreement shall be understood to mean advancing an employee from one seniority class to a higher seniority class in which he does not hold seniority, but does not include excepted or official positions.

(i) Employees holding or appointed to an official position with the Carrier or holding a Union Officer’s position, will retain their seniority. In case of return to a position covered by this agreement, he will be permitted to exercise seniority to such position as his cumulative seniority entitles him, provided he exercises this right within thirty (30) calendar days after release from official or employee representative position. Such employee must become a member of the BMWE within sixty (60) days of his returning to a craft position.

(j) Machine Operators, when changing from one class of equipment to another, will qualify on their own time and will be given the opportunity to qualify if they request to do so, as long as such opportunity does not conflict with the requirements of the service.

RULE 6 - SENIORITY ROSTERS

(a) Seniority rosters will be published January 1, of each year and will be posted no later than February 5 of each year with appropriate indices to reflect those sub-classifications, where applicable, in which each employee has established seniority.

The Carrier and Organization agree that separate seniority rosters will be maintained for Maintenance of Way and Structures and Roadway Shop Departments and that all references to seniority rosters apply individually, with the exception of Rule 1 (d), which applies to Maintenance of Way and Structures only.

(b) Seniority dates of all employees shown will be considered as permanently established, except as may be corrected as a result of protest filed within the sixty (60) calendar day period after posting.

(c) Seniority lists will be open to protest for a period of sixty (60) calendar days from the date of posting and, upon presentation of proof of error by an employee or his representative, such error will be corrected.
Furloughed employees and employees on leave of absence will have sixty (60) calendar days from date of return to service to make protest.

(d) Seniority rosters will be posted on bulletin boards accessible to all employees affected.

(e) Employees retiring on disability annuity under provisions of the Railroad Retirement Act, or those barred from active service account of physical disability, will continue on the seniority roster until they reach retirement age under the Act. When retirement age is reached, their names will be dropped from the roster.

Employees on disability annuity who recover to the extent that the Railroad Retirement Board discontinues their annuity, or they are pronounced physically able to resume work after having been barred account of physical disability, will be permitted to exercise their seniority on positions held by junior employees upon demonstration that they have necessary qualifications to perform the duties of the assignment.

(f) A statute of limitation of one (1) year from date of posting a roster is fixed to take up or appeal a case of seniority. If one year elapses without protest, the date shown on roster becomes a fixture and cannot be protested under future rosters carrying same seniority date, except by mutual agreement.

RULE 7 - CONSOLIDATIONS AND DIVISIONS

(a) When, for any reason, offices or departments are consolidated or divided, employees affected shall have prior rights to corresponding positions in the consolidated or divided office or department. After such rights have been exercised, these rules will govern.

(b) Employees may follow their positions or work when same is transferred. The incumbents will have prior rights to the positions to be transferred if they elect to accompany same.

Those electing not to follow their positions and work may exercise their seniority rights over any junior employee that they are qualified to displace in accordance with the provisions of Rule 10 and their positions will be bulletined.

RULE 8 - QUALIFYING

(a) Employees will be allowed thirty (30) working days in which to qualify and, failing, shall retain all their seniority rights, may bid on any bulletined position or displace any regularly assigned junior employee. However, prior to disqualification of an employee within the thirty (30) working days, the Company, upon request of the employee, will afford the employee the opportunity to demonstrate his abilities to the designated Engineering Officer, or his designee, with a representative of the Organization. If additional time is needed due to the complexity of the position, then, upon agreement between the Company and the Organization, an additional thirty (30) days shall be granted. In the event there continues to be a dispute between the two parties as to the employees' abilities, the Company will proceed with the disqualification and the Organization may grieve in accordance with Rule 13.

(b) An employee who fails to qualify on a temporary vacancy may immediately, but in no case more than forty-eight (48) hours, return to his regular position.

(c) An employee, disqualified from a position or class of work, will be barred from bidding upon or exercising his seniority rights to that position or class of work for a period of twelve (12) months from the date of disqualification.
Rule 9 - Probationary Period

(a) An applicant for employment, who enters the service of the Company, will be accepted or rejected within one hundred twenty (120) calendar days from the date he first performs compensated service. If not notified to the contrary within the time stated, it will be understood his application has been accepted.

(b) In the event of applicant giving materially false information, the time limits will not apply.

Rule 10 - Reducing Forces

(a) When it becomes necessary to reduce expenses, the force at any point or in any department shall be reduced, seniority to govern.

(b) Five (5) calendar days' notice will be given, except no such advance notice will be required under emergency conditions such as flood, snowstorm, hurricane, earthquake, fire, strike, or Acts of Providence, provided the Company's operations are suspended in whole or in part and, provided further, that because of such emergency, the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reduction no longer exists or cannot be performed.

(c) Employees whose positions are abolished, or whose seniority rights entitle them to regular positions or vacancies, shall assert their seniority rights over junior employees or onto vacancies within five (5) calendar days; other employees affected may exercise their seniority rights in the same manner.

Employees must extend a minimum of twenty-four (24) hours' written notice to the, designated officer, identifying the position on which they desire to assert such displacement rights, provided further, however, that when such displacement is effective on the first workday of the workweek of the affected employee, sufficient notice must be extended so that employee may be notified prior to going off duty on the last day of his workweek.

(d) During such five (5) calendar day period, however, employee may, if he desires, displace junior employees holding short vacancies or fill open short vacancies and remain thereon for their duration or until displaced by a senior employee, provided that, upon release or displacement from the last short vacancy secured during such five (5) calendar day period, he exercises displacement rights over any junior employee.

(d) In the event such displacement rights are not exercised within such five (5) calendar days period, he will be considered furloughed immediately and will be barred from again asserting displacement rights until return to service as herein provided.

(e) An employee will not be considered as having been displaced until the employee asserting displacement rights on his position has assumed the duties of the position.

(f) When two or more positions are abolished on the same day, the employees affected will be given preference in exercising displacement rights in the order of their seniority.
(g) Employees who do not possess sufficient seniority to displace a junior employee or who do not assert their displacement rights onto a vacant position within the prescribed time limit will be considered as furloughed.

(h) Employees desiring to protect their seniority rights and to avail themselves of this rule will be required to promptly advise the designated officer of any changes in address and/or telephone number.

(i) When forces are increased or vacancies occur, furloughed employees shall be returned, and required to return, to service in the order of their seniority rights.

(j) Furloughed employees will be called in qualification and seniority order as vacancies might develop. In the event all employees decline such vacancy, the junior qualified furloughed employee may be forced to the vacancy.

Any employee, declining two (2) vacancies within their home territory, and, as a result, performing no service for the Company for a period of one (1) year, shall be considered as having forfeited his seniority with the Company. A letter will be sent to the furloughed employee when he is recalled for the second time, advising that if he fails to perform service within a designated time, he will forfeit his seniority.

(k) Junior furloughed employees forced to a position and failing to return to service within seven (7) calendar days after being notified by mail sent to the last address given, or give satisfactory reason for not doing so, will be considered as having forfeited seniority.

(l) The Company shall have the right to use furloughed employees to perform extra work and relief work on regular positions during absence of regular occupants, provided such employees have signified in the manner provided in the second paragraph hereof their desire to be so used. This provision is not intended to supersede rules or practices which permit employees to place themselves on vacancies on preferred positions in their seniority districts, it being understood under these circumstances that the furloughed employee will be used, if the vacancy is filled, on the last position that is to be filled. This does not supersede rules that require the filling of temporary vacancies. It is also understood that the Company retains the right to use the regular employee under pertinent rules of the agreement rather than call a furloughed employee.

Furloughed employees desiring to be considered available to perform such extra and relief work will notify the designated officer in writing that they will be available and desire to be used for such work. A furloughed employee may withdraw his written notice of willingness to perform such work at any time before being called for such service by giving written notice to that effect to the designated officer. If such employee should again desire to be considered available for such service, notice to that effect, as outlined hereinafore, must again be given in writing. Furloughed employees who would not at all times be available for such service will not be considered available for extra and relief work under the provisions of this rule. Furloughed employees so used will not be subject to rules that require advance notice before reduction of force.

Those employees registering to work short vacancies will be allowed to select work districts for which they may be called. Those work districts will be Jacksonville-St. Augustine; New Smyrna Beach-Cocoa; Fort Pierce; West Palm Beach; and Fort Lauderdale-Miami. Employees may register for more than one district.

(m) Furloughed employees desiring to waive their right to return to service on position or vacancies of less than thirty (30) calendar days' duration may do so by filing written notice with the
designated officer, and, if other qualified employees are available, such furloughed employees will not be required to return to service on vacancies or positions of less than thirty (30) calendar days’ duration.

Such notices may be cancelled or terminated by the employees in the same manner and, in the event it becomes necessary for the Company to cancel a waiver, it will be done in the reverse order of seniority, with the waiver of the junior qualified employee being the first to be cancelled.

Note 1: Employees who are on approved leave of absence will not be considered furloughed employees for purposes of this agreement.

Note 2: Furloughed employees shall in no manner be considered to have waived their rights to a regular assignment when opportunity therefore arises.

Note 3: Furloughed employees working short vacancies will have health care claims offset, month-by-month, for hours worked. Furloughed employees will be carried on the health care insurance for a thirty (30) calendar day period from the date furloughed. Subsequently, if an employee who works a minimum of sixty (60) hours per month, he will have medical coverage for that month. Should a furloughed employee not meet these criteria, he will not qualify for health care coverage.

RULE 11 - RE-ENTERING SERVICE

Employees voluntarily leaving the service will forfeit seniority and, if they re-enter, be considered as new employees.

RULE 12 - DISCIPLINE

(a) An employee will not be disciplined or dismissed without a fair and impartial hearing, except, unless such employee shall accept discipline in writing and waive formal hearing. Discussion of the waiver shall not constitute an admission of guilt by the employee or prejudgment by the Company and may not be made part of the hearing record.

(b) In cases such as intoxication, either on duty or reporting for duty, use of drugs, either on duty or when reporting for duty, insubordination, or conduct in the performance of his job which endangers the safety of fellow employees or interferes with the operations of the Company, employees may be suspended pending final decision.

(c) If an employee is held out of service pending a hearing and decision and if discipline is assessed, the period so held from service shall be deemed to be included in any disciplinary period thereafter involved, exclusive of any time which may be involved as a consequence of delays incurred at the request of the employee.

(d) Notice of such hearing, stating the charge or charges, will be given to the employee, in writing, at least five (5) days prior to such hearing. At this time the employee will be furnished with a form which he must sign advising that he does or does not desire representation. If the employee signs acknowledging that he desires representation, the Company will provide appropriate documentation. If the employee initially signs advising that he does not desire representation, he will be given an additional opportunity for such representation at commencement of the investigation. Should the employee at that time elect to have representation, the investigation will be postponed in order that he may secure appropriate representation. Should the employee again state that he does not desire representation, he will be requested to again sign the form advising that he does not desire representation, copy of which will be sent to the Organization.
(e) Notice of the hearing to the employee shall be considered as being accomplished when a certified envelope is received by the employee and the five (5) day period will be counted from the time and date stamped by the U. S. Post Office.

(f) The Company shall furnish the Local Chairman or Committeeman copies of all documentation known to be presented at the hearing at least twenty-four (24) hours prior to the hearing upon written notification by the employee that the Organization is representing the individual.

(g) The hearing shall be held within twenty-one (21) days, if circumstances permit, from the time the Company has knowledge of the offense under investigation, unless it has been postponed by request either of the employee, the duly authorized representative, or the Company. No more than two (2) postponements will be granted, unless by mutual agreement between the Organization and management.

If an employee is absent from duty on leave of absence or vacation and cannot be charged within the twenty-one- (21) day period, said period will be extended to cover the duration of his absence plus seven (7) calendar days after his return to active duty.

(h) If the hearing is not held within the specified time, no action will be taken by the Company on the charge and no notation shall be entered on the employee’s record.

(i) The employee shall have reasonable opportunity to secure the presence of necessary witnesses and shall have the right to be represented by the duly authorized committee. The employee charged and the duly authorized representatives shall have the right to be present throughout the entire hearing and shall be permitted to examine and cross-examine all witnesses.

(j) The hearing will be held at the charged employee’s headquartered city or the location where the alleged incident occurred, unless an alternative site is mutually agreeable to the hearing officer and the duly authorized representative.

