

**MEDIATION AGREEMENT**

THIS AGREEMENT, made this \_\_\_ day of \_\_\_\_\_, 2007, by and between the participating carriers listed in Exhibit A attached hereto and hereby made a part hereof, and represented by the National Carriers' Conference Committee, and the employees of such carriers shown thereon and represented by the Brotherhood of Maintenance of Way Employees Division-International Brotherhood of Teamsters:

**IT IS HEREBY AGREED:**

**ARTICLE I - WAGES**

**Section 1 - First General Wage Increase**

On July 1, 2005, all hourly, daily, weekly, and monthly rates of pay of employees covered by this Agreement in effect on the preceding day shall be increased in the amount of two-and-one-half (2-1/2) percent applied so as to give effect to this increase in pay irrespective of the method of payment. The increase provided for in this Section 1 shall be applied as follows:

(a) **Hourly Rates** -

Add 2-1/2 percent to the existing hourly rates of pay.

(b) **Daily Rates** -

Add 2-1/2 percent to the existing daily rates of pay.

(c) **Weekly Rates** -

Add 2-1/2 percent to the existing weekly rates of pay.

(d) **Monthly Rates** -

Add 2-1/2 percent to the existing monthly rates of pay.

(e) **Disposition of Fractions** -

Rates of pay resulting from application of paragraphs (a) through (d) above which end in fractions of a cent shall be rounded to the nearest whole cent. Fractions less than one-half cent shall be dropped, and fractions of one-half cent or more shall be increased to the nearest full cent.

(f) **Piece Work** -

Adjustment of piece-work rates of pay shall be based on the amount of increase applicable to the basic hourly rates for the class of work performed. Where piece-work rates of pay are in effect on carriers having special rules as to the application of any increase, or decrease, in such rates, such rules shall apply.

(g) **Deductions** -

Insofar as concerns deductions, which may be made from the rates resulting from the increase herein granted, under Section 3(m) of the Fair Labor Standards Act of 1938, they may continue to be made to the extent that such deductions were being legally made as of August 31, 1941.

(h) **Application of Wage Increase** -

The increase in wages provided for in this Section 1 shall be applied in accordance with the wage or working conditions agreement in effect between each carrier and the labor organization party hereto. Special allowances not included in

fixed hourly, daily, weekly or monthly rates of pay for all services rendered, and arbitraries representing duplicate time payments, will not be increased. Overtime hours will be computed in accordance with individual schedules for all overtime hours paid for.

## **Section 2 - Second General Wage Increase**

Effective July 1, 2006, all hourly, daily, weekly, monthly and piece-work rates of pay in effect on June 30, 2006 for employees covered by this Agreement shall be increased in the amount of three (3) percent applied so as to give effect to this increase irrespective of the method of payment. The increase provided for in this Section 2 shall be applied in the same manner as provided for in Section 1 hereof.

## **Section 3 - Third General Wage Increase**

Effective July 1, 2007, all hourly, daily, weekly, monthly and piece-work rates of pay in effect on June 30, 2007 for employees covered by this Agreement shall be increased in the amount of three (3) percent applied so as to give effect to this increase irrespective of the method of payment. The increase provided for in this Section 3 shall be applied in the same manner as provided for in Section 1 hereof.

## **Section 4 - Fourth General Wage Increase**

Effective July 1, 2008, all hourly, daily, weekly, monthly and piece-work rates of pay in effect on June 30, 2008 for employees covered by this Agreement shall be increased in the amount of four (4) percent applied so as to give effect to this increase irrespective of the method of payment. The increase provided for in this Section 4 shall be applied in the same manner as provided for in Section 1 hereof.

### **Section 5 - Fifth General Wage Increase**

Effective July 1, 2009, all hourly, daily, weekly, monthly and piece-work rates of pay in effect on June 30, 2009 for employees covered by this Agreement shall be increased in the amount of four-and-one-half (4-1/2) percent applied so as to give effect to this increase irrespective of the method of payment. The increase provided for in this Section 5 shall be applied in the same manner as provided for in Section 1 hereof.

### **Section 6 – Rate Adjustment**

Effective January 1, 2007, all hourly, daily, weekly, monthly and piece-work rates of pay in effect on December 31, 2006 for employees covered by this Agreement shall be increased in the amount of \$0.47 per hour applied so as to give effect to this increase irrespective of the method of payment. The increase provided for in this Section 6 shall be applied in the same manner as described in Article II, Part B, Section 3 of the May 31, 2001 National BMW Agreement, except that such increase shall become part of basic rates of pay.

## **ARTICLE II – OPTIONAL ALTERNATIVE COMPENSATION PROGRAM**

### **Section 1**

A carrier or organization may propose alternative compensation arrangements for consideration by the other party. Such arrangements may include, for example, stock options, stock grants (including restricted stock), bonus programs based on carrier performance, and 401(k) plans. The proposed arrangement(s) may be implemented only by mutual agreement of the carrier and the appropriate representatives.

