

**SUPPLEMENTAL SIDETRACK AGREEMENT (USER)**

<sup>cc</sup> THIS SUPPLEMENTAL AGREEMENT, made and effective as of the <sup>9th cc</sup> ~~11~~ day of <sup>cc</sup> ~~December~~ <sup>January</sup>, 2023, by and between **CSX TRANSPORTATION, INC.**, a Virginia corporation, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, hereinafter called "Railroad," and **HERNANDO COUNTY**, a political subdivision of the State of Florida, whose mailing address is 15470 Flight Path Drive, Brooksville Florida 34604, hereinafter called "Industry", and 84 Lumber Company, a Pennsylvania Limited Partnership, whose mailing address is 1019 Route 519, Eighty Four, PA 15330, hereinafter called "Shipper,"  
WITNESSETH:

WHEREAS, Railroad and Industry entered into a certain Sidetrack Agreement CSX966035 dated December 18, 2022, hereinafter called the Sidetrack Agreement and attached as Exhibit A, covering the construction, ownership, operation and maintenance of certain private sidetrack facilities near Milepost SR 806.01, Brooksville, Hernando County, Florida, hereinafter called the "Sidetrack," as set forth in said Sidetrack Agreement;

WHEREAS, Industry has requested Railroad to consent to the use of said Sidetrack by Shipper, which Railroad has agreed to do upon the terms and conditions herein expressed;

**NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS HEREINAFTER SET FORTH, THE PARTIES HERETO COVENANT AND AGREE AS FOLLOWS:**

1. Shipper shall have the right to use said Sidetrack jointly with such other persons, firms and corporations as may now or hereafter be permitted by Industry or otherwise lawfully entitled to use the same, so long as this Supplemental Sidetrack Agreement remains in effect.

2. All of the provisions of said Sidetrack Agreement are incorporated herein, except Article 2 thereof, such that where the term "Industry" exists in said Sidetrack Agreement it shall - for purposes of this Supplemental Sidetrack Agreement - include Shipper as to tracks.

3. With respect to Shipper's use of and operations on and in the vicinity of said Sidetrack, Shipper shall observe, perform and assume all covenants, obligations and conditions imposed upon and assumed by Industry under and by virtue of said Sidetrack Agreement. However, nothing herein shall be construed to affect in any way any of the covenants, obligations or conditions undertaken by Industry under said Sidetrack Agreement or to release Industry therefrom.

4. (A) This Supplemental Sidetrack Agreement shall remain in effect until such time as any party hereto shall terminate the same by giving thirty (30) days written notice to the other parties hereto.

(B) However, the termination of the Sidetrack Agreement shall also effect a termination of this Supplemental Sidetrack Agreement automatically upon notice to Shipper from either Railroad or Industry.

(C) Upon termination of this Supplemental Sidetrack Agreement, all rights and obligations that were assigned to Shipper regarding the Sidetrack shall be automatically reassigned, transferred and assumed by Industry.

5. This Supplemental Sidetrack Agreement shall not be assigned by Shipper to any party, for any reason, without the prior written consent of both Industry and Railroad.

6. This Supplemental Sidetrack Agreement constitutes the entire understanding of the parties, is to be construed under the laws of the state in which the Sidetrack is located, may not be modified without the written consent of all parties, and has been executed by their duly authorized officials.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Sidetrack Agreement in triplicate, each copy of which shall constitute an original, the effective date of this Supplemental Sidetrack Agreement.

**Witness for Railroad:**

**CSX TRANSPORTATION, INC**

\_\_\_\_\_

By:



Print/Type Name: Catherine Adkins

Print/Type Title: Director Real Estate

**Witness for Industry:**

**HERNANDO COUNTY**

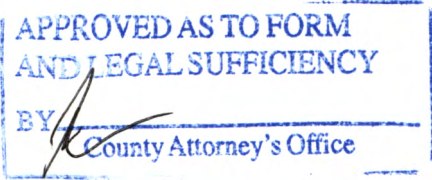
Colleen Conter

By: EN

Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the Industry to the terms and conditions of this Supplemental Sidetrack Agreement.

Print/Type Name: Elizabeth Narverud

Print/Type Title: Chairperson



**Witness for Shipper:**

**84 Lumber Company**

Samara R. DeMarino

By: Bethany L. Cypher