(k) The hearing officer will not testify as a witness and his sole duty at the hearing will be to conduct the hearing in a fair and impartial manner.

(l) True and correct tape recordings will be taken by the Company at all investigations held under this rule and shall be considered the official transcript. In the event a question arises concerning the transcript of testimony, the employee, or his representative, may make arrangements with management to review the tape recordings during normal business hours.

(m) Unless otherwise agreed by the parties to the proceeding, investigations will not be conducted for more than six (6) hours in a calendar day, exclusive of short recesses, which will be granted.

(n) The decision shall be rendered and transmitted in writing to the employee, with copy to the duly authorized representative, within twenty-one (21) days after completion of the hearing. If a decision is not rendered within the specified time, no action will be taken by the Company and the employee’s record will be cleared.

(o) A transcript will be made of the hearing and a copy shall be furnished the duly authorized representative at the time a decision is rendered.

(p) If discipline is not assessed, all correspondence and reference to the charges and formal hearing will be cleared from the employee’s record.
(q) An employee dissatisfied with the decision of the charging officer shall have the right to appeal, either in person or through a duly authorized representative, provided written claim or grievance is presented directly to the highest officer of the carrier designated to handle disputes under the Railway Labor Act within sixty (60) days from the date of receipt of the decision rendered. The Carrier's highest designated officer, within 60 days of receipt of appeal, will render written decision on such appeal. Other preliminary appeal steps are waived. Except as provided in this paragraph, the provisions of the applicable time limit on claims rules govern.

(r) If the final decision determines that the charge against an employee is not sustained or the discipline is excessive, the record shall be cleared or the discipline reduced or modified. If suspended or dismissed, the employee shall be reinstated promptly with seniority rights, vacation and fringe benefits and rights unimpaired, and shall be made whole for all wage losses incurred during the time period of discipline is held to be improper or excessive.

(s) If by reason of such un-sustained charge the employee has been removed from the position he held, reinstatement will be made to his former position, provided a senior employee, because of force reductions or under his displacement rights, has not been awarded such former position in the interim, or it has not been abolished, and will be compensated for the net wage loss incurred during the time period of discipline, less any amount he may have earned in or out of the service of the Company during such time.

If the position has been abolished or if a senior employee, because of force reduction or under his displacement rights, has been awarded the position of the reinstated employee, the latter shall place himself in a position in accordance with his seniority rights in the same manner that he would have exercised such rights had he not been out of the service and will be compensated for the net wage loss incurred during the time period of discipline, less any amount he may have earned in or out of the service of the Company during such time.

(t) Efficiency will be maintained by written reprimand, suspension (which may be deferred), or dismissal from the service. The Company may also assess additional training classes or behavioral seminars in lieu of or in addition to suspended days.

Any employee may examine his own record at the Human Resources office during normal business hours, but the record will be open to none other, excepting the general officers of the Company.

RULE 13 - CLAIMS AND GRIEVANCES

(a) All claims or grievances must be presented in writing by or on behalf of the employee involved to the officer of the Company authorized to receive same within sixty (60) calendar 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) calendar days from the date same is filed, notify whoever filed the claim or grievance (the employee or his representative) in writing of the reasons for such disallowance. If not so notified, the claim or grievance shall be allowed as presented, 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 may then be taken to the highest officer designated by the Company, in writing and must be taken within sixty (60) calendar days from receipt of notice of disallowance and the representative of the Company shall be notified in writing within that time 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 similar claims or grievances.

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If the decision of the highest officer designated by the Company is not satisfactory, then the case may be progressed to the National Railroad Adjustment Board or to a Public Law Board, which might be established on the property.

It is understood that letters from an employee, or his representative, to the highest designated officer of the Carrier should outline the basis on which appeal is being presented.

(c) It is understood, however, that the parties may, by agreement, in writing, at any stage of the handling of a claim or grievance on the property, extend the sixty (60) day period for either a decision or appeal, up to and including the highest officer of the Company designated for that purpose.

(d) All claims or grievances involved in a decision by the highest designated officer shall be barred, unless within nine (9) months from the date of said officer’s decision proceedings are instituted by the employee or his duly authorized representative before the division of the National Railroad Adjustment Board or a system, group, or regional board of adjustment that has been agreed to by the parties hereto as provided in Section 3, Second, of the Railway Labor Act. It is understood, however, that the parties may by agreement in any particular case extend the nine (9) month period herein referred to.

A claim may be filed at any time for an alleged continuing violation of the agreement and all rights of the claimant or claimants involved thereby shall, under this rule, be fully protected by the filing of one claim or grievance based thereon as long as such alleged violation, if found to be such, continues.

However, no monetary claim shall be allowed retroactively for more than sixty (60) calendar days prior to the filing thereof.

With respect to claims and grievances involving an employee held out of service in discipline cases, the original notice of request for reinstatement with pay for time lost shall be sufficient.

(e) This rule recognizes the right of employees to file and prosecute claims and grievances for and on behalf of themselves.

(f) This agreement is not intended to deny the right of the employees to use any other lawful action for the settlement of claims or grievances, provided such action is instituted within six (6) months of the date of the decision of the highest designated officer of the Company.

(g) This rule shall not apply to requests for leniency.

**RULE 14 - WORKDAY AND WORKWEEK**

(a) Eight (8) hours, exclusive of the meal period, shall, under the provisions hereinafter set out, be the regular workday. A forty- (40) hour week shall, under the provisions hereinafter set out, be the regular workweek. Regular workday and workweek hours shall be bulletined. All employees coming under the provisions of this agreement, except as otherwise provided in this schedule of rules or as may hereafter be legally established between the Company and the employees, shall be paid on the hourly basis.

(b) The expressions “positions” and “work” refer to service, duties, or operations necessary to be performed on the specified number of days per week and not to the workweek of individual employees.

(c) A normal workweek of forty (40) hours shall consist of five (5) calendar days of eight (8) hours each, with two consecutive calendar days off in each seven; the workweeks may be staggered in
accordance with the Company’s operational requirements; so far as practicable the calendar days off shall be Saturday and Sunday.

(d) The Carrier may establish an alternative workweek of four (4) consecutive ten (10) hour days. Additionally, when establishing a four (4), consecutive ten (10) hour workweek, the following provisions will be applicable:

1. Employees assigned to this workweek will be assigned to work ten (10) hours per day, four (4) consecutive days per week and will be allowed the pro rata rate of pay for the ten (10) hour day.

2. Time worked in excess of ten (10) hour work period on any workday or work performed on rest days, holidays, or during vacation periods shall be paid pursuant to Rule 15, Overtime.

3. Vacation days and holidays will be paid for on the basis of ten (10) hours at the pro rata rate to employees assigned to a four (4) consecutive day workweek.

4. In applying rules on holidays, vacations, personal leave, bereavement leave, attending court and jury duty to employees working ten (10) hour work days, a minimum basic days’ pay will be considered ten (10) pro rata hours.

5. For vacation qualifying purposes, employees assigned to a four (4) consecutive day workweek as provided for herein, will be allowed credit for one and one-quarter (1.25) days on days which compensation is paid.

(e) Other abnormal workweeks may be established from time to time consisting of less than four (4) days and less than forty (40) hours, in which case the Carrier, in consideration of the increase in productive time, will pay the employee a minimum forty (40) hour workweek.

It is understood that positions worked in accordance with this section shall be no less than three (3) workdays of ten (10) hours each. This paragraph may be invoked for special projects only and affected employees shall receive written notification of such change in assignments no less than five (5) workdays prior to commencement of the shortened workweek, unless agreed to by the employee, (gang, etc.).

It is further agreed that the workdays for this paragraph shall be Friday, Saturday, or Sunday, or Saturday, Sunday, and Monday. The remaining days of the week will be assigned as rest days.

Additionally, when establishing an abnormal workweek, the following provisions will be applicable:

1. Time worked in excess of ten (10) hours per workday or work performed on rest days, holiday, or during vacation periods, shall be pursuant to Rule 15, Overtime.

2. Vacation days and holidays will be paid for on the basis of thirteen (13) hours and thirty-three (33) minutes at the pro rata rate-of-pay to employees assigned to an abnormal workweek.

3. In applying rules on holiday, vacations, personal leave, bereavement leave, attending court and jury duty to employees working an abnormal workweek, a minimum basic days’ pay will be considered thirteen (13) hours and thirty-three (33) minutes pro rata rate-of-pay.
4. For vacation qualifying purposes, employees assigned to an abnormal workweek as provided for herein, will be allowed credit for one and sixty-seven hundredths (1.67) days on days which compensation is paid.

When any workweek is changed, a five (5)-calendar day notice must be given to the affected employee.

(f) The term “workweek” for regularly assigned employees shall mean a week beginning on the first day on which the assignment is bulletin to work.

(g) The starting time of employees covered by this agreement will be consistent with the requirements of the service and will commence at the time they are required to report for duty and shall continue until they are relieved from duty, except as specifically provided to the contrary herein.

(h) When conditions beyond the control of the Company prevent employees from performing their normal duties, only the hours between the beginning and release from duty, exclusive of any meal period, shall be paid for, with a minimum of three (3) hours being allowed each employee who reports for duty.

(i) When employees are permitted to work less than eight (8) hours for their convenience or when, due to inclement weather or other causes, interruptions occur to regularly established work periods, preventing eight (8) hours’ work, only the hours between the beginning and release from duty, exclusive of the meal period shall be paid for.

RULE 15 - OVERTIME

(a) No overtime hours will be worked except by direction of proper authority, except in cases of emergency where advance authority is not obtainable.

(b) Time in excess of eight hours, exclusive of the meal period, on any day (twenty-four (24) hour period) in a normal workweek as defined in Rule 14(c), will be considered overtime and paid for on the actual minute basis at the rate of time and one-half.

Time in excess of ten (10) hours, exclusive of the meal period, on any day (twenty-four (24) hour period) in an alternative or abnormal workweek as defined in Rule 14(d) and (e), will be considered overtime and paid for on the actual minute basis at the rate of time and one-half.

(c) Work in excess of forty (40) straight time hours in any workweek shall be paid for at one and one-half the basic straight time rate, except where such work is performed by an employee due to moving from one assignment to another or to or from an extra or furloughed list.

(d) Employees worked more than five (5) days in a workweek, as defined in Rule 14(c), shall be paid one and one-half times the basic straight time rate for work on the sixth and seventh days of their workweeks; employees worked more than three (3) or four (4) days in a workweek, as defined in Rule 14(d) and (e), shall be paid one and one-half times the basic straight time rate for work on the fourth, fifth, sixth, or seventh days, as applies; except where such work is performed by an employee due to moving from one assignment to another or to or from an extra or furloughed list.

(e) While it is the intent of the Company that, where practicable, employees will be relieved on their rest days, it is understood that an employee can be required to work on his rest days. Overtime work will be offered on a seniority basis and, if declined by senior men, junior employees will be required to work the overtime hours. Overtime work in connection with a regular assignment shall be assigned to the regular incumbents, in seniority order.

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(f) When an employee is directed for any reason to work a second tour of duty within a twenty-four (24) hour period, all services performed on the second tour within twenty-four (24) hours from the starting time of the first tour will be paid for at the rate of time and one-half (if the rates of pay on the involved positions are not the same, overtime will be computed on the basis of the higher rate), except when exercising displacement rights, moving to new positions or vacancies by bulletin or to short vacations under the rearrangement of regular forces, or where the second tour in the twenty-four (24) hour period is performed as a part of a relief assignment.

(g) Time worked preceding or following and continuous with a regularly assigned eight (8) hour work period or ten (10) hour work period shall be computed on actual minute basis and paid for at time and one-half rates, with double time computed on actual minute basis after sixteen (16) continuous hours of work in any twenty-four (24) hour period computed from actual time the employee commences work. In the application of this rule to employees brought into the service in emergencies, the starting time of such employees will also be considered as of the time that they commence work or are required to report.

(h) Employees will be allowed time and one-half on minute basis for services performed continuously in advance of the regular working period, the advance period to be not more than one hour.

(i) Employees notified or called to perform work not continuous with, before, or after the regular work period, on rest days, or specified holidays shall be allowed a minimum of three (3) hours at time and one-half rate. If held on duty in excess of three (3) hours, time and one-half will be allowed for actual time so held. Each call to duty after being released shall be a separate call.