## **Section 2**

The parties understand that neither the carrier nor the organization may be compelled to offer any alternative compensation arrangement, and, conversely, neither the carrier nor the organization may be compelled to agree to any proposal made under this Article.

## **ARTICLE III - COST-OF-LIVING PAYMENTS**

### **Cost-of-Living Payments Under May 31, 2001 Agreement**

#### **Section 1**

Article II, Part B, of the May 31, 2001 National BMW Agreement (“Article II, Part B”), shall be eliminated effective on the date of this Agreement. The full amount of the cost-of-living allowance payments that were payable under Article II, Part B (the COLA amount before reduction for employee health and welfare cost-sharing contributions) to employees for periods on and after July 1, 2005 shall be recovered from any retroactive wage increase payments made under Article I of this Agreement. (See Attachment A to Side Letter No. 10.)

#### **Section 2**

Any local counterpart to the above-referenced Article II, Part B that is in effect on a carrier party to this Agreement shall be amended in the same manner as provided in Section 1.

## **ARTICLE IV - HEALTH AND WELFARE**

### **Part A - Plan Changes**

#### **Section 1 - Continuation of Plans**

The Railroad Employees National Health and Welfare Plan (“the Plan”), the Railroad Employees National Dental Plan (“the Dental Plan”), and the Railroad Employees National Vision Plan (“the Vision Plan”), modified as provided in this Article with respect to employees represented by the organization and their eligible dependents, will be continued subject to the provisions of the Railway Labor Act.

## **Section 2 – Plan Benefit Changes - MMCP**

(a) The Plan’s Managed Medical Care Program (“MMCP”) will be offered to all employees in any geographic area where the MMCP is not currently offered and United Healthcare, Aetna, or Highmark BlueCross Blue Shield has a medical care network (“white space”). For purposes of this subsection, such “network” shall mean a “point-of-service” network in the case of United Healthcare and Aetna, and a preferred provider network in the case of Highmark BlueCross BlueShield. Employees who live in a white space may choose between coverage under MMCP or the Comprehensive Health Care Benefit, subject to subsection (b) below.

(b) The parties may, by mutual agreement and subject to such evaluation and conditions as they may deem appropriate, designate specific geographic areas within the white space as mandatory MMCP locations. Employees who live in mandatory MMCP locations shall not have a choice between CHCB and MMCP coverage, but shall be enrolled in the MMCP.

(c) United Healthcare and Aetna, respectively, shall apply “nationwide market reciprocity” to employees and their dependents who are enrolled in MMCP. The term “nationwide market reciprocity” is intended to mean, by way of example, that a person enrolled in MMCP with UHC in market A is permitted to get in-network MMCP benefits from a UHC point-of-service network provider in market B.

(d) This Section shall become effective with respect to employees covered by this Agreement on July 1, 2007 or as soon thereafter as practicable.

### **Section 3 - Design Changes To Contain Costs**

- (a) The Plan's MMCP shall be revised as follows:
- (1) The Office Visit Co-Payment for In-Network Services shall be increased to \$20.00 for each office visit to a provider in general practice or who specializes in pediatrics, obstetrics-gynecology, family practice or internal medicine, and \$35.00 for each office visit to any other provider;
  - (2) The Urgent Care Center Co-Payment for In-Network Services shall be increased to \$25.00 for each visit;
  - (3) The Emergency Room Co-Payment for In-Network Services shall be increased to at least \$50.00 for each visit, but if the care received meets the applicable Plan definition of an Emergency, the Plan will reimburse the employee for the full amount paid for such care, except for \$25.00 if the visit does not result in hospital admission. For purposes of this Paragraph, the phrase "at least" shall be interpreted and applied consistent with practice under the Plan preceding the date of this Agreement;
  - (4) The Annual Deductible for Out-of-Network Services shall be increased to \$300.00 per individual and \$900.00 per family;
  - (5) The Annual Out-of-Pocket Maximum for Out-of-Network Services shall be increased to \$2,000 per individual and \$4,000 per family.

(b) The Plan's Comprehensive Health Care Benefit shall be revised as follows:

- (1) The Annual Deductible shall be increased to \$200.00 per individual and \$400.00 per family;
- (2) The Annual Out-of-Pocket Maximum shall be increased to \$2,000 per individual and \$4,000 per family.

