

# AGREEMENT ADOPTING, RENEWING AND AMENDING MEMORANDUM OF AGREEMENT DATED MAY 29, 1998

This Agreement is made effective \_\_\_\_\_, 2000, by and between Chautauqua, Cattaraugus, Allegany and Steuben Southern Tier Extension Railroad Authority (the "Authority"), and Norfolk Southern Railway Company ("NS") and Pennsylvania Lines, LLC ("Lines").

## RECITALS

- A. By letter agreement dated May 29, 1998 (the "MOA"), Southern Tier West Regional Planning and Development Board, the New York State Department of Transportation, NS and Consolidated Rail Corporation made certain agreements relating to the "Southern Tier Extension" railroad line (STE), as defined therein.
- B. The transactions described in the Recitals (Whereas clauses) of the MOA have been consummated.
- C. On June 23, 2000, with the approval of the Governor of the State of New York, Chapter 75 of the Laws of 2000 of the State of New York, by which the Authority was created, became effective.
- D. The Authority was created for the purpose, *inter alia*, of acting as "the Acquiring Entity", as defined by the Addendum to the MOA.
- E. The parties desire to affirm or reaffirm the MOA, except to the extent that it is expressly amended herein.

## AGREEMENTS

### 1. Adoption and Ratification of MOA.

1.1 The Authority and Lines hereby adopt and agree to be bound by the terms of the MOA which is attached hereto and incorporated herein by reference, as amended by the terms of this Agreement.

1.2 NS hereby ratifies and reaffirms the MOA and agrees to be bound by the MOA, as amended by the terms of this Agreement.

### 2. Amendments. The MOA is hereby amended as follows:

2.1 The first sentence of Section 2 of the MOA under the heading "Maintenance" is amended by deleting the words "the Closing Date, as that term is defined in paragraph 7 below" and replaced with "June 23, 2000".

2.2 Paragraph A of the Addendum to the MOA is hereby amended by deleting from the first line thereof the words "Not more than 120 days after the Closing Date (as that term is defined in paragraph seven of the agreement)" and replacing them with the words "March 1, 2001".

2.3 Paragraph D of the Addendum to the MOA is hereby amended by adding the following language at the end of the paragraph: "...[Southern Tier Extension runs], as amended by any subsequent legislation affecting such assessed valuation.

2.4 The Authority consents to the sublease by NS of a portion of the STE located near Corry, PA to the Oil Creek & Titusville Line Railroad, Inc.(OCTR), which line is approximately 1.2 miles in length and generally runs from the cut line between NS and Northwest Pennsylvania Rail Authority eastward through and to controlling siding to the clearance point of Shady Avenue, MP 60.52± to MP 59.24±, provided:

a. That NS shall retain overhead trackage rights, along with the right to grant additional overhead trackage rights, over such portion from OCTR and shall incur no obligation to pay any fees for such rights or their use. The parties agree that overhead trackage rights shall be granted, on a non-exclusive basis, by NS to the railroad chosen by NS as sublessee for the STE on the effective date of such sublease, and

b. NS may cancel the sublease to OCTL on 60 days' notice, and

c. Neither NS nor OCTL shall in any manner prevent the sublessee of the STE from accessing and servicing the western terminus of the Extension at Corry, PA or restrict or otherwise attempt to control such access by any means or permit any other person or entity to establish any such restraint or control.

d. In the event the sublease to OCTL is cancelled or for any reason OCTL abandons the subject portion of the STE, this § 2.4 shall be and become null and void and of no further effect, except to the extent that NS may require the sublessee of the STE to cooperate with OCTL in the continued routing over Meadville of plastics traffic terminating on the STE between the abovereferenced mileposts.

2.5 All years referenced in Sections 4 and 7 of the MOA, the Addendum to the MOA, and Exhibits A and B to the MOA are amended by adding two years to each calendar year (so that, for example, a reference to "December 31, 2008" shall now read "December 31, 2010").

#### SIGNATURES

The parties have executed this Agreement by their respective duly authorized officers.

CHAUTAUQUA, CATTARAUGUS, ALLEGANY AND STEUBEN  
SOUTHERN TIER EXTENSION RAILROAD AUTHORITY (the  
"Authority")

BY: \_\_\_\_\_  
Gerard J. Fitzpatrick, Chair

NORFOLK SOUTHERN RAILWAY COMPANY ("NS")

BY: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

PENNSYLVANIA LINES, LLC ("Lines")

BY: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_