(j) When it becomes necessary for employees to work overtime, they shall not be laid off during regular working hours to equalize the time.

(k) 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, be utilized in computing the forty (40) hours per week nor shall time paid for in the nature of arbitraries or special allowances, such as attending court, deadheading, etc., be utilized for this purpose, except when such payments apply during assigned working hours in lieu of pay for such hours.

RULE 16 - ADVERTISING JOBS OR VACANCIES

(a) Positions may be established or abolished at any time, consistent with the requirements of the service.

(b) New jobs and permanent vacancies will be bulletined within ten (10) calendar days on bulletin boards accessible to all employees affected and will be advertised for a period of ten (10) calendar days, including date of advertisement. Bulletin will show location, title and description of position, rate of pay, assigned hours of service, meal period and days off.

(c) Except as provided in Rule 17, new positions or vacancies that are expected to exist thirty (30) or more calendar days will be bulletined as permanent within five (5) days after the date the positions are created or vacancies occur.

(d) When the effective date of the job or permanent vacancy is known sufficiently in advance, advertisement will be issued, if practicable, so that bids may close prior to the effective date. When not advertised in advance, jobs or permanent vacancies, during the period of advertisement, will be filled by a senior qualified applicant from the furloughed roster desiring to work short vacancies.
(e) Bids and applications shall be submitted in writing to the designated Carrier officer, within ten (10) calendar days of date of posting of bulletin. Receipt of bids and applications shall close at midnight on the tenth (10th) day, including date of advertisement bulletin.

(f) Assignment to new positions or vacancies will be awarded in the following manner:

1. To the senior employee (active or furloughed) who holds seniority in the classification.

2. If no employee holds seniority in the classification, the position will be awarded to the senior employee from any classification (active or furloughed) making application.

(g) An employee bidding on new positions or vacancies under this rule will not be permitted to withdraw his bid unless same is done prior to expiration of the ten (10) calendar-day period specified.

(h) Conversely, when conditions require the withdrawal of a bulletin, the withdrawal must be made prior to the expiration of the ten (10) calendar day period and a bulletin posted to that effect.

(i) Employees declining promotion or declining to bid for a bulletined position shall not lose their seniority.

(j) Bulletin of assignment designating the successful applicant shall be posted on the eleventh (11th) day at 12:01 p.m. And shall remain posted for a period of ten (10) calendar days at all places where the position was bulletined.

In the event no bids are received from qualified bidders, assignment shall be made in keeping with paragraph (f) herein.

If there are no qualified employees on the furloughed or extra board lists, the position will be readvertised seven (7) calendar days from the date of closing of the first advertisement or declination by furloughed or extra board employees. If no bids are received, the position may then be filled by appointment by the Company.

(k) When an employee junior to other applicants is assigned to a bulletined position, the senior employees making application will, upon written request if filed within fifteen (15) calendar days, be advised in writing the reason for their non-assignment.

(l) An employee making application for a bulletined new position or vacancy upon being as the successful applicant must take such assignment within seven (7) calendar days from date so assigned. If they fail to do so without good and sufficient reason, they shall forfeit all seniority, if any held, in the classification in which the new position was established or vacancy occurred. In the event the employee is not released by the Carrier within seven (7) days from the date so assigned, he shall thereafter be paid for any resulting loss in wages and reimbursed for any reasonable additional expenses incurred.

(m) In the event no bids or applications are received, the junior qualified employee from the furloughed roster, holding seniority in the sub-classification involved, will be forced to the job or vacancy and will remain thereon until displaced through the exercise of seniority or by bidding upon and becoming assigned to another permanent job or vacancy.

(n) When an employee bids for and is awarded a permanent position, his former position will be declared vacant and bulletined.
(o) An employee applying for and being assigned to an advertised position shall not be eligible for the position vacated by him until it has been advertised and filled by another employee.

(p) An employee exercising his seniority under this rule will do so without expense to the Company; he will lose his right to the job left; and, if after a fair trial he fails to qualify in accordance with Rule 8, he will have to take whatever position may be open in his craft.

(q) If an employee not holding a regular assignment does not bid upon or if he bids upon and is the successful applicant but does not protect a vacancy or job for any reason, except for having been on authorized leave of absence, he will be barred from displacing the junior employee who bids in the assignment until such time as he has displacement rights from another regular assignment.

(r) If an employee is absent on authorized leave of absence or vacation during the entire time a job or vacancy is advertised for assignment and, for that reason, did not apply therefore, upon reporting for service he may, if qualified and holds seniority in the sub-classification involved, displace a junior employee who has been assigned to such job or vacancy during his absence, provided he makes application within forty-eight hours after reporting and then only if he does not otherwise exercise his seniority rights. A junior employee displaced as a result may then exercise his seniority in like manner.

(s) Bulletined positions may be filled temporarily pending an assignment.

RULE 17 - SHORT VACANCIES

(a) Temporary vacancies of less than thirty (30) calendar days’ duration shall be considered short vacancies and will not be advertised. However, when there is reasonable evidence that such vacancies will extend beyond the thirty (30) day time limit, they shall be immediately bulletined as permanent.

(b) Short vacancies will be filled at the discretion of the Company. If the Company decides to fill the vacancy, it will be filled by the senior qualified employee from the furloughed roster desiring to work short vacancies, holding seniority in the sub-classification involved. Such furloughed employee will remain thereon until he is displaced through the exercise of seniority, or he bids upon and becomes assigned to another permanent job or vacancy, or the temporary assignment expires.

At the expiration of such temporary assignment, the incumbent temporary employee will be permitted to exercise seniority over any junior employee in the sub-classification in which he holds seniority holding a job or vacancy, either permanent or temporary, which develops during the period he was on the temporary assignment.

If there are no qualified furloughed employees available, regularly assigned employees, on their rest days, will be used in seniority order, so long as use of the regularly assigned employee will not disturb his placement for his regularly assigned job or position.

(c) In those instances in which employees apply for leave of less than thirty (30) calendar days’ duration and then reapply for extension of that initial leave which totals more than thirty (30) calendar days, the position shall be immediately bulletined in accordance with Rule 16.

RULE 18 - CHANGING ASSIGNED STARTING TIME AND REST DAYS

(a) Except as provided in Rule 14, all assignments shall have a fixed starting time which shall be the same each day and a designated point for the beginning and ending of tour of duty and the regular starting time shall not be changed without at least thirty-six (36) hours’ written notice to the
employees affected. The fixed starting time may not begin earlier than 5:00 A.M. and not later than 7:00 A.M. except by agreement between the Carrier and General Chairman.

When the established starting time of a regular assignment is changed for more than five (5) consecutive days or changed in the aggregate of four (4) hours during a period of one calendar year or either or both assigned rest days are changed, the employees affected may within forty-eight (48) hours thereafter, upon twenty-four (24) hours' advance notice, exercise their seniority rights to any position held by a junior employee. Other employees affected may exercise their seniority in the same manner. (“...forty-eight (48) hours thereafter” refers back to starting time “changed...for more than five (5) consecutive days” and the conditions of this rule are met if the employee acts within forty-eight (48) hours after the fifth (5th) consecutive day is completed.)

(b) Assigned rest days will not be changed without at least thirty-six (36) hours' written advance notice to employees affected, except as herein provided.

RULE 19 - INCENTIVE TIME OFF

(a) Effective with the date of this agreement, employees who work each and every day of their regular assignment for a four (4) month period, beginning January 1 of each calendar year shall receive incentive time-off credit equal to eight (8) or ten (10) hours (dependent on assignment to an eight (8) or ten (10) hour day, respectively). Upon earning an eight (8) or ten (10) hour day, the employee may take one eight (8) or ten (10) hour day off or may carry the earned time over, up to five (5) days. It is understood and agreed that the addition of New Years Eve day as a holiday stands as the additional day originally provided to employees under this Rule.

(b) Employees absent from work because of time lost for official union business, holidays, vacations, health incentive time off day, safety days, jury duty, attending court, or to appear in investigation as a witness for the Company, shall not be disqualified from health incentive time off credits, if otherwise eligible pursuant to paragraph (a). However, an employee attending investigation due to charges being brought against him, if found guilty, will lose credits for that quarter.

(c) Employees may be absent with permission for personal business not exceeding two (2) hours on a calendar day. two (2) days per quarter, without losing credits.

(d) Employees unavailable for overtime calls shall not be disqualified from health incentive time off when otherwise eligible pursuant to this rule.

RULE 20- CHANGING DUTIES

(a) When the duties of any position are so changed that the occupant cannot satisfactorily perform them, he shall, upon agreement between the Company and the Organization, be permitted to exercise his seniority rights to a position held by a junior employee.

Where there is sufficient increase or decrease in the duties and responsibilities of a position or change in the character of the service required, the compensation for such position will be subject to adjustment, but established positions will not be discontinued and new ones created under the same or different titles covering relatively the same class or grade of work which will have the effect of reducing the rate of pay or evading the application of these rules. The Company will notify the general chairman of its desire and failing to reach agreement, the Company will place into effect and the Organization may handle through the grievance procedure in Rule 13.
RULE 21 - EXCHANGING POSITIONS

Exchange of positions will only be permitted in the same seniority class. Employees requesting permission to exchange positions must make joint request in writing to the appropriate company officer a minimum of forty-eight (48) hours in advance. Such exchanges will not affect the seniority of either of the employees involved.

RULE 22 - HEADQUARTERS POINT

(a) Except for line-of-road employees, which nature of work requires them to live away from home in hotels or motels, employees will be assigned a designated headquarters which will be considered their home station.

(b) Except as provided in Rule 23, headquarted employee’s time will begin and end at designated point of his home station.

(c) When a change is made in the location of an employee’s headquarters or when territorial limits are materially changed, the position will be re-bulletined as a new position.

(d) Line-of-road employees will be given allowances (travel and meals) at the current per diem rates for each workday of their designated workweek. Employees not traveling via Company equipment will receive a travel allowance of Twenty-Six Dollars ($26.00) per day, which amount will increase annually by fifty cents ($0.50) starting on January 1, 2012 through January 1, 2014. Employees will receive meal allowance of Thirty-Three Dollars ($33.00) per day, which amount will increase annually by fifty cents ($0.50) starting on January 1, 2012 through January 1, 2014. However, employees currently holding positions that are paid pro rata and per diem expenses will continue to receive expenses in that manner until such time as they voluntarily bid off the position, at which time the position will then revert to the method set forth above.

(e) This rule shall not apply to employees traveling in exercise of their seniority rights or to employees doing relief work.

RULE 23 - TRAVEL TIME

(a) Hourly rated employees performing service during normal work periods requiring them to leave and return to home station the same day will be paid continuous time, exclusive of meal period, from time reporting for duty until released at home station; straight time for all straight time work; overtime for all overtime work. “Return to home station the same day” means return before the usual starting time the following day.

(b) Employees performing service which requires them to leave their home station and who do not return to home station the same day will be paid straight time rate for time traveling or working during regularly assigned working hours and time and one-half rate for work or travel during overtime hours.

Actual time at straight time rate will be paid for all time traveling between the end of the regular working hours of one day and the beginning of the regular working hours of the following day, except when at least eight continuous hours of hotel accommodations are available to the employee, which it is permissible for him to use between the hours of 9:00 P.M. and 7:00 A.M. Employees will be provided single occupancy rooms, when available.
When lodging accommodations are available at the point to which sent, no time will be allowed other than that consumed in traveling or time actually worked between the end of the regular hours of one (1) day and the beginning of the regular working hours of the following day.

Line of Road employees will have no more than thirty (30) minutes unpaid travel from the lodging site to the work site and not more than thirty (30) minutes unpaid travel from the work site to the lodging site each day. Should the hotel be more than 30 minutes from the job site, the employees will be paid for the additional travel time.

(c) Employees traveling by Company vehicles shall be deemed to be at work while so traveling.

It is understood that in the repositioning of Company equipment, after normal working hours, only the operator will be deemed to be at work while so traveling.

(d) Headquartered employees, performing service requiring them to leave their home stations and who do not return to home stations the same day, shall be allowed travel (outlined in Rule 22) and meal expenses at the current per diem allowances. Employees traveling via Company equipment will receive the current per diem meal allowance only.

RULE 24 - MEAL PERIOD

(a) Unless otherwise agreed to by the Company and the Organization, the meal period shall not be less than thirty (30) minutes nor more than one (1) hour.