(c) The Plan's Prescription Drug Card Program co-payments to In-Network Pharmacies per prescription are revised as follows:

- (1) Generic Drug – increase to \$10.00;
- (2) Brand Name (Non-Generic) Drug On Program Administrator's Formulary – increase to \$20.00;
- (3) Brand Name (Non-Generic) Drug Not On Program Administrator's Formulary – increase to \$30.00;
- (4) Brand Name (Non-Generic) Drug on Program Administrator's Formulary that is not ordered by the patient's physician by writing "Dispense as Written" on the prescription and there is an equivalent Generic Drug- increase to \$20.00 plus the difference between the Generic Drug and the Brand Name (Non-Generic) Drug;
- (5) Brand Name (Non-Generic) Drug Not On Program Administrator's Formulary that is not ordered by the patient's physician by writing "dispense as Written" on the prescription and there is an equivalent Generic Drug- increase to \$30.00 plus the difference between the Generic Drug and the Brand Name (Non-Generic) Drug.

(d) The Plan's Mail Order Prescription Drug Program co-payments per prescription are revised as follows:

- (1) Generic Drug – increase to \$20.00;
- (2) Brand Name (Non-Generic) Drug On Program Administrator's Formulary – increase to \$30.00;
- (3) Brand Name (Non-Generic) Drug Not on Program Administrator's Formulary – increase to \$60.00.

(e) For purposes of the Plan, the term "children" as used in connection with determining "Eligible Dependents" under the Plan, shall be defined as follows:

"Children include:

- o natural children,
- o stepchildren,
- o adopted children (including children placed with you for adoption), and
- o your grandchildren, provided they have their legal residence with you and are dependent for care and support mainly upon you and wholly, in the aggregate, upon themselves, you, your spouse, scholarships and the like, and governmental disability benefits and the like."

(f) The definition of the term "children", as used in connection with determinations of "Eligible Dependents" under the terms of the Dental Plan and the Vision Plan, respectively, shall be revised as provided in subsection (e) above.

(g) Blue Cross Blue Shield programs that are currently available under the Plan will be made available for selection by employees covered by this Agreement who choose coverage under the MMCP in all areas where the MMCP is made available under the Plan and throughout the United States for selection by such employees who choose coverage under the CHCB.

(h) During a prescribed election period preceding January 1, 2008, and preceding each January 1 thereafter, employees may certify to the Plan or its designee in writing that they have health care coverage (which includes medical, prescription drug, and mental health/substance abuse benefits) under another group health plan or health insurance policy that they identify by name and, where applicable, by group number, and for that reason they elect to forego coverage for foreign-to-occupation health benefits for themselves and their dependents under the Plan and under any Hospital Association plan in which they participate. Such election is hereafter referred to as an "Opt-Out Election" and, where exercised, will eliminate an employer's obligation to make a contribution to the Plan and/or dues offset payment to a Hospital Association for foreign-to-occupation health benefits for the employee and his dependents.

Each employee who makes an Opt-Out Election will be paid by his employer \$100 for each month that his employer is required to make a contribution to the Plan on his behalf for life insurance and accidental death and dismemberment benefits as a result of compensated service rendered, or vacation pay received, by the employee during the prior month; provided, however, that the employee's Opt-Out Election is in effect for the entire month.

If an event described below in the final paragraph of this subsection (h) occurs subsequent to an employee's Opt-Out Election, the employee may, upon providing the Plan or its designee with proof satisfactory to it of the occurrence of such event, revoke his or her Opt-Out Election. An employee may also revoke his or her Opt-Out Election by providing the Plan or its designee with proof satisfactory to it that, after the employee made the Opt-Out Election, a person became a dependent of the employee through a

marriage, birth, or adoption or placement for adoption. An employee who revokes an Opt-Out Election will, along with his or her dependents, be once again covered (effective the first day of the first month following such revocation that the employee and/or his dependents would have been covered but for the Opt-Out Election the employee had previously made) for foreign-to-occupation health benefits under the Plan or, in the case of an employee who is a member of a Hospital Association, by the Plan (for dependent coverage) and by the Hospital Association (for employee coverage). See Side Letter No. 6.

The following events are the events referred to in the immediately preceding paragraph:

- (1) the employee loses eligibility under, or there is a termination of employer contributions for, the other coverage that allowed the employee to make the Opt-Out Election, or
- (2) if COBRA was the source of such other coverage, that COBRA coverage is exhausted.
  - (i) Plan participants and their beneficiaries who live in an area where, as of the date of this Agreement, they may choose between MMCP and CHCB coverage shall no longer have a choice, but shall be enrolled in the MMCP. This subsection is not intended to have any application to employees covered by this Agreement who reside in any geographic area where MMCP is not offered as of the date of such Agreement. Mandatory enrollment in MMCP for such employees shall be governed exclusively by Part A, Section 2(b) of this Article.
  - (j) The design changes contained in this Section shall become effective on July 1, 2007 or as soon thereafter as practicable.

## **Part B - Employee Sharing of Cost of H&W Plans**

### **Section 1 – Monthly Employee Cost-Sharing Contributions**

(a) Effective January 1, 2007, each employee covered by this Agreement shall contribute to the Plan, for each month that his employer is required to make a contribution to the Plan on his behalf for foreign-to-occupation health benefits coverage for himself and/or his dependents, a monthly cost-sharing contribution in an amount equal to 15% of the Carriers' Monthly Payment Rate for 2007.

