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THIS AGREEMENT Made this 18th day of January, A.D. 1912, by and between the COLUMBIA & PUGET SOUND RAILROAD COMPANY, party of the first part, the CHICAGO, MILWAUKEE AND PUGET SOUND RAILWAY COMPANY, party of the second part, and the OREGON-WASHINGTON RAILROAD & NAVIGATION COMPANY, party of the third part,

WITNESSETH: WHEREAS, Said party of the first part is the owner of a right of way and single track railroad at a point near Black River, known as Black River Junction, in the County of King, State of Washington, as shown upon the plat hereto attached marked "Exhibit A"; and

WHEREAS, The party of the second part owns trackage rights over the railroad of the party of the first part under the terms of an agreement heretofore executed and now existing between said parties of the first and second parts, bearing date the 21st day of May, A.D. 1906, reference to which is hereby made; and

WHEREAS, Said party of the third part owns a right of way extending from the City of Seattle to a connection with the railroad of the said party of the first part, at said point known as Black River Junction, and has constructed a single track railroad thereon, as shown upon said Exhibit "A" hereto; and

WHEREAS, Said parties of the second and third parts, jointly, own a right of way and railroad extending from a point near the Puyallup River, in Pierce County, State of Washington, to a connection with said railroad of said party of the first part at or near said Black River Junction, as shown upon said Exhibit "A" hereto, and said party of the second part has the right of connection with the railroad of the party of the first part, under and by virtue of said agreement, dated May 21st, 1906, and the party of the third part desires to cross the said railroad of the party of the first part; and

WHEREAS, Said parties hereto, for their mutual convenience, have agreed to shift the track and roadbed of said party of the first part at said point above mentioned and reconstruct the same with double tracks, with connections and crossings for the roads of the parties of the second and third parts, all as shown upon plat attached hereto, marked Exhibit "B", and made a part of this agreement;

NOW THEREFORE, In consideration of the mutual benefits to the several parties hereto, and of the covenants and agreements hereinafter contained, to be kept, observed and performed by the parties hereto, the said party of the first part grants to said party of the second part a continuance of the right to make, maintain and operate at the point and in the manner indicated upon said Exhibit "B" hereto, connections for said road of said party of the second part with said tracks of said party of the first part, as rearranged as aforesaid, and to said party of the third part the right to make and maintain crossings, and to operate its railroad across the road of said party of the first part, as shown upon said Exhibit "B" hereto; which said rights are granted upon the following terms and conditions, that is to say:

SECTION 1:

That portion of track of party of the first part marked #3 upon said Exhibit "B" hereto, located south of the point of junction with said joint line, shall be graded, and the present track of said party of the first part shall be shifted to and relaid thereon, at the sole cost and expense of said party of the second part. That portion of said track of the party of the first part marked #3 upon said Exhibit "B", located north of said junction point, shall be graded, and the present track of said party of the first part shall be shifted to and relaid thereon, at the sole cost and expense of said party of the third part.

The track marked #2 upon said Exhibit "B" hereto, shall be graded and constructed at the sole cost and expense of said party of the first part. The connection of the joint line with track marked #2 of the party of the first part upon said Exhibit "B" hereto, and the crossover to track marked #3 of the party of the first part thereon shall be installed and maintained by said party of the second part, and the cost thereof shall be divided between the parties of the second and third parts on the basis provided for the division of cost and expense on the joint line, under the contract between said parties of the second and third parts, dated January 1, 1909. The combination switch on, and crossing of, track marked #3 on said Exhibit "B", shall also be installed and maintained by the party of the second part, and the cost and expense thereof shall be borne by the parties of the second and third parts in the proportion of one-fourth by the party of the second part and three-fourths by the party of the third part.

The connections and crossings as shown upon said map, may be put in by either said party of the second part or by said party of the third part, whenever either of them desires to do so, and the party putting the same in shall itself pay the whole expense thereof, and the other party shall, in case it uses the said connections and crossings jointly with the party putting in the same, pay its proper proportion of such expenses, as provided in this agreement.

SECTION 2:

The party of the first part, in addition to the two tracks provided for in this agreement, may, at any time in the future, construct additional tracks at said point of connection or crossing.