(b) For regular operations requiring continuous hours, eight (8) consecutive hours without meal period shall be assigned as constituting a day’s work in which a meal period of twenty (20) minutes shall be allowed to eat, without deduction in pay.

(c) Where a meal period is allowed, it will be regularly assigned between the ending of the third (3rd) hour and the beginning of the sixth (6th) hour after starting work. For example, if an employee reports for duty at 7:00 A.M., he would be granted a meal period between the hours of 11:00 A.M. to 1:00 P.M. In other words, it is understood that the beginning of the first (1st) hour after work would be 8:00 A.M.

(d) If the meal period is not afforded within the time specified or agreed to, it will be paid for at time and one half and twenty (20) minutes for lunch allowed at the first opportunity.

When, at the direction of a supervisor, an individual is not allowed to procure a meal period within his tour of duty, he will be paid up to one (1) hour at overtime rate. If required to work more than six (6) hours after the first meal period a suitable meal (not snacks) will be provided with twenty (20) minutes being allowed at time and one-half.

The Carrier shall arrange to feed employees assigned to work at wrecks, washouts or other emergencies a hot meal once every six (6) hours without expense to the employee.

RULE 25 - LEAVE OF ABSENCE

(a) Employees desiring to be absent twelve (12) calendar days or more must make advance written request for leave of absence.
(b) Personal leaves of absence will, upon written request, be granted at the discretion of the Company, if the employee can be spared and copy of all leaves granted will be furnished the Organization. However, personal leave in excess of sixty (60) days in a calendar year will not be granted unless agreed to by the Carrier Officer and General Chairman. In cases of sickness or disability, employees will be granted leaves of absence in accordance with the Family Medical Leave Act. Employees returning from leave of absence or returned to duty by their personal physician must report to the designated officer.

(c) Employees on leave of absence shall not enter into other employment or business without first procuring permission from the appropriate Carrier officer and the General Chairman; otherwise, they will lose their seniority rights and will automatically terminate their relationship with the Carrier.

(d) An employee who fails to report for duty at the expiration of leave of absence will forfeit his seniority rights; unless employee or representative produces appropriate documentation supporting that employee was still unable to report due to his physical condition.

(e) Employees returning to service after having laid off with permission or from leave of absence must notify the proper authority not less than twenty-four (24) hours before reporting time for their jobs, except as provided herein.

(f) Employees desiring to return from leave of absence before the expiration thereof will be permitted to do so upon forty-eight (48) hours’ written advance notice to the immediate supervisory officer.

(g) An employee returning after leave of absence may return to his former position, providing it has not been abolished or senior employee has not exercised displacement rights over junior employees, or, within forty-eight (48) hours after return exercise seniority rights on any position bulletined during such absence.

(h) If an employee requests a leave of absence for thirty (30) calendar days or more and returns to service before expiration of the thirty-day period, he will be required to take the same job he vacated, even though a senior employee has bid the assignment he vacated and all employees who have changed assignments as a result of the vacancy having been advertised as a permanent vacancy will return to their former assignments.

(i) An employee displaced from his assignment while on vacation or leave of absence will be considered as having been on leave of absence for the duration of his vacation and leave, as a consequence of which he will have the privilege of exercising all rights accorded an employee displaced during leave of absence under this agreement.

(j) An employee relieved from temporary or official, subordinate official, or excepted position may return to his former position within ten (10) calendar days, providing it has not been abolished or senior employee has not exercised displacement rights thereon. Said employee shall notify the appropriate Carrier officer, no less than forty-eight (48) hours in advance of the date that he will assert his seniority rights on an identified position and must actively assume the duties of the position of his selection before he will be considered as having exercised or asserted his seniority rights under this agreement. In case of personal illness developing after the employee notifies the proper officer of the Company of the position of his choice, which prevents the employee from actively assuming the duties of the position, he will, upon advice to the proper officer of the Company, accompanied by request for leave of absence, be considered as having exercised or asserted his rights.

In the event employee’s former position has been abolished or senior employee has exercised displacement rights thereon, the employee may exercise seniority rights on any position bulletined during such absence and will have the privilege of exercising seniority rights over junior employees, if such
rights are exercised within forty-eight (48) hours after his return. Employees displaced by his return will be affected in the same manner.

It is mutually agreed that the phrase “or senior employee has not exercised displacement rights thereon” and the phrase “or senior employee has exercised displacement rights thereon” appearing in these paragraphs shall be interpreted to refer only to a senior employee exercising displacement rights in a reduction of forces or in abolishing positions and shall not refer to a senior employee bidding upon or applying for a vacancy.

(k) Employees in the service of the Company, called for duty under an Act of Congress relating to compulsory training or service in the armed services of the United States, shall receive leave of absence to cover their term of service and shall have thirty (30) calendar days after receiving honorable discharge in which to claim their rights to a position and may exercise their seniority over junior employees in their seniority subdivisions.

(l) Employees in the service voluntarily enlisting in any branch of the armed services of the United States shall receive leave of absence when proper request has been made in writing to the appropriate supervisor in keeping with the Selective Service and Retraining Act, as well as any other laws relative to military leaves of absences, and shall have thirty (30) calendar days after receiving honorable discharge in which to claim their rights to position with the Company, same as accorded selectees in the preceding paragraph (k).

(m) An employee, who has returned to service under the above conditions of paragraphs (k) and (l) and is eligible for vocational rehabilitation or education and training under the Serviceman’s Readjustment Act and who makes application for leave of absence for the purpose of vocational rehabilitation or education and training under the Act, will be granted leave of absence for the period engaged in such vocational rehabilitation or education and training upon presentation of military orders to that effect.

(n) An employee, who has established seniority rights and who is now filling or may hereafter be appointed or elected to any federal, state, county, or municipal office, shall, upon written request, be granted leave of absence for such period of time as he holds or occupies such office or position and without impairment or prejudice of seniority rights or rank.

Upon expiration or termination of any such term of office or appointment to any federal, state, county, or municipal office or position, such employee shall, upon written notice to the Human Resources office, St. Augustine, Florida, and upon passing the customarily required physical and mental examination of employees re-entering the active service, may exercise his seniority over junior employees in his respective seniority subdivisions.

(o) Provisions for obtaining and granting leave of absence under this rule shall be deemed to have been complied with in case of an employee who is on leave at the time this agreement is adopted.

RULE 26 - CAMP CARS

While camp cars are no longer being used on the property, the Company reserves the right, should the need arise, to again implement camp cars; however, prior to implementation, the Company will discuss and agree on conditions with the Organization.

RULE 27 - ABSENTEEISM

(a) An employee desiring to be absent from duty on an assigned workday or to report late account personal business must secure from a foreman or immediate supervisor advance permission at
least one (1) day in advance of the date he desires to be absent. Otherwise, if the employee does not protect his assignment, he will be considered absent without proper authority. Requests will not be unreasonably denied.

(b) Employees laying off without permission will be subject to discipline.

(c) With regard to an employee who desires to be off for personal reasons but cannot be spared, who in turn arranges for another qualified employee to work in his place, the following understanding will apply.

Any employee desiring to be absent for personal reasons and the requirements of the service are such that he cannot be spared, he then, with authority, may, if agreed to in each instance, make written request, signed, and agreed to by both parties to appropriate Carrier officer to have another qualified employee in the same classification, who is on his off-day, work in his place, at straight time rate.

This is not to be misconstrued to mean that permission that would normally be granted an individual employee to be absent shall be denied simply for the reason of making him secure the services of another man to work in his place, but is to apply in those occasions in which the services of the individual are legitimately needed.

It is understood and agreed that no added costs will accrue to the Company through operation of this provision.

(d) After an employee has marked off five (5) calendar days for sickness during a calendar year, that employee will be required to furnish doctor’s certificate attesting to the illness for any further mark offs for sickness prior to being allowed to return to service.

RULE 28 – HOLIDAYS

(a) Subject to the qualifying requirements applicable to regularly assigned employees contained in paragraph (c) below, each regularly assigned employee shall receive eight hours’ pay (or pay in accordance with workweeks and workdays defined in Rule 14 (d) and (e) at the rate of the position last worked prior to the holiday for each of the following enumerated holidays when such holiday falls on a workday of the workweek of the individual employee:

New Year’s Day
Martin Luther King Day
President’s Day
Memorial Day
Independence Day
Labor Day
Thanksgiving Day
Day after Thanksgiving
Christmas Eve
Christmas Day
New Year’s Eve

(b) Should service be performed on a designated holiday, said day being a regularly assigned workday and not an assigned rest day, the employee performing the service will be allowed pay at the time and one-half rate of the position on which service is last performed prior to the holiday, in addition to holiday pay.
(c) A regularly assigned employee shall qualify for the holiday pay provided in paragraph (a) above if a minimum of five (5) hours compensation paid by the Carrier is credited to the workday immediately preceding and following such holiday.

If the holiday falls on the last day of a regularly assigned employee’s workweek, the first workday following his rest days shall be considered the workday immediately following.

If the holiday falls on the first workday of his workweek, the last workday of the preceding workweek shall be considered the workday immediately preceding the holiday.

Other than regularly assigned employees shall be eligible for the paid holidays or pay in lieu thereof provided for in paragraph (a) above, provided compensation for service paid him by the Carrier is credited to eleven (11) or more of the thirty (30) calendar days immediately preceding the holiday and the employee has had a seniority date for at least sixty (60) calendar days or has sixty (60) calendar days of continuous active service preceding the holiday beginning with the first day of compensated service, provided employment was not terminated prior to the holiday by resignation, for cause, retirement, death, or disapproval of application for employment.

A regularly assigned employee, meeting the qualifications set forth in the above paragraphs, will also be allowed to bracket any holiday or holiday period with vacation days only, however, the holiday shall still count as a vacation day. The employee shall then receive holiday pay in addition to vacation pay.

(d) An employee, otherwise qualified for holiday pay who is confined to a hospital or unable to perform service at the direction of a Company doctor on the workday immediately preceding and following a specified holiday and who returns to work within five (5) calendar days following the holiday, will receive holiday pay allowance.

(e) When a holiday falls on a day other than the day immediately preceding or following the rest days, if agreeable with the supervising officer and majority of employees affected, floating gangs may be permitted to work such holiday at regular rates and observe the last day of that workweek as the holiday.

(f) Employees assigned, notified or called to work on any of the holidays listed in Rule 28 - Holidays, shall be paid on the actual minute basis for work performed or for time held on duty at the rate of time and one-half the rate of pay with a minimum allowance of four (4) hours at time and one-half the rate of pay for four (4) hours work or less, in addition to receiving their holiday pay.

(g) Employees qualifying for holidays will receive “Holiday Pay” irrespective of the day of the week on which the holiday falls, i.e., if on a Saturday rest day, the allowance will be paid.

(h) In instances where designated holidays fall on a Saturday, the holiday will be recognized and paid on Saturday. In instances where the holiday falls on another day of the week (Sunday) and it is nationally observed on a Monday, the holiday will be recognized and paid on Monday.

RULE 29 – VACATIONS

The vacation provided for in this agreement shall be considered to have been earned when the employee has qualified under Section 1 hereof.

(a) An annual vacation of one (1) week with pay will be granted to each employee covered by this Agreement who renders compensated service as an employee of the Company on not less than one
hundred and twenty (120) days during the preceding calendar year, with qualifying days being computed on the basis of one (1) day for each tour of duty of eight (8) hours.

(b) An annual vacation of two (2) weeks with pay will be granted to each employee of the Company who renders compensated service as an employee of the Company on not less than one hundred and twenty (120) days during the preceding calendar year and has rendered compensated service for at least three (3) calendar years preceding the year of vacation and has rendered compensated service on no less than three hundred and thirty (330) days during said three (3) year period, with qualifying days being computed on the basis of one (1) day for each tour of duty of eight (8) hours.

(c) An annual vacation of three (3) weeks with pay will be granted to each employee of the Company who renders compensated service as an employee of the Company on not less than one hundred and twenty (120) days during the preceding calendar year and has rendered compensated service for at least ten calendar years preceding the year of vacation and has rendered compensated service on no less than one thousand (1,000) days during said ten (10) year period, with qualifying days being computed on the basis of one (1) day for each tour of duty of eight (8) hours.