(b) The employee monthly cost-sharing contribution amount shall be adjusted, effective January 1, 2008, so as to equal 15% of the Carriers' Monthly Payment Rate for 2008 and, effective January 1, 2009, so as to equal 15% of the Carriers' Monthly Payment Rate for 2009.

(c) Effective January 1, 2010, the employee monthly cost-sharing contribution amount shall be adjusted to be the lesser of:

- (1) 15% of the Carrier's Monthly Payment Rate for 2010, or
- (2) \$200.00 or the January 1, 2009 employee monthly cost-sharing contribution amount, whichever is greater.

(d) For purposes of subsections (a) through (c) above, the "Carriers' Monthly Payment Rate" for any year shall mean the sum of what the carriers' monthly payments to —

- (1) the Plan for foreign-to-occupation employee and dependent health benefits, employee life insurance benefits and employee accidental death and dismemberment insurance benefits,
- (2) the Dental Plan for employee and dependent dental benefits, and
- (3) the Vision Plan for employee and dependent vision benefits,

would have been during that year, per non-hospital association road employee, in the absence of any employee contributions to such Plans.

(e) The Carriers' Monthly Payment Rate for 2007 has been determined to be \$1,108.34 and the Employee Monthly Cost-Sharing Contribution Amount for 2007 has been determined to be \$166.25.

## **Section 2 - Pre-Tax Contributions**

Employee cost-sharing contributions made pursuant to this Part shall be made on a pre-tax basis pursuant to the existing Section 125 cafeteria plan to the extent applicable.

## **Section 3 - Retroactive Contributions**

Retroactive employee cost-sharing contributions payable for the period on and after January 1, 2007 shall be offset against any retroactive wage payments provided to the affected employee under Article I, Sections 1, 2 and 6 of this Agreement, provided, however, there shall be no such offset for any month for which the affected employee was not obligated to make a cost-sharing contribution.

## **Section 4 – Prospective Contributions**

For months subsequent to the retroactive period covered by Section 3, employee cost-sharing contributions will be made for the employee by the employee's employer. The employer shall deduct the amount of such employee contributions from the employee's wages and retain the amounts so deducted as reimbursement for the employee contributions that the employer had made for the employee.

## **ARTICLE V - SUPPLEMENTAL SICKNESS**

The January 9, 1980 Supplemental Sickness Benefit Agreement, as

subsequently amended (Sickness Agreement), shall be further amended as provided in this Article.

**Part A – Plan Benefit Adjustments**

**Section 1 - Adjustment of Plan Benefits**

(a) The benefits provided under the Supplemental Sickness Benefit Plan established pursuant to the Sickness Agreement (“SSB Plan”) shall be adjusted as provided in paragraph (b) so as to restore the same ratio of benefits to rates of pay as existed on December 31, 2004 under the terms of that Agreement.

(b) Section 4 of the Sickness Agreement shall be revised as follows:

	<u>Per Hour</u>	<u>Per Month</u>
Class I Employees Earning (as of December 31, 2004)	\$19.19 or more	\$3,339 or more
Class II Employees Earning (as of December 31, 2004)	\$17.82 or more but less than \$19.19	\$3,101 or more, but less than \$3,339
Class III Employees Earning (as of December 31, 2004)	Less than \$17.82	Less than \$3,101

Basic and Maximum Amount Per Month

<u>Classification</u>	<u>Basic</u>	<u>RUIA</u>	<u>Maximum</u>
Class I	\$1,033	\$1,218	\$2,251
Class II	\$907	\$1,218	\$2,125

Class III	\$763	\$1,218	\$1,981
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Combined Benefit Limit

<u>Classification</u>	<u>Maximum Monthly Amount</u>
Class I	\$2,415
Class II	\$2,276
Class III	\$2,124

**Section 2 - Adjustment of Plan Benefits During Agreement Term**

Effective December 31, 2009 the benefits provided under the Plan shall be adjusted so as to restore the same ratio of benefits to rates of pay as existed on the effective date of this Article.

**Part B – Notice of Disability**

Existing agreements and practices regarding the time within which notices of disability must be filed under the SSB Plan, and the consequences of failure to file within that time period, shall be modified as set forth below.

**Section 1 – Notification**

A SSB Plan participant shall give the vendor administering claims under the Plan notice of disability, solely with respect to disabilities beginning on or after the date of this Agreement, within sixty (60) days after the start of the disability, unless failure to do so is due to a serious physical or mental injury or illness suffered by the participant, in which case the notice of disability must be given to the vendor as soon as amelioration of such serious physical or mental illness or injury reasonably permits. All claims

with regard to which a notice of disability is not given in compliance with this time limitation shall be denied whether or not the SSB Plan has been prejudiced by such noncompliance or the claim is otherwise valid and payable.