The first two additional tracks constructed by the party of the first part at said point of connection or crossing, shall be made and installed strictly in conformity with the plan of development shown upon said Exhibit "B" attached hereto, being

tracks numbered 1 and 4 thereon, and the said party of the first part shall, at its own cost and expense, pay for the construction and maintenance of such additional tracks.

The said party of the second part, for account of the Black River Junction-Tacoma Joint Line, may in the future, at its own cost and expense, construct additional tracks connecting with or crossing the tracks of the party of the first part at said point of connection or crossing, the first three of which additional tracks, being number 1, 3 and 4 shall conform strictly with the plan of development shown upon said Exhibit "B" attached hereto.

The said party of the third part may in the future, at its own cost and expense, construct additional tracks at said point of connection or crossing, the first three of which additional tracks shall conform strictly with the plan of development shown upon said Exhibit "B" attached hereto, being tracks numbered 2, 3 and 4.

If such additional tracks, so constructed by either of the parties of the second or third parts, or any of them, are used by both parties of the second and third parts, then the cost and expense of constructing and maintaining such of the additional crossings and connections as are so used, shall be divided between them equally. In the event either said party of the second part or said party of the third part constructs such additional track or tracks, the crossings and connections of which the other of them does not use, then the entire cost and expense of constructing and maintaining the connections and crossings required therefor, shall be borne by the party so constructing and using same; but either of the other of said second and third parties may subsequently use same upon payment of its share of the cost and expense of construction, upon the basis above set forth, and its proper proportion of maintenance thereafter.

SECTION 3: If at any time it should become necessary for either of the parties to this agreement to raise or lower the grade of either railroad referred to in this agreement, then the other parties shall raise or lower the grade of their tracks at said crossings to conform to such altered grade, but neither road shall be raised or lowered unless an act of public authority shall require such change of grade, or the parties shall mutually agree to such change.

The cost and expense of altering the grade shall be borne by the parties hereto in the ratio of the tracks involved therein owned by each to the total number of tracks so involved.

SECTION 4: No trains, cars or engines of either of the parties hereto shall be permitted to stand on the crossings herein mentioned, or any part thereof, or to obstruct the same further than may be necessary for the mere passage of trains, cars or engines over said crossings in the ordinary movement of trains, cars and engines in the conduct of the business of the parties hereto, and no part of said crossings shall be used for the standing or storing of engines or cars nor for the switching or sorting of cars in making up or breaking up trains usually known as "drilling".

SECTION 5: As a part of the rights granted herein, each of the parties hereto shall have and is hereby given the right to construct and maintain, across the tracks and right of way of the other parties, at said crossing, such telephone and telegraph lines as may be required in the operation of its railroad, and such telephone and telegraph lines shall be constructed and maintained so that the lines shall be so far apart as not to interfere with the use to signal, telephone or telegraph, and so that the lines shall not be close enough to interfere with the circuit established for the transmission of messages in the usual conduct of the business. That is, the wires of the first party shall be at least thirty (30) feet above the tops of the

rails and the wires of the third party and the wires of the second and third parties on said joint line shall be at least five (5) feet above the wires of the first party. Where possible, in the erection of telegraph and telephone lines in the vicinity of said crossings, the parties hereto shall use the same pole, or set of poles, making the same of sufficient length to carry the wires at a sufficient distance apart, as hereinbefore provided. Where poles are so jointly used the cost of providing and installing them shall be apportioned to the users on basis of extent to which the respective parties use them. All telegraph and telephone wires constructed across said crossing shall be constructed in an approved manner and satisfactory to the Chief Engineers of the parties hereto.

SECTION 6: In the construction of all crossings herein provided for, the party or parties hereto required to construct the same shall comply with any law, either local or general, that shall be in force, specifying or requiring any particular form of protection, and if there should be any law, special or general, put into force after any frog is constructed, requiring a different or reconstructed frog, then the party or parties required to maintain the same shall reconstruct such crossings and comply with such new law.