(d) An annual vacation of four (4) weeks with pay will be granted to each employee of the Company who renders compensated service as an employee of the Company on not less than one hundred and twenty (120) days during the preceding calendar year and has rendered compensated service for at least fifteen (15) calendar years preceding the year of vacation and has rendered compensated service on no less than one thousand and five hundred (1,500) days during said fifteen year period, with qualifying days being computed on the basis of one (1) day for each tour of duty of eight (8) hours.

(e) Those employees working a three (3) or four (4) day workweek as defined in Rule 14 (d) and (e) will be credited with forty (40) straight time hours toward vacation qualification hours.

(f) Continuous employment is broken by voluntary resignation, discharge for cause, or any other voluntary separation from the service.

(g) Employees exercising their vacation privileges will be compensated under this agreement during their absence on vacation in accordance with Rule 30, retaining their other rights as if they had remained at work, such absences from duty not constituting "vacancies" in their positions under any agreement.

(h) In instances where employees have performed seven (7) months' service with the Company or have performed in a calendar year service sufficient to qualify them for a vacation in the following calendar year and are subsequently called for duty relative to compulsory training or service in the armed forces of the United States, the time spent by such employees in the armed services will be credited as qualifying service in determining the length of vacations for which they may qualify upon their return to the service of the Company.

(i) The vacation period due in any one (1) year must be taken during that year, vacation periods being neither accumulative not transferable.

(j) Vacations may be taken from January 1, to December 31, and due regard consistent with requirements of the service shall be given to the desires and preferences of the employees, in seniority order, when fixing the dates for their vacations.

(k) The Company reserves the right to schedule the vacation period for each employee, as well as to generally administer the vacation plan, in accordance with the above provisions, with the understanding, of course, that vacation periods will be scheduled to the greatest extent possible, commensurate with the requirements of the service, on the seniority principle.
(l) Each employee who is entitled to vacation shall take same at the time assigned and, while it is intended that the vacation date designated will be adhered to so far as practicable, the Company shall have the right to defer same, provided the employee so affected is given as much advance notice as possible; not less than ten (10) calendar days’ notice shall be given, except when emergency conditions prevent same.

(m) While the intention of this agreement is that the vacation period will be continuous, the vacation may, at the request of the employee, be given in installments if the Company consents thereto. Employees qualified for two (2) weeks of vacation may, at their option, take one (1) week of that vacation in single day increments. Employees qualified for three (3) weeks or more vacation may take up to two (2) weeks of that vacation in single day increments. Unless otherwise agreed to employees will give at least forty-eight (48) hours advance notice of any request under this rule.

(n) It is further understood, in the event a scheduled vacation of an employee occurs during furlough, the vacation will be allowed for the appropriate number of calendar days on a consecutive basis without regard to workweeks.

(o) If it becomes necessary to advance the designated date, at least twenty-four (24) hours’ advance notice will be given the affected employee.

(p) If the Company finds that it cannot release an employee for a vacation during the calendar year because of the requirements of the service, then such employee shall be paid in lieu of vacation.

(q) The Company may, upon reasonable notice of twenty-four (24) hours or more, to the extent possible, require all or any number of employees, who are entitled to vacations, to take vacations at the same time.

(r) To the extent that the Company can reasonably do so without detriment to its operations, an employee will be permitted to commence his vacation following completion of his assigned rest day or calendar days.

(s) A holiday defined in Rule 28 or any day which by agreement has been substituted or is observed in place of any of the holidays which falls on any work day during a vacation period shall be counted a vacation day.

**RULE 30 - VACATION PAY**

(a) The amount of vacation pay for an employee qualified for one (1) week’s vacation shall be the equivalent of forty (40) hours’ pay at the rate of the last service performed, or one fifty-second of his prior year’s earnings, whichever is the greater.

(b) The amount of vacation pay for an employee qualified for two (2) weeks’ vacation shall be the equivalent of eighty (80) hours’ pay at the rate of the last service performed prior to the beginning of the vacation period, or one-twenty-sixth of his prior year’s earnings, whichever is the greater.

(c) The amount of vacation pay for an employee qualified for three (3) weeks’ vacation shall be the equivalent of one hundred and twenty (120) hours’ pay at the rate of the last service performed prior to the beginning of the vacation period, or three-fifty-seconds of his prior year’s earnings, whichever is the greater.
(d) The amount of vacation pay for an employee qualified for four (4) weeks' vacation shall be the equivalent of one hundred and sixty (160) hours' pay at the rate of the last service performed prior to the beginning of the vacation period, or one-thirteenth of his prior year's earnings, whichever is the greater.

(e) Employees, at their option, may submit time tickets covering authorized vacation allowances, said time tickets to be submitted two (2) weeks in advance of period of scheduled vacation in order that pay allowances might be available at the time vacation commences.

(f) In the event employee does not opt to submit time slip two (2) weeks in advance of commencement of scheduled vacation period, the Company will only make payment in keeping with normal pay procedures.

(g) If an employee's employment status is terminated for any reason whatsoever, including but not limited to retirement, resignation, discharge, or failure to return after furlough or leave, he shall at the time of such termination be granted full vacation pay earned up to the time he leaves the service, including pay for vacation earned in the preceding year or years and not yet granted, and the vacation for the succeeding year, if the employee has qualified therefore under Rule 29.

(h) If an employee thus entitled to vacation or vacation pay shall die, the vacation pay earned and not received shall be paid to such beneficiary as may have been designated or, in the absence of such designation, the surviving spouse or children or his estate, in that order of preference.

**RULE 31 - ATTENDING COURT, INQUESTS, ETC.**

(a) A regularly assigned employee attending court, inquests, investigations, or hearings under instructions from the Company, as witnesses for the Company, will be paid for each day so held, the equivalent to what he would have made on his regular assignment.

When such attendance occurs on rest days, regularly assigned employees will be allowed actual time for such attendance, with a minimum of four (4) hours and maximum of eight (8) at the overtime rate of the position on which service was last performed.

When it occurs before or after assigned hours on other than rest days, employees will be allowed actual time in attendance, with a minimum of four (4) hours and a maximum of eight (8) hours at the rate of the position on which service was last performed.

(b) Furloughed employees attending court, inquests, investigations, or hearings under instructions from the Company as witnesses for the Company, will be allowed a minimum day at the rate of the position on which service was last performed prior to such attendance for each calendar day used as a witness.

(c) Transportation to away-from-headquarter point will be furnished on a per diem basis, but pay for deadheading will not be allowed.

(d) This rule has no application to an employee instructed by the Company to attend an investigation of charges against him.

(e) Any monies received by employees for travel expenses or pay for jury duty, inquests, or court procedures shall be retained by the employee involved, without deduction from any other monies to which he might be entitled under the provisions of this agreement.
RULE 32 - JURY DUTY

(a) When a regularly assigned employee covered by this agreement is summoned for jury duty and is required to lose time from his assignment on account of actually appearing for jury duty by order of the court, he shall be paid for actual time lost, upon presentation of proper documents from the court of the days on which jury duty was performed, with a maximum of a basic day’s pay at the straight time rate of the position on which service was last performed for each day lost, subject to the following qualification requirements and limitations.

(b) An employee must furnish the Company with a statement from the court of the days on which jury duty was performed.

(c) The number of days for which jury duty pay shall be paid is limited to a maximum of ten (10) days in any calendar year.

(d) No jury duty pay will be allowed for any day as to which the employee is entitled to vacation or holiday pay.

(e) A regularly assigned employee summoned for grand jury will be paid a maximum of a basic day’s pay at the straight time rate of the position on which he last performed service. The number of days for which an employee will be paid while serving on a grand or federal jury is limited to a maximum of thirty (30) days, within a three (3) year period.

(f) When an employee is excused from railroad service account of jury duty, the Company shall have the option of determining whether or not the employee’s regular position shall be blanked, notwithstanding the provisions of any other rules.

(g) If an employee is called for jury duty, he will be absent only that time actually required to be absent account this service. In other words, if an employee is released from jury duty on any day during the period of his scheduled work hours, he will return to work, provided another employee has not been called to fill the position.

(h) Any monies received by employees for travel expenses or pay for jury duty, inquests, or court procedures shall be retained by the employee involved, without deduction from any other monies to which he might be entitled under the provisions of this agreement.

RULE 33 - FUNERAL LEAVE

(a) In those instances in which an employee loses through death a mother, stepmother, father, step-father, sister, brother, wife, husband, son, daughter, grandchild, grandparent, mother-or father-in-law, or stepchild of current spouse will be compensated at straight time rate for three (3) days. Employees losing through death a sister/brother-in-law, step-grandchild, or grandparent, of their current spouse will be compensated at straight time rate of pay for the day of the funeral only. Employees divorced with no current spouse will not be entitled to this one (1) day of funeral leave. With respect to stepmother and/or stepfather, days will be allowed only on a one time basis.

RULE 34 - EXAMINATIONS

(a) Instructions of supervisory officers of the Company to employees to undergo physical examination to determine if he remains qualified for a position shall be promptly complied with, the Company to pay for any such examination made at its direction. The Company reserves the right to select its own medical examiner or physician.
No compensation shall be due an employee for undergoing examination, unless such examination reveals that the employee is and was fit for service at the time of the examination. In that event, employee will be made whole for any time lost while undergoing the examination.

(b) Employees instructed to undergo physical examination not a part of job qualifications will be compensated for any time lost to undergo said examination. The Company will pay for any such examination made at its direction and reserves the right to select its own medical examiner or physician.

(c) In the case of any employee reporting, at the direction of the Company, for physical examination, should the employee reside more than fifty (50) miles distant from the nearest Company physician, the Company will reimburse him at the prevailing per diem rate, via the most direct route, incurred as a result of this physical examination.

(d) Employees entering or returning to service will be required to take such physical examination, as the Company requires to determine their fitness to reasonably perform the service required in their craft or class.

Employees resuming active service with the Company will be subject to prescribed physical examinations. In the event an employee is withheld from service because of this physical condition as a result of examination by the Company's physician, the employee or his Organization, upon presentation of a dissenting opinion as to the employee's condition by a competent physician, may make written request to his employing officer, within fifteen (15) calendar days of the date withheld, for a neutral medical authority to review the withheld employee's case.

Within fifteen (15) calendar days of the receipt of such request, the Company and the Organization or the employee's personal physician shall by mutual agreement appoint such neutral medical authority, which medical authority shall be expert on and specializing in the disability from which the employee is alleged to be suffering.

The neutral medical authority so selected will review the employee's case from medical records furnished by the parties hereto and, if it considers it necessary, will make an examination of the employee. Said medical authority shall then make a complete report of its findings in duplicate, one (1) copy to the Company and one (1) copy to the employee or the Organization setting forth the employee's condition and an opinion as to his fitness to continue service in his regular employment, which will be accepted as final.

The Company and the employee shall each pay one-half (1/2) of the fee and expenses of the neutral medical authority and any examination expenses which may be incurred, such as hospital, laboratory and x-ray services.

In the event the neutral medical authority concludes that the employee is fit to continue in service in his regular employment, such neutral medical authority shall also render a further opinion as to whether or not such fitness existed at the time the employee was withheld from service. If such further conclusion states that the employee possessed such fitness at the time withheld from service, the employee will be made whole for earnings lost during the period so withheld, and will be reimbursed for the monies he paid for the neutral medical authority.

In the event the neutral medical authority concludes that the employee is not fit to continue in service in his regular employment, the Organization may upon presentation of an opinion from a competent physician that the employee’s condition has improved request re-examination by the Carrier's physician. Such request will not be made for the first ninety (90) calendar days thereafter, nor more often than once in any subsequent ninety (90) day period.
RULE 35 - INCAPACITATED EMPLOYEES

Employees who have become physically unable to continue in service in their present positions will be considered for employment, if available, in accordance with the Americans with Disabilities Act, as interpreted, and as set forth in this collective bargaining agreement.