## **Section 2 – Appeals**

All final (second-level) appeals from claim denials under the SSB Plan that are pending on the date of this Agreement or are thereafter filed, where disposition of the claim required medical judgment that involved the participant's eligibility for SSB Plan benefits, his or her physical condition, the cause of his or her disability, or the date his or her disability started, will be considered and determined by a Disputes Committee consisting of one or more individuals selected by MCMC, LLC, an independent review entity, or such successor as may be mutually selected by the parties. In the event of a disagreement between the parties regarding selection of a successor, such dispute shall be resolved in the same manner as provided for in the existing arrangements governing disposition of deadlocks on matters brought before the Joint Plan Committee of the National H&W Plan.

## **ARTICLE VI- GENERAL PROVISIONS**

### **Section 1 - Court Approval**

This Agreement is subject to approval of the courts with respect to participating carriers in the hands of receivers or trustees.

### **Section 2 - Effect of this Agreement**

(a) The purpose of this Agreement is to settle the disputes growing out of the notices served upon the organization by the carriers listed in Exhibit A on or subsequent to November 1, 2004 (including any notices outstanding as of that date), and the notices served by the organization signatory hereto upon such carriers on or subsequent to November 1, 2004 (including any notices outstanding as of that date).

(b) This Agreement shall be construed as a separate agreement by and on behalf of each of said carriers and their employees represented by the organization signatory hereto, and shall remain in effect through December 31, 2009 and thereafter until changed or modified in accordance with the provisions of the Railway Labor Act, as amended.

(c) No party to this Agreement shall serve or progress, prior to November 1, 2009 (not to become effective before January 1, 2010), any notice or proposal.

(d) This Article will not bar management and the organization on individual railroads from agreeing upon any subject of mutual interest.

**SIGNED AT WASHINGTON, D.C. THIS \_\_\_ DAY OF \_\_\_\_\_, 2007.**

**FOR THE PARTICIPATING  
CARRIERS LISTED IN  
EXHIBIT A REPRESENTED  
BY THE NATIONAL CARRIERS'  
CONFERENCE COMMITTEE:**

**FOR THE EMPLOYEES REP-  
RESENTED BY THE BROTH-  
ERHOOD OF MAINTENANCE  
OF WAY EMPLOYEES DIVIS-  
ION – IBT:**

\_\_\_\_\_  
NCCC Chairman

\_\_\_\_\_  
National President

\_\_\_\_\_

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\_\_\_\_\_, 2007  
#1

Mr. Freddie N. Simpson  
National President  
Brotherhood of Maintenance of Way Employes Division  
International Brotherhood of Teamsters  
20200 Civic Center Drive, Suite 320  
Southfield, MI 48076

Dear Mr. Simpson:

This confirms our understanding with respect to the general wage increases provided for in Article I, Sections 1 and 2, and the Rate Adjustment provided for in Article I, Section 6, of the Agreement of this date.

The carriers will make all reasonable efforts to pay the retroactive portion of such wage increases as soon as possible and no later than sixty (60) days after the date of this Agreement.

If a carrier finds it impossible to make such payments by that date, such carrier shall notify you in writing explaining why such payments have not been made and indicating when the payments will be made.

Very truly yours,

Robert F. Allen

\_\_\_\_\_, 2007  
#2

Mr. Freddie N. Simpson  
National President  
Brotherhood of Maintenance of Way Employes Division  
International Brotherhood of Teamsters  
20200 Civic Center Drive, Suite 320  
Southfield, MI 48076

Dear Mr. Simpson:

This refers to the increase in wages provided for in Sections 1, 2 and 6 of Article I of the Agreement of this date.

It is understood that the retroactive portion of those wage increases shall be applied only to employees who have an employment relationship with a carrier on the date of this Agreement or who retired or died subsequent to June 30, 2005.

Please acknowledge your agreement by signing your name in the space provided below.

Yours very truly,

Robert F. Allen

I agree:

\_\_\_\_\_  
F. N. Simpson

\_\_\_\_\_, 2007  
#3

Mr. Freddie N. Simpson  
National President  
Brotherhood of Maintenance of Way Employes Division  
International Brotherhood of Teamsters  
20200 Civic Center Drive, Suite 320  
Southfield, MI 48076

Dear Mr. Simpson:

This confirms our understanding regarding Article IV – Health And Welfare of the Agreement of this date.

Notwithstanding any provision to the contrary, it is mutually understood and agreed that:

1. The Plan Design Changes contained in Article IV, Part A, Section 3 (excluding Section 3(g), (h), and (i)) will be made effective as soon as feasible after the date of the Agreement and in no event later than August 1, 2007.
2. The Plan Benefit Change set forth in Article IV, Part A, Section 2(c) will be made effective on the same date as the changes in Paragraph 1 above.
3. The Plan Benefit Change set forth in Article IV, Part A, Section 2(a) will be made effective as soon as feasible after the date of the Agreement.