SECTION 7: In the event either party shall at any time desire hereafter to use electricity as a means of motive power and shall desire to install the apparatus necessary for that purpose, the right so to do is hereby recognized, and the party desiring to install the necessary apparatus for moving its trains by means of electricity may do so at its own expense, but shall use such standard appliances for the protection of the other parties as shall then be in ordinary use and such as shall be agreed upon by the parties hereto.

SECTION 8: When in the opinion of the party of the first part an interlocking plant or mechanical safeguard system becomes necessary to protect its operation over and through the junction and crossing provided for herein, or if the installation of such interlocking plant or safety device is determined upon by and between the parties of the second and third parts, or if the installation of such interlocking plant is ordered by court, Commission or other legal authority, such interlocking plant or mechanical safeguard system providing the protection for the two tracks of the party of the first part, and the connections therewith, and crossings thereof, of and by the single track of the parties of the second and third parts, now contemplated by this agreement and illustrated by Exhibit "B" attached, shall be installed by the parties of the second and third part, and the cost of construction, maintenance and operation of such interlocking or safety device shall be borne by them in the proportion of one-fourth to the party of the second part and three-fourths to the party of the third part.

In the event that either of the parties hereto shall, at any time in the future, construct any additional track, or tracks, as they are hereinbefore authorized to do, and in accordance with the development illustrated by Exhibit "B" hereto, the party or parties so constructing such additional track or tracks shall pay all of the cost and expense of protecting such additional tracks, crossings, or connections with such interlocking or safety device as may at that time be installed, or which may in the future be installed.

The party or parties constructing additional tracks in the future, as hereinabove authorized, shall also pay such proportion of the cost and expense of the maintenance and operation of such interlocking or safety device as the number of such additional track or tracks, so constructed by it or them, bears to the total

number of tracks protected.

SECTION 9: In case a flagman or flagmen shall become necessary for the protection of any or all of the connections and crossings in this agreement mentioned, such flagman or flagmen shall be employed and the expense of such employment shall be borne by the respective parties hereto in the same proportions as are provided for the maintenance and operation of said interlocking switch and signal system.

SECTION 10: The party of the third part shall have general charge of the installation, maintenance and operation of said interlocking switch and safety device when required to be installed, and all employees required for the installation, maintenance, operation, repair and renewal thereof shall be considered joint employees of the parties hereto, who, for time being, are liable for their wages, and their wages shall be paid in the first instance by said party of the third part, who shall bill on the other parties hereto respectively for their due proportion thereof, as hereinabove provided, such bills to be paid within twenty (20) days after the rendition thereof. Such employees shall be subject to the general direction and control of said party of the third part, but either of the parties hereto may require the discharge of any such employee at any time for good and sufficient reason, to be stated to the third party in writing, if required.

For the purpose of determining the liability as between the parties hereto for any loss or damage to persons or property resulting from negligence in the operation of such interlocking switch and signal system, the employees engaged in operating such interlocking switch and signal system shall be considered while so engaged, joint employees of the parties hereto, upon whom for the time being rests the obligations to pay the expenses of such operation, and each of the parties so obligated shall be responsible for and bear all loss or damage to its property, or property in



its possession, or to employees or passengers on its trains, resulting from negligence of such joint employees. Each of the parties hereto shall be responsible for the default or negligence of its or their own employees.

SECTION 11: Each party hereto assumes all liability for personal injuries and damages to property or persons occurring upon or through the agency of its trains, engines or cars by its fault or negligence, but nothing herein contained shall release either of the parties hereto from liability for all deaths, personal injuries and damages to property or persons which may be caused either through its failure to maintain any of said crossings in good condition and repair and free from obstructions when the duty is imposed upon such party to maintain and keep free from obstructions such crossings, and each party agrees to indemnify and save harmless the other against all damages, costs or expenses suffered by either party on account of damage to, or loss of, its property or property in its possession, or on account of injuries or deaths suffered by passengers or employees or damage to property through negligence of such party to maintain in good condition and repair and free from obstructions the crossings which it is herein provided such party shall so maintain.