RULE 36 - RATES OF PAY

(a) Effective upon execution of this agreement, straight time hourly rates of pay for each position falling within the scope of this agreement will be as follows:

<table>
<thead>
<tr>
<th>Occupation</th>
<th>1/1/2010</th>
<th>1/1/2011</th>
<th>1/1/2012</th>
<th>1/1/2013</th>
<th>1/1/2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistant Foreman</td>
<td>$22.17</td>
<td>$22.62</td>
<td>$23.07</td>
<td>$23.53</td>
<td>$24.00</td>
</tr>
<tr>
<td>B&amp;B Foreman</td>
<td>$23.24</td>
<td>$23.70</td>
<td>$24.17</td>
<td>$24.66</td>
<td>$25.15</td>
</tr>
<tr>
<td>Bridgeman</td>
<td>$18.76</td>
<td>$19.13</td>
<td>$19.52</td>
<td>$19.91</td>
<td>$20.30</td>
</tr>
<tr>
<td>Carpenter</td>
<td>$20.02</td>
<td>$20.42</td>
<td>$20.83</td>
<td>$21.25</td>
<td>$21.67</td>
</tr>
<tr>
<td>Machine Operator 1</td>
<td>$22.17</td>
<td>$22.62</td>
<td>$23.07</td>
<td>$23.53</td>
<td>$24.00</td>
</tr>
<tr>
<td>Machine Operator 2</td>
<td>$21.30</td>
<td>$21.72</td>
<td>$22.16</td>
<td>$22.60</td>
<td>$23.05</td>
</tr>
<tr>
<td>Machine Operator 3</td>
<td>$18.07</td>
<td>$18.44</td>
<td>$18.80</td>
<td>$19.18</td>
<td>$19.56</td>
</tr>
<tr>
<td>Production Foreman</td>
<td>$23.24</td>
<td>$23.70</td>
<td>$24.17</td>
<td>$24.66</td>
<td>$25.15</td>
</tr>
<tr>
<td>Roadway Foreman</td>
<td>$23.24</td>
<td>$23.70</td>
<td>$24.17</td>
<td>$24.66</td>
<td>$25.15</td>
</tr>
<tr>
<td>Trackman</td>
<td>$17.75</td>
<td>$18.10</td>
<td>$18.47</td>
<td>$18.83</td>
<td>$19.21</td>
</tr>
<tr>
<td>Welder</td>
<td>$23.24</td>
<td>$23.70</td>
<td>$24.17</td>
<td>$24.66</td>
<td>$25.15</td>
</tr>
<tr>
<td>Operator/Mechanic</td>
<td>$22.76</td>
<td>$22.92</td>
<td>$23.38</td>
<td>$23.85</td>
<td>$24.32</td>
</tr>
<tr>
<td>Heavy Equipment</td>
<td>$22.77</td>
<td>$23.22</td>
<td>$23.69</td>
<td>$24.16</td>
<td>$24.64</td>
</tr>
</tbody>
</table>

In addition to the above general wage increases, all employees covered by this agreement are entitled to the same benefits as those set forth in the Incentive Compensation Plan shown as ATTACHMENT "D". The Incentive Plan shall be applied to employees under this agreement on January 1, 2010 if this agreement is successfully ratified.

All straight time and overtime rates will be rounded off to the nearest whole cent.

Only the General Wage Increase and the Incentive Compensation shall be paid retroactive to the amendable date of January 1, 2010. All other increases become effective on the date the agreement becomes effective.

(b) New employees, upon establishing seniority in accordance with Rule 5 shall receive eighty-five (85) percent of the current rate of position held for the first one hundred and eighty (180) calendar days of service; and one hundred percent (100%) thereafter. New employees who, during their first one hundred and eighty (180) days of employment, establish seniority in another class of service shall be elevated immediately to one hundred percent (100%) of the rate of the class.

(c) Whenever an employee, except as covered by the conditions of paragraph (b) above, is required to fill the place of another employee receiving a higher rate of pay, for more than three (3) hours, within an eight (8) or ten (10) hour tour-of-duty, he will be paid at the highest rated service performed for
the entire day. If required to fill the place of an employee receiving a lower rate of pay, his rate will not be changed.

(d) Established rates of pay or positions shall not be discontinued or abolished and new ones created covering relatively the same class of work which will have the effect of reducing rates of pay or evading the application of this rule.

(e) Except when changes in rates result from negotiations for adjustments of a general character, changing of a rate of a specified position shall constitute a new position.

(f) The rates for new positions shall be in conformity with rates for positions of a similar kind or class.

(g) Welder Helper Rate Progression

1. A Welder Helper that receives qualification from designated employee as a Welder will receive 90% of Welders rate of pay as long as he works as a Welder Helper.

RULE 37 - TIME CHECKS

(a) Employees will be paid semimonthly during the day shift and, when possible, on the fifteenth and last day of each month.

Effective with the date of this agreement, all compensation due to all employees will be posted via “direct deposit” into the employee’s bank account.

(b) When there is a shortage equal to one day’s pay or more, the employee will receive time check to cover, on request. Lesser due monies will be payable on the next regular payday.

(c) Employees leaving the service will receive time check within ninety-six (96) hours, if possible, unless they leave of their own accord prior to their first regular pay day.

RULE 38 - EQUIPMENT, TOOLS, AND SUPPLIES

(a) The Company will furnish employees general tools as are necessary to perform their work, except such tools as are customarily furnished by skilled workmen.

(b) Employees who have the necessary personal tools of their trade on Company premises will be provided with a safe place to keep them.

(c) Personal tools of the trade, damaged, destroyed, or stolen while performing jobs assigned by the Company, shall be replaced with a comparable tool, at no expense to the employee.

(d) Employees will be required to reimburse the Company for the cost of Company furnished tools that are lost, damaged, or stolen through negligence of the employees.

(e) Potable drinking water will be furnished and, where necessary to be transported, will be stored in suitable receptacles.

(f) Track, bridge and building, and track welding employees will be furnished insecticides for their headquarters upon request, as conditions may require.
(g) Section, extra gang, bridge and building, and track welding employees will be furnished a sufficient quantity of ice for drinking water for their gangs during hours worked.

(h) The Carrier will be required to continue furnishing adequate sport drinks in accordance with their past practice.

(i) Rain suits and boots will be made available without cost to Heavy Equipment Mechanics washing Company Equipment.

(j) Each January, regardless of length of service, each employee subject to this agreement will qualify for a reimbursement of up to a maximum $150.00 following the purchase of proper safety boots as required under the rules, which have been approved under the Company’s safety shoe program. In order to receive the reimbursement employees will be required to present to the company a receipt documenting the shoe purchase.

Employees who wear out the first pair of boots in the same calendar year may receive authorization to purchase a second pair of boots under this rule, when approved by the appropriate Carrier officer.

RULE 39 - BULLETIN BOARDS

(a) At points where bulletins are posted where one or more employees covered by this agreement regularly report for duty, a place will be provided where proper notices of interest to employees may be posted, it being understood that such notices cover matters pertaining to the interests of the crafts concerned.

(b) Posting of notices on other than regular bulletin boards will not be allowed.

(c) Materials posted on the bulletin boards are to be only of the type, which would not be objectionable from the standpoint of management. In the event objectionable material should be posted, the employee will be notified and he will take immediate action to have it removed.

(d) Violations of the requirements set forth herein will constitute basis for immediate cancellation of this permission by the Company for posting of bulletin boards.

RULE 40 - HEALTH AND SAFETY

(a) The health and safety of employees shall be reasonably protected while in the service. Similarly, the employees will be expected and required to perform work in a safe manner and in full compliance with safety and working rules issued for their government.

(b) The Company, with the cooperation of the employees, will keep work areas in a clean and safe condition and machinery and tools in a safe working condition.

(e) Employees will not be assigned to jobs where they will be exposed to sandblast, ammonia fumes, and paint blowers while in operation without being provided with respirators, when required. All acetylene, electric welding, and cutting apparatus will be protected by a suitable screen.

RULE 41 - HEALTH AND WELFARE BENEFITS

(a) The Company shall provide employees eligible for insurance the same insurance benefits as those provided to it other crafts, as they may be amended from time to time. A booklet outlining the
coverage available can be obtained from Human Resources. Employees must meet the qualifying criteria described in the plans before they become eligible to receive benefits. Employees should refer to the plan documents for exact details of their insurance benefits. This insurance is only effective as long as the employee is eligible for insurance and becomes and remains insured as provided in the applicable policy. Benefits and employee contributions may be changed from time to time.

(b) The provision alone shall become amendable under the terms of the Railway Labor Act, (RLA) on December 31, 2012, and the Organization will bargain with other Representative Organization on terms and conditions of this Rule only. Under the RLA, the status quo must be maintained until the parties agree on any changes. All other terms and conditions of this agreement will remain in effect until the amendable date of this agreement, and beyond, until a new agreement is ratified.

(c) Each employee covered by this agreement will receive Twenty-Five Thousand Dollars ($25,000) of life insurance coverage at no cost to the employee.

It is understood that this in no way detracts from or duplicates those benefits available under COBRA (Consolidated Omnibus Budget Reconciliation Act).

RULE 42 - EYEGLASSES

(a) Any employee wearing prescription eyeglasses, who damages those glasses as a consequence of working conditions involved on that position, will be allowed the cost of replacement eyeglasses.

(b) To be eligible for such eyeglass reimbursement, the cause of the incident creating the damage must be reported by the individual involved to his supervisor before the end of the tour of duty during which the damage occurred.

(c) Reimbursement will not include the cost of eye examination.

(d) The cost of frames will be included in the replacement allowance if the frames are damaged at the time of the involved incident and reported accordingly to the supervisor in the manner set forth herein above.

RULE 43- COMMERCIAL DRIVER'S LICENSE (CDL)

(a) All employees holding a CDL shall be included in the Company’s random drug testing pool.

(b) The Company will pay the cost of testing, and fees for employees to acquire, a Commercial Driver’s License (CDL) and will pay the cost of testing and fees for employees to maintain a CDL. This does not include costs associated with training to acquire a CDL.

(c) All employees who possess or acquire a CDL, and are assigned to a position requiring a CDL, will be allowed the payment of an additional thirty-five cents ($.35) per hour.

(d) Carrier will provide training and a vehicle to employees for CDL testing. Employees must make arrangements with the designated employee and schedule in advance. In some cases employees may be required to another headquarters location in order to train and take the CDL test.
RULE 44 - SALARY DEFERRAL PLAN

(a) An employee salary deferral plan shall be established to allow employees to contribute to a non-matching tax-deferred plan, up to ten (10) percent.

(b) This plan shall continue for as long as the collective bargaining agreement between the Organization and the Company remains in effect, unless otherwise modified or terminated by mutually agreement between the Company and the Organization, or until prohibited by law.

(c) The plan shall be administered by the Company, or an administrator as may be selected by the Company, who shall have authority to amend, interpret, and implement the plan in accordance with its terms and conditions and all applicable laws and regulations.

(d) It is understood that this plan is intended to qualify as a tax-deferred plan under Section 401-K of the Internal Revenue Code and that the administrative costs of the plan will be assumed by the Company.

(e) Beginning on January 1, 2010 the Company will provide matching funds at the rate of $20 for each $1.00 of deferred income employees designate to their 401K, up to a maximum of $200.00 for each year of this agreement.

(f) If, at any future date during the moratorium period of this agreement, another represented craft on FEC is granted improved 401-K benefits in excess of those set forth in this rule, such improved benefits will be applied to the employees subject to this Agreement on an equal basis.
DATE EFFECTIVE AND CHANGES

(a) This agreement shall supersede all other rules, agreements, and understandings in conflict herewith and shall continue in effect until changes as provided herein or in accordance with the Railway Labor Act.

(b) This agreement shall become effective July 16, 2011 and shall remain in full force and effect, with the exception of Rule 41 – Health and Welfare Benefits, until December 31, 2014. The parties shall be eligible to serve notices to change this agreement as of November 1, 2014, pursuant to Section 156 of the Railway Labor Act.

(c) The parties may jointly agree to changes in this agreement during the term of the agreement but shall not have the right to serve notices on each other to change this agreement unless both parties agree to such notices.

SIGNED at Jacksonville, Florida, this 16th day of July, 2011.

FOR THE ORGANIZATION:  
Brotherhood of Maintenance of Way Employees  
James D. Knight  
General Chairman  

FOR THE COMPANY:  
Florida East Coast Railway, LLC  
James Hertwig  
President & Chief Executive Officer  

Randy Cook  
Vice President
ATTACHMENT “A” – UNION SHOP RULE

In accordance with and subject to the terms and conditions hereinafter set forth, all employees of the Florida East Coast Railway L.L.C. (Carrier) now or hereafter working under and subject to the Maintenance of Way and Roadway Shop Agreement between the Carrier and the Brotherhood of Maintenance of Way Employees Division of the IBT (BMWED or Union), except as hereafter provided, shall, as a condition of their continued employment, become members of the BMWED within sixty (60) calendar days of the date they first establish seniority after the effective date of this rule, and thereafter shall maintain membership in the Union.