Please acknowledge your agreement by signing your name in the space provided below.

Very truly yours,

Robert F. Allen

I agree:

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F. N. Simpson

\_\_\_\_\_, 2007  
#4

Mr. Freddie N. Simpson  
National President  
Brotherhood of Maintenance of Way Employes Division  
International Brotherhood of Teamsters  
20200 Civic Center Drive, Suite 320  
Southfield, MI 48076

Dear Mr. Simpson:

This will confirm our understanding with respect to the Agreement of this date (Agreement).

The provisions of Article IV, Part A, Section 3(h) (Opt-Outs) and Part B (Employee Sharing of Cost of H&W Plans) are not applicable to employees covered by the Agreement who reside in Canada.

Please acknowledge your agreement by signing your name in the space provided below.

Yours very truly,

Robert F. Allen

I agree:

\_\_\_\_\_  
F. N. Simpson

\_\_\_\_\_, 2007  
#5

Mr. Freddie N. Simpson  
National President  
Brotherhood of Maintenance of Way Employes Division  
International Brotherhood of Teamsters  
20200 Civic Center Drive, Suite 320  
Southfield, MI 48076

Dear Mr. Simpson:

Article IV, Part A, Section 3(h) of the Agreement of this date (Agreement) provides employees with an option to opt out of coverage for foreign-to-occupation health benefits for themselves and their dependents under the Plan and under any Hospital Association plan in which they participate. This will confirm our understanding with respect to the intended application of that provision.

1. An employee who opts out will be opting out of FO health coverage only and (if he otherwise satisfies eligibility and coverage requirements) will continue to have on-duty injury coverage, coverage under the Dental and Vision Plans, and life and AD&D insurance coverage.

2. If a husband and wife are each covered by the Plan (or the NRC/UTU Plan or a Hospital Association) by virtue of railroad employment and either or both hold positions covered by this Agreement, a BMWED-represented spouse may elect to opt out as provided in Section 3(h). If that election is made (and provided the other spouse remains so covered), (i) such BMWED-represented spouse shall not receive the \$100/month payment

provided in Section 3(h) and shall not be required to make the employee cost-sharing contributions required under Article IV, Part B, and (ii) the Plan's coordination of benefits rules in effect on the date of this Agreement that are applied when a husband and wife are covered under the Plan both as an Eligible Employee and as an Eligible Dependent shall continue to be applicable.

Please acknowledge your agreement by signing your name in the space provided below.

Very truly yours,

Robert F. Allen

I agree:

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F. N. Simpson

\_\_\_\_\_, 2007  
#6

Mr. Freddie N. Simpson  
National President  
Brotherhood of Maintenance of Way Employes Division  
International Brotherhood of Teamsters  
20200 Civic Center Drive, Suite 320  
Southfield, MI 48076

Dear Mr. Simpson:

This confirms our understanding with respect to the opt-out provision, Article IV, Part A, Section 3(h) of our Agreement of this date.

It is understood that for purposes of Section 9801(f) of the Internal Revenue Code, (i) any opt-out election shall be treated as a declination of coverage, or a failure to enroll, for foreign-to-occupation health benefits under the Plan and under any Hospital Association plan in which the employee making the election may participate, (ii) that the provisions of Section 9801(f) and the regulations thereunder shall govern how any individual covered by an election to opt-out may nonetheless become covered for foreign-to-occupation health benefits under the Plan or any Hospital Association plan prior to the next regular opt-out election period, (iii) that the terms of Article IV, Part A, Section 3(h) of our Agreement shall be interpreted and applied so as to be in compliance with Section 9801(f), and (iv) that the employer's payment of \$100 per month to an employee who has elected to opt-out shall cease immediately upon the employee and/or his dependents or any one of his dependents becoming covered, pursuant to Section 9801(f), for foreign-to-occupation health benefits under the Plan or any Hospital Association plan.

Furthermore, and notwithstanding the above, the parties recognize that

an employee may lose coverage under the health plan or health insurance policy that he or she relied upon in electing to forego coverage for foreign-to-occupation health benefits under the Plan, and that such loss of coverage may be attributable to an event that is not listed in Section 9801(f) of the Internal Revenue Code and is beyond the control of the employee or of any member of his or her family. In such a case, and only to the extent permissible under Section 125 of the Internal Revenue Code: (a) the employee may ask his/her employer that his or her opt-out election be revoked; (b) the employer involved may in its discretion grant the request in the interest of fairness and equity; and (c) if the request is granted, the employee's opt-out election shall be treated as revoked as of the day the employer received the request.

Please acknowledge your agreement by signing your name in the space provided below.