SECTION 12: The parties hereto expressly covenant and agree that in case of a collision between their respective locomotives, cars or trains at such crossings, the party whose employees are alone in fault shall be solely responsible for, and shall settle and pay for, the entire loss, damage and injury caused thereby, and shall save the other parties harmless therefrom; but, in the event that such collision is caused by the joint fault of the employees of the parties hereto, or in case the cause of the collision is so concealed that it cannot be determined whose employees are at fault, then each party hereto shall bear and

pay all loss, damage and injury which its own property, or property in its custody, or its employees or passengers may have suffered in consequence thereof.

SECTION 13: Each party hereto covenants and agrees that it will forever indemnify and save harmless the other parties hereto, their successors and assigns, from and against all claims, liabilities and judgments, for or by reason of any damages, the risk of which is herein assumed by such party, and also from and against all claims, liabilities and judgments, from, or on account of, and death or injury, or damage to persons or property, the liability for which is hereby assumed by such party, and such party agrees to pay and satisfy and discharge all costs, charges and expenses that may be incurred, and any judgments that may be rendered by reason thereof.

SECTION 14: The operating officers of the parties to this agreement shall from time to time establish such rules and regulations as may be found desirable for the proper operation of the interlocking switch and signal system herein provided for, and for the operation of trains, engines and cars over crossings mentioned in this agreement; such rules and regulations shall be strictly enforced by the parties to this agreement.

SECTION 15: In the passage of the respective trains of the parties hereto over the aforesaid crossing, all trains upon the tracks of said party of the first part shall have precedence over the trains upon the tracks of said parties of the second and third parts, except that passenger trains of either party shall have precedence over freight trains of the other parties.

SECTION 16: If at any time any question shall arise touching the construction of this agreement, or any part thereof, or touching any matter in the premises upon which the parties

hereto cannot agree, then the matter in dispute shall be stated in writing by the party aggrieved and shall be submitted to the arbitrament of three disinterested and competent persons familiar with the business and experienced in railway affairs, who shall be selected, one by each of the parties hereto, and the written award or decision of the majority of such arbitrators, after due and reasonable notice to, and full hearing of, all parties and their interest, shall be binding and conclusive upon the parties hereto and shall have all the legal effect of a finding or decision judicially made and determined upon regular proceedings in any court of competent jurisdiction, so far as the same is legally possible. Provided, that when the question in dispute pertains to only two of the parties hereto, each of said two parties shall select one arbitrator, and such two arbitrators shall select the third; and provided further that when the question in dispute affects only the party of the first part, on the one side, and the parties of the second and third parts in respect of their joint line or joint interests, on the other side, or affects the party of the third part, on the one side, and the parties of the first and second parts in respect of their jointly used line or joint interests, on the other side, the party severally interested on one side shall select one arbitrator, and the two parties jointly interested on the other side shall jointly select one arbitrator, and such two arbitrators shall select the third arbitrator.

The said arbitrators shall, as soon after their selection as possible, meet at some place convenient to the parties hereto, and, after giving each party reasonable notice of the time and place of such meeting, and after hearing the parties in regard to the matter in dispute and taking such other testimony, and making such other examinations and investigations as justice

shall require and such arbitrators may deem necessary, and, after hearing and deciding all questions submitted to them, shall make in writing their award or decision upon such question or questions, and shall serve a copy thereof upon each party affected thereby and each party affected thereby shall immediately conform to, and in all respects render prompt and full compliance with such award or decision and make such change in the management and conduct of its business and such payments or restitution as in and by such award and decision shall be required so to be made.

SECTION 17: This agreement shall be binding upon and inure to the parties hereto, their successors and assigns.

IN WITNESS WHEREOF. The parties hereto have caused this agreement to be duly executed in triplicate on the day and year first hereinabove written.

COLUMBIA & PUGET SOUND RAILROAD COMPANY,

Attest:

By \_\_\_\_\_

President.

\_\_\_\_\_  
Secretary

CHICAGO, MILWAUKEE AND PUGET SOUND RAILWAY COMPANY,

Attest:

By \_\_\_\_\_

President.

\_\_\_\_\_  
Secretary

OREGON-WASHINGTON RAILROAD & NAVIGATION COMPANY,

Attest:

By \_\_\_\_\_

President.

\_\_\_\_\_  
Secretary.