A. All employees serving in a capacity represented by the BMWED shall become members of the BMWED effective within sixty (60) days from the date of this Agreement. All employees who are members of the BMWED as of the date of this rule must remain as members.

B. (1) Every employee covered by the provisions of this rule shall be considered by the Carrier to have met the requirements of this rule, or as having been denied membership in the Union, unless the Carrier is advised to the contrary in writing by the Union.

(2) Nothing in this rule shall alter, enlarge or otherwise change the coverage of the present or future rules and working conditions agreements.

C. Employees holding or appointed to an official position with the Carrier or holding a Union Officer’s position, will retain their seniority.

D. Employees furloughed through reduction of force, or absent due to sickness, disability, or leave of absence, who retain and/or accumulate seniority under the provisions of the rules and working conditions agreements between the parties hereto will not have such seniority terminated by reason of any of the provisions of this rule, but shall, within thirty (30) calendar days following date of their resumption of employment, come under Paragraph A of this rule.

E. 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-service personnel shall not be terminated by reason of any of the provisions of this rule, but such employees shall, within thirty (30) calendar days following resumption of employment, come under Paragraph A of this rule.

F. An employee, retired on disability annuity under the Railroad Retirement Act, and who retains seniority, shall not have his seniority status and rights terminated by reason of non-compliance with the provisions of this rule. If such an employee returns to active service, he shall, within thirty (30) calendar days following date of his return, come under Paragraph A of this rule.

G. Notice of non-compliance with the provisions of Paragraph A of this rule by an individual employee shall be given by certified mail by the General Chairperson (or designated representative) of the Union to the highest designated officer (HDO) of the Carrier no earlier than the expiration of sixty (60) calendar day period from the date of employment in a craft or class of service covered by Paragraph A of this rule, or the expiration of the thirty (30) calendar day period from the date of resumption of employment as contemplated by Paragraphs C, D, E and F.

H. (1) Termination of an employee’s seniority rights with the Carrier due to alleged non-compliance with the provisions of this rule should not be made without notice. The Union will notify the HDO of the
Carrier by certified mail of any employee whom it is alleged has failed to comply with the provisions of this rule. Upon receipt of such notice, the HDO of the Carrier will, within ten (10) calendar days of such receipt, so notify the concerned employee in writing by certified mail of personal delivery, with delivery to be evidenced by a receipt. An employee so notified who disputes the fact that he has failed to comply with the terms of this rule shall, within a period of ten (10) calendar days from the date of receipt of such notice, request the HDO of the Carrier in writing by certified mail or personal delivery, with delivery to be evidenced by a receipt, to accord him a hearing. Upon receipt of such request the HDO of the Carrier shall set a date for hearing, which shall be held within ten (10) calendar days of the date of receipt of request therefore. Notice of the date set for the hearing shall be promptly given the employee in writing, with copy to the Union, by certified mail or personal delivery, with delivery to be evidenced by a receipt. The receipt by the HDO of 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 such HDO is rendered.

(2) The HDO of the Carrier shall determine on the basis of the evidence produced at the hearing whether or not the employee has complied with the provisions of this rule, and shall render a decision within ten (10) calendar days from the date the hearing is closed, and the employee and the Union shall be promptly advised thereof in writing by certified mail or personal delivery, with delivery to be evidenced by a receipt. A transcript of the record at such hearing shall be made and a copy thereof shall be furnished, upon request, to the General Chairperson.

(3) The decision shall be final and binding unless within ten (10) calendar days from the date of the decision the Union or the employee involved request the selection of a neutral person to decide the dispute as provided in Paragraph H (3) below. Any request for the selection of a neutral person as provided in Paragraph H (3) below 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.

(4) If, within ten (10) calendar days after the date of a decision by the HDO of the Carrier designated to handle appeals under the Agreement, the Union or the employee involved requests such officer in writing by certified mail, return receipt requested, that a neutral person be appointed to decide the dispute, a neutral person to act as sole arbitrator to decide on the dispute shall be selected by the HDO of the Carrier designated to handle appeals under this Agreement, the General Chairperson of the Union or his designated representative, and the employee involved or his representative. If they are unable to agree upon the selection of a neutral person, any one of them may request the National Mediation Board, in writing, to appoint such a neutral person. The Carrier, the Union, and the employee involved shall have the right to appear and present evidence at a hearing before such neutral person. A decision by such neutral person shall be made within thirty (30) calendar days from the date of the close of the hearing, and shall be final and binding upon the parties. The Carrier, the Union, and the employee shall be promptly advised of the decision in writing by certified mail, return receipt requested. If the position of the employee is sustained, the fees and expenses of the neutral person shall be borne equally by the Carrier and the Union. If the employee’s position is not sustained, the fees and expenses of the neutral person shall be borne equally by the Carrier, the Union, and the employee.

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

(6) Discipline rules contained in the Agreement will not apply to cases arising under this rule.

I. Nothing in this rule shall require an employee to become or remain a member of the Union 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 render initiation fees, periodic dues, and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership. For purposes of this rule, fees, dues, and assessments shall be deemed to be “uniformly required” if they are required of all employees in the same status at the same time.

J. (1) If an employee’s seniority and employment under the Agreement is terminated by the Carrier under the provisions of this rule, and such termination of seniority and employment is subsequently determined to be improper, unlawful, or unenforceable, the Union shall indemnify and save harmless the Carrier against any and all liability arising as a result of such improper, unlawful, or unenforceable termination of seniority and employment; provided, however, that this Paragraph 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 the Carrier acts in collusion with any employee; and 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 rule.

(2) An employee whose seniority is terminated because of alleged non-compliance with the provisions of this rule, and such termination of seniority and employment is subsequently determined to be improper, unlawful, or unenforceable, the employee shall be returned to service with seniority rights unimpaired.

K. (1) The General Chairperson of the Union shall notify the Carrier in writing of the title(s) and address(es) of its representatives who are authorized to serve and receive notices described in this rule. The Carrier shall notify the General Chairperson of the Union in writing of the title(s) and address(es) of its representatives who are authorized to receive and serve the notices described in this rule.

(2) In computing the time period specified in this rule, the date upon which a notice is received or decision rendered shall not be counted.

(3) The time periods specified in this rule may be extended in individual cases by written agreement between the Carrier and the Union.

(4) In the event any part of this rule is determined illegal or unconstitutional, it will not serve to invalidate the remaining parts.

NOTE: Any employee in service on the effective date of adoption of this rule who is not a member of the Union as provided in Paragraph A above, or any subsequently newly hired employee, who will make affidavit that he is a member of a bona fide and recognized religious group having scruples against joining a union, will, if he would otherwise be required to join the BMWE under this rule, be deemed to have met the requirements of this rule if he agrees to and does pay initiation fees, periodic dues, and assessments to the BMWE.

Wherever in this rule the masculine gender is used, it shall be deemed to include the feminine gender.
ATTACHMENT "B"

FLORIDA EAST COAST
DEVELOPMENT AND ACCOUNTABILITY POLICY

The Company and its subsidiaries recognize the important contributions employees make to our overall success. Our employees are truly the most important assets we have and must be treated consistently and with respect. It is our commitment to ensure a safe environment for our employees to work. All employees are expected to contribute to the success of the Company and its subsidiaries and realize reward for safe and efficient job performance. All employees are encouraged to share a commitment to providing transportation services of the highest quality to our customers and to keep the commitment to safety in mind whenever they perform their duties.

To ensure a safe environment for our employees and the communities we serve, the movement of trains, and maintenance of equipment, track and facilities must be conducted on the basis of carefully designed rules and procedures. Failure to follow these rules and procedures may result in death, injury or substantial financial loss. All employees are expected to be safe, conscientious and dependable, comply with rules, and display a positive behavior toward teamwork. Management must provide fair and consistent treatment to all employees, using coaching and training prior to achieving desired behavior. Positive corrective action with the objective of correcting undesired behavior is the basis of this policy. Consistent with these principles, a breach of a rule, procedure or instruction shall be handled in the manner described below.

General Guidelines

Offenses that are not considered serious violations of rules or policy will be subject to the standard handling procedures described in Part I of this policy. Offenses of a more serious nature, or offenses that warrant dismissal, will be subject to the handling prescribed in Part II and Part III of this policy. Offenses listed as serious or warranting dismissal in Part II and Part III are illustrative only, and not intended to limit management's right to classify offenses as serious and cause for dismissal.

Part I: Standard Handling

For most offenses, the main concern is with cumulative behavior. Any employee demonstrating a pattern of misconduct is given progressively more discipline with each succeeding offense, depending on the frequency and nature of the offenses. This will ultimately lead to dismissal if performance does not improve. An employee who commits more than one offense will progress through a series of levels based on prior history of rule violations. In determining the level of discipline, the employee's rule violation history is considered within a two year period prior to the current case. Each offense within the last two years for which a discipline sanction was issued increases the level of discipline for the current offense. Guidelines for determining the specific discipline sanction and associated levels are as follows:

Level I - First offense within 1 year - Formal letter of reprimand

The recipient must respond by developing with management a written solution that is accepted by both parties to correct the behavior (Positive Corrective Action) outlined in the letter.

Level II - Second offense within 1 year 7-day suspension

An employee will be given from 1 to 7 calendar days suspension. This suspension may be deferred for a period not to exceed six months at the General Manager's discretion. If there is another offense during the deferment, progression to Level III is automatic.
Level III - Third offense within 2 years 14-days suspension

An employee will be given 14 calendar days suspension. Any suspension time deferred in Level II will be added to suspension time issued in Level III. The employee is given one last chance to correct his or her behavior prior to dismissal for pattern of misconduct.

Dismissal - Fourth offense within 2 years – Dismissal

Employee is dismissed from service based on an established pattern of misconduct because he or she proved unresponsive to corrective action.

Part II: Serious Offenses

This part of the policy describes the corrective action prescribed for a serious offense. A serious offense is not sufficient by itself to warrant dismissal, but substantial suspension and retraining will be required. Furthermore, if the employee commits two serious offenses within a specified period, not to exceed three years, he or she will be subject to dismissal. For purposes of illustration, the following rule violations are considered serious. Please note this is not an exhaustive list.

Cardinal Safety Rule(s).

Operating rule violation for which FRA engineer decertification is also mandated (also considered a serious rule violation for Train Service employee on the ground).

Failure to comply with rules or procedures that protect employees or machinery where such protection is defined by dispatcher, prescribed flags, other signal device, or in writing.

Failure to perform duties causing or contributing to a serious derailment (FRA Reportable), damage to rolling stock, track equipment or shop machinery, or injury to others.

Failure to report a known on-duty injury before the completion of tour of duty.

Extended unauthorized absence.

Any other serious violation of Operating Rules, Maintenance of Way Rules, Mechanical Department Rules, Safety Rules, Conduct Rules, or General Instructions issued to employees.

An employee who commits a serious offense is assigned a Level S.

Level S - First serious offense - Suspension or retraining as appropriate

An employee who commits a serious offense will be given a minimum of 30 days, depending on the severity of the offense(s), and will be assigned a probationary period of one to three years based on his or her history of rule violations. Additionally, the employee may be offered the opportunity to remove up to half of his or her suspension through a Positive Corrective Action Program, provided the employee accepts responsibility for the rule violation or offense (See Part V of this Policy).

Dismissal - Second serious offense within review period
In a case where an employee has committed a second serious offense within an assigned review period, he or she will be subject to dismissal. When determining the proper review period for a first serious offense, a manager should consider the employee’s history of rule violations. The employee’s record determines the length of the probationary period and is a key factor, along with the violation, in determining the level and amount of discipline. To be consistent, managers will review the five years prior to the current case to determine if a reduction of the two-year probationary period is warranted. If such a reduction is warranted, it will be stated in the letter advising the employee of the discipline assessed.

**Part III: Offenses Warranting Dismissal**

The ultimate sanction of dismissal is primarily designed to be a response to a series of offenses, coupled with no sign of significant improvement by the employee. Nonetheless, a single rule violation also may be so serious as to warrant dismissal.

An employee who commits one of the offenses may be dismissed regardless of the nature of his work history and with no leniency for reinstatement permitted.

Breaches of personal integrity or standards of personal conduct:
Theft or other act with intent to defraud the Company or the Railroads of monies or property not due, to include falsification or misrepresentation of an on-duty injury.

Gross dishonesty in communication with officials of the company about any job-related subject.

Refusal to submit (at any time) to required testing for drug or alcohol use, alteration of sample, or failure to comply with instructions of the Medical Director.

**Causing altercation.**

Gross negligence, indifference to duty, and intentional destruction of company property, malicious rule violation and insubordination. Unauthorized absences or anything that could be determined as job abandonment or excessive absences.

Severe violation of safe operating practices:
Rule violation(s) that result in collision and or derailment, injury, fatality or extensive damage to company or public property. Knowingly placing the safety of self or others in immediate danger.

A fourth offense (of any kind) within three (3) years, or a second serious offense within the assigned review period.

**Speeding.**

**Drug and Alcohol**

Positive test results from random, reasonable cause, probable cause and any other test recommended by a licensed health care professional are cause for dismissal.

Self-referral will be handled through the Employee Assistance Program.

**Part IV: Administration of Suspension and Degree of Discipline**
An offense that warrants discipline will be permanently recorded in the employee’s personnel file. All suspensions are unpaid. When suspension is found to be the required course, suspension time will commence upon findings of the investigation. A suspension will commence on the date discipline is issued unless the employee is being withheld from service pending a formal investigation. Employees who complete a deferment period without further disciplinary action are considered to have completed the terms of the suspension. However, previously deferred suspension will be added to the next level of suspension when a violation occurs during the deferred period. Subsequent offenses by an employee will be taken into consideration for purposes of establishing discipline level when implementing this program.

**Part V: Positive Corrective Action**

Management will have the ability to offer an employee in Level I, Level II or Level S an opportunity to substitute Positive Corrective Action (PCA) for up to one half of the assigned suspension. Employees involved in Positive Corrective Action must perform the same, working no more than eight hours in any twenty-four hour period, accumulating no more than forty (40) hours in any five-day period. In general, one eight-hour day of PCA will equal two days of suspension. PCA cannot be used with a deferred suspension, but may be served concurrently with the balance of an assigned suspension. PCA may not be used for an employee who has committed a willful rule violation or does not accept responsibility for his or her actions. An Employee who participates in PCA will receive 75% of their regular rate of pay. PCA must never be used as the sole purpose of benefiting the Railroad. The manager should develop and implement PCA based on the specific circumstances surrounding the rule violation.

Some suggestions are:

Have the employee conduct job briefings with crews on the incident and how it could have been prevented.

Give the employee cross-functional training with other employees related to the offense.

Give the employee formal classroom retraining as part of an alternative discipline program

Assign the employee to observe an experienced employee working in the same job.

**Part VI: Final Resolution of Incident**

Upon the assessment of any form of discipline a follow-up meeting(s) must be held. The purpose of the meeting(s) is to advise the employee(s) of their progress on correcting behavior, modification of task or standards, individual performance, or any other corrective action required by the discipline assessed. Managers must conduct the follow-up meeting(s) with the involved employee(s) at a frequency of no greater than thirty (30) day intervals, until desired and/or agreed behavior has been achieved. Once the employee and manager agree that all requirements set forth by the discipline have been met, the follow-up is complete.
ATTACHEMENT “C”

BMWED – Training

1. Annually, the need to identify training positions will be established between the Carrier and the BMWED. Within sixty days of the first of each year, a meeting will be held between the parties to determine the number of specific positions and training slots necessary, which will be bulletined and made available to employees in accordance with Rule 16.

2. Successful applicants will be released from their regularly assigned position to attend the training session. Vacancies created by the application of this rule may be filled at the discretion of the Company.

3. Employees assigned to training will be paid at the rate of their regularly assigned position for hours spent in training with a minimum of eight hours pay for that day if training is co-mingled with other duties. The overtime rate is applicable if training exceeds eight hours per day.

4. When the location of the training is not on Company property, employees will be reimbursed for actual and necessary travel and living expenses. When training is conducted on Company property, employees will be allowed expenses in accordance with Rule 22.

5. A furloughed employee who is offered training under this rule will not receive pay for attending training. Such employees will be reimbursed for necessary travel and living expenses while attending training in accordance with Rule 23.

6. Employees successfully completing training will be given qualifications in class on the master seniority roster in accordance with Rule 5. In the event no qualified employees bids on subsequent vacancies, the junior qualified employee will be assigned to the position.

FECR will establish 3 districts in paragraph 6 above, Jacksonville-St. Augustine, Titusville-Ft. Pierce and Ft. Lauderdale-Miami.
ATTACHMENT "D"

FEC Railway
Quarterly Incentive Compensation Plan

Purpose

The purpose of the Quarterly Incentive Compensation Plan (hereinafter known as the “Plan”) is to enhance the safety and performance of all Florida East Coast (“Company”) employees and to attract, retain and motivate those employees.

Objectives

• Provide quarterly rewards based upon company and individual performance
• Improve individual and company performance by linking variable financial rewards to key result areas

Plan Year

The Plan year shall be from January 1st to December 31st.

Eligibility

Eligible participants consist of active, permanent, full-time employees in non-exempt hourly positions of company. An employee hired during a calendar quarter and who remains employed by the Railroad on the payment date shall be paid a pro-rata amount based on the number of days worked by the employee compared to the number of workdays in the quarter.

Separation of Employment

An employee who leaves the Company (i.e. retirement, voluntary resignation, reduction in force or involuntary separation, not for cause or for gross misconduct) during a calendar quarter year shall be paid a pro-rata amount based on the number of days worked by the employee compared to the total number of work days in the quarter. Employees separated from the Company due to gross misconduct or for cause are ineligible for payment.

Award Opportunity

The quarterly award opportunity will be up to six percent (6%) of an individual’s gross earnings. The exact amount will be determined by the employee’s performance as an individual, and the performance of the Company.

The calculation of the quarterly incentive payment for each plan participant shall be a percentage of the employee’s eligible wages based on the following factors:

• Four percent (4%) of the employee’s eligible wages for the quarter based on the employee remaining FRA reportable injury free and human failure incident free.
• Two percent (2%) of the employee's eligible wages for the quarter based on the craft remaining FRA reportable injury free and/or human failure incident free.

Employees receiving less than six percent (6%) and those employees determined not to be eligible for an incentive payment during a particular quarter will be notified of the reasons for such determination. Regardless of the payout amount, all employees will be notified by their local management as to the amount of their payout and how their payout was calculated.

Administration and Payout of Plan

"FRA Reportable injury free and human failure incident free" means not sustaining a Federal Railroad Administration (FRA) reportable injury as a result of the violation of a Company safety or operating rule, and not causing a human-factor incident or derailment as a result of a violation of a Company safety or operating rule.

"Eligible wages" for purposes of calculating the Incentive Payment means regular pay, overtime pay, personal pay, sick pay, deadhead pay, vacation pay, flextime, other non-productive pay, training pay, holiday pay, regular guarantee, holiday worked, bereavement pay, and overtime.

Employees who are receiving less that 100% pay in their sub-class under provisions of Rule 36(b) who suffer an FRA reportable injury or who have a human factor failure will not alter the payout of the 2% bonus referenced above. Employees who are advanced to 100% of the pay for their sub-class will adversely affect the payout of the 2% bonus of the group, even if they have not been employee for the initial one hundred and eight day period referred to under Rule 36(b).

Payment date shall be as soon as practical following the end of each quarter.

Upon the certification of any previously unrepresented group of Eligible Employees, the Railroad shall continue to pay incentive payments pending the outcome of collective bargaining negotiations.

The Vice-President of Human Resources for Florida East Coast shall be the Administrator of the Plan and shall make final decisions and approvals. All awards under the Plan will be paid by check, and will be subject to such payroll taxes and other deductions, if any, as may be in effect from time to time.

All determinations as to the accomplishment of any Plan component shall be made by and in the sole discretion of Florida East Coast.

Plan Limitations

The adoption of the Plan does not imply any commitment to continue the same Plan for incentive compensation for any succeeding year. Neither the Plan nor any award made under the Plan shall create any employment contract or relationship between Florida East Coast and any Participant. Florida East Coast reserves the right at any time and from time to time to amend, suspend, or terminate the Plan without recourse on the part of any Plan participant.
Side Letter No. 1

Mr. James D. Knight  
General Chairman, BMWED

Reference: Rule 12 Discipline

Dear Mr. Knight:

During our negotiations we discussed the transition from the former Brown System of Discipline to the new FEC Development and Accountability Policy. It was agreed that in order to effectively transition to this new system, all employees covered by this Agreement will be given a clean disciplinary slate as to any demerits that are currently on their record. This provision is not intended to conflict with any federal regulations, nor any maintenance of records as may be required by the FRA or other regulatory agency. This provision will also not affect any individual leniency or probationary agreements that may be in effect.

If the foregoing accurately describes our agreement, please sign the space provided below.

Yours truly,

James Hertwig  
President & Chief Executive Officer

I agree:

________________________
General Chairman, BMWED
Side Letter No. 2

Mr. James D. Knight
General Chairman, BMWED

Reference: Rule 36 – Rates of Pay

Dear Mr. Knight:

In reference to the collective bargaining agreement signed today, we discussed the concerns expressed by the Organization regarding the possible future modification of the Incentive Compensation Plan (hereinafter referred to as “the Plan”). In that respect, the Company is agreeable to the following:

In the event, during the moratorium period of this contract, the Plan is revised to provide for a reduction in the potential compensation thereunder below six percent (6%) of the employees’ gross wages, the Organization may, at its option, serve written notice upon the Company of its intent to discontinue participation in the Plan effective at the beginning of the next quarter. In that event, the rates of pay will be increased by 1% concurrent with discontinuance of Plan participation for the balance of that calendar year. Thereafter, for the balance of the moratorium period, the remaining general wage increases provided shall be applied at 3% instead of 2%.

Please indicate your concurrence by signing below.

Yours truly,

James Hertwig
President & Chief Executive Officer

I agree:

General Chairman, BMWED
Side Letter No. 3

Mr. James D. Knight  
General Chairman, BMWED  

Reference: Rule 41 - Health and Welfare  

Dear Mr. Knight:

In reference to the collective bargaining agreement signed today, we had discussions concerning the hospital, medical and dental benefits provided by the Carrier under Rule 41 – Health and Welfare. We agreed that it is in the interests of the parties to continue to provide employees with a competitive benefit structure at the lowest possible out-of-pocket cost to the employees. The Plan described in Rule 41 accomplishes that goal. The Organization also sought a commitment from the Carrier that it would continue to provide at least the current level of health care benefits to its employees; with the understanding this Rule becomes amendable as outlined in Rule 41(b).

That stated, we also recognized that from time to time, it may be necessary to change the terms and conditions of benefits in order to maintain its competitive and cost effective nature, except those considered as essential benefits by the federal government. In any event, it is agreed that the cost-sharing levels applied for employees will not hereafter increase more than 100% than the levels outlined in the previous agreement.

The Company also agrees to cooperate with the Organization in the mutual effort to ensure the continued stability and cost effectiveness of this Plan by seeking a consistent approach to a healthcare plan.

Additionally, it was agreed that active employees who are union representatives and therefore required to perform part time union service will not be declared ineligible for health care benefits in the event such union work results in failure to meet the hourly work threshold for such benefits. If the Company believes this provision is being abused, the matter will be immediately brought to the attention of the General Chairman for resolution.

Please indicate your concurrence by signing below.

Yours truly,

James Hertwig  
President and Chief Operating Officer

I agree:

General Chairman, BMWE  

BMWED CBA Final 07.16.2011  

Side Letter No. 4

Mr. James D. Knight  
General Chairman, BMWED

Reference: ATTACHMENT “A” Union Shop Rule

Dear Mr. Knight:

This refers to ATTACHMENT “A”, Union Shop Rule. Sub-paragraph “C” addresses supervisory employees who hold seniority in the craft retaining their seniority under Rule 5- Seniority of the amended collective bargaining agreement. This letter serves to confirm that such supervisory employees may continue to accrue their seniority provided they pay the BMWED a seniority retention fee equal to the current monthly dues.

This payment starts on August 1, 2011.

Yours truly,

James Hertwig  
President and Chief Executive Officer

I agree:

______________________________
General Chairman, BMWE