Very truly yours,

Robert F. Allen

I agree:

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F. N. Simpson

\_\_\_\_\_, 2007  
#7

Mr. Freddie N. Simpson  
National President  
Brotherhood of Maintenance of Way Employes Division  
International Brotherhood of Teamsters  
20200 Civic Center Drive, Suite 320  
Southfield, MI 48076

Dear Mr. Simpson:

This confirms our understanding regarding the Agreement of this date.

Beginning with the first full calendar month immediately following the date of this Agreement in which an active employee receives his or her FO healthcare benefits from a Hospital Association and not from the National Health & Welfare Plan and makes a prospective Plan contribution pursuant to Article IV, Part B, Section 4, the carrier shall pay the Hospital Association for such month an amount equal to the Reduction Factor, provided that the Hospital Association that receives such payment has agreed to decrease the employee's dues by the same amount.

For purposes of this Side Letter, the term "Reduction Factor" means with respect to any given month, the smallest of:

- (i) the monthly dues amount in effect on January 1, 2003 that was established by the Hospital Association for payment by an active employee,

- (ii) the “cost-sharing contribution amount” for the month referred to in Article IV, Part B, Section 1, or
- (iii) the monthly dues amount established by the Hospital Association for payment by an active employee in that month.

Please acknowledge your agreement by signing your name in the space provided below.

Very truly yours,

Robert F. Allen

I agree:

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F. N. Simpson

\_\_\_\_\_, 2007  
#8

Mr. Freddie N. Simpson  
National President  
Brotherhood of Maintenance of Way Employes Division  
International Brotherhood of Teamsters  
20200 Civic Center Drive, Suite 320  
Southfield, MI 48076

Dear Mr. Simpson:

This confirms our understanding regarding Article IV, Part B of the Agreement of this date.

If the initial deduction from an employee's wages for his monthly cost-sharing contribution pursuant to Article IV, Part B, Section 4 is scheduled to be made at the same time as the payroll deduction for the employee's union dues, the union dues deduction may be made on a subsequent date mutually agreeable to the parties.

Please acknowledge your agreement by signing your name in the space provided below.

Very truly yours,

Robert F. Allen

I agree:

\_\_\_\_\_  
F. N. Simpson

\_\_\_\_\_, 2007  
#9

Mr. Freddie N. Simpson  
National President  
Brotherhood of Maintenance of Way Employes Division  
International Brotherhood of Teamsters  
20200 Civic Center Drive, Suite 320  
Southfield, MI 48076

Dear Mr. Simpson:

This confirms our understanding regarding Article V, Part B of the Agreement of this date.

All claims for SSB Plan benefits (a) for disabilities beginning before the date of this Agreement, (b) that were denied for failure to provide timely notice of disability, and (c) appeal from the denial of which is now pending, shall be promptly reevaluated.

1. If the vendor administering claims under the Plan determines through that reevaluation that notice of disability was given within sixty (60) days of the start of disability, and that the claim is otherwise valid and payable, the claim shall be allowed and processed.

2. If the vendor determines that notice of disability was not given within sixty (60) days of the start of disability, or that the claim should be denied for reasons other than a failure to give timely notice of disability, the claim shall be denied, which denial shall be treated as an initial denial of the claim that may be appealed in accordance with Plan procedures.

Please acknowledge your agreement by signing your name in the space provided below.

Very truly yours,

Robert F. Allen

I agree:

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F. N. Simpson

\_\_\_\_\_, 2007  
#10

Mr. Freddie N. Simpson  
National President  
Brotherhood of Maintenance of Way Employes Division  
International Brotherhood of Teamsters  
20200 Civic Center Drive, Suite 320  
Southfield, MI 48076

Dear Mr. Simpson:

This confirms our understanding regarding the Agreement of this date.

The parties concur that the hypothetical example set forth in Attachment A to this letter describes the methodology concerning (i) the computation of gross retroactive pay and retroactive H&W cost-sharing that shall be utilized by the railroads in determining the net retroactive amount payable to a covered employee under the terms of this Agreement, and (ii) determination of the hourly rate of pay produced by application of the general wage increases and rate adjustment provided for, respectively, in Article I, Sections 1, 2 and 6 of this Agreement.

Please acknowledge your agreement by signing your name in the space provided below.

Very truly yours,

Robert F. Allen

I agree:

\_\_\_\_\_  
F. N. Simpson

ATTACHMENT A

BMW Retroactive Pay, H&W Cost-Sharing

ASSUMPTIONS:

Effective date of new agreement is June 1, 2007.

Employee's hourly rate as of 1/1/05 is \$20.00.

Cumulative H&W COLA offset for period 2001 through 2004, \$0.47/hr, is rolled in to Employee's hourly rate effective midnight 12/31/06

Employee works 220 hours per month (2640/year), all at straight time

Following GWI's are applicable:

7/1/05                    2.5%

7/1/06                    3.0%

Employee is obligated to make a cost-sharing contribution for each month during period 1/1/07 through 5/31/07

1. Gross Retroactive Pay

Employee would be due the following in retroactive pay:

a. For period 7/1/05 through 6/30/06:

$\$0.50^* \times 2640 \text{ hours} = \$1,320.00$

\*  $\$20.00/\text{hr} \times 1.025 = \$20.50$

b. For period 7/1/06 through 5/31/07:

$\$1.12^* \times 2420 \text{ hours} = \$2,710.40$

\*  $\$20.50 \times 1.03 = \$21.12$

c. For period 1/1/07 through 5/31/07:

$$\$0.47 \times 1100 \text{ hours} = \$517.00$$

d. Total gross retroactive pay of \$4,547.40

2. COLA Credit (1/1/05 through 5/31/07)

Railroad entitled to following credit against gross retroactive pay:

a. For period 7/1/05 through 12/31/05:

$$\$0.15 \times 220 \times 6 = \$198.00$$

b. For period 1/1/06 through 6/30/06:

$$\$0.46 \times 220 \times 6 = \$607.20$$

c. For period 7/1/06 through 12/31/06:

$$\$0.47 \times 220 \times 6 = \$620.40$$

d. For period 1/1/07 through 5/31/07:

$$\$0.62 \times 220 \times 5 = \$682.00$$

e. Total COLA credit = \$2,107.60

3. Retroactive H&W Payments (1/1/07 through 5/31/07)

$$\$116.36 * \times 5 = \$581.80$$

\*  $\$166.25 - \$49.89 = \$116.36/\text{mo.}$

$$[\$0.23 \text{ (net cumulative H\&W cents/hr offset of } \$0.70 - 47) \times 216.92 \text{ (2,603 ACSTE Hours/12)}] = \$49.89/\text{mo.}]$$

4. Net retroactive wage payment

$$\$4,547.40 - (\$2,107.60 + \$581.80) = \$1,858.00$$

5. Increase net retroactive wage payment by 29.6 percent

$$1.296 \times \$1,858.00 = \$2,407.97.$$

6. Hourly Rate Effective 6/1/07

a.  $\$20.00^* \times 1.025 \times 1.03 = \$21.12$  (rounded)

\* Hourly rate on 6/30/05

b.  $\$21.12 + \$0.47^* = \$21.59$

\* Rate adjustment (effective midnight, 12/31/06)

**EXHIBIT A**  
**(BMWED)**

**CARRIERS REPRESENTED BY THE NATIONAL CARRIERS' CONFERENCE COMMITTEE IN CONNECTION WITH NOTICES SERVED ON OR AFTER NOVEMBER 1, 2004 BY AND ON BEHALF OF SUCH CARRIERS UPON THE BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES DIVISION-IBT, AND NOTICES SERVED ON OR AFTER NOVEMBER 1, 2004 BY THE GENERAL CHAIRMEN, OR OTHER RECOGNIZED REPRESENTATIVES OF THE BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES DIVISION-IBT, UPON SUCH CARRIERS.**

**Subject to indicated footnotes, this authorization is co-extensive with notices filed and with provisions of current schedule agreements applicable to employees represented by the Brotherhood of Maintenance of Way Employees Division-IBT.**

Alameda Belt Line Railway  
Alton & Southern Railway Company  
The Belt Railway Company of Chicago  
BNSF Railway Company  
Central California Traction Company  
Consolidated Rail Corporation  
CSX Transportation, Inc.  
Indiana Harbor Belt Railroad Company  
The Kansas City Southern Railway Company  
    Kansas City Southern Railway  
    Louisiana and Arkansas Railway  
    MidSouth Rail Corporation  
    Gateway Western Railway  
    Mid Louisiana Rail Corporation  
    SouthRail Corporation  
    TennRail Corporation  
    Joint Agency  
Los Angeles Junction Railway Company

Manufacturers Railway Company  
 New Orleans Public Belt Railroad  
 Norfolk & Portsmouth Belt Line Railroad Company  
 Norfolk Southern Railway Company  
     The Alabama Great Southern Railroad Company  
     Central of Georgia Railroad Company  
     The Cincinnati, New Orleans & Texas Pac. Ry. Co.  
     Georgia Southern and Florida Railway Company  
     Interstate Railroad Company  
 Northeast Illinois Regional Commuter RR Corp (METRA) - 1  
 Port Terminal Railroad Association  
 Portland Terminal Railroad Company  
 Terminal Railroad Association of St. Louis  
 The Texas and Mexican Railway Company  
 Union Pacific Railroad Company  
 Wichita Terminal Association

\* \* \* \* \*

**Notes:**

1 - Health & Welfare and Supplemental Sickness only

**FOR THE CARRIERS:**

**FOR THE BROTHERHOOD OF  
MAINTENANCE OF WAY EM-  
PLOYES DIVISION:**

\_\_\_\_\_

\_\_\_\_\_

Washington, D.C.  
\_\_\_\_\_, 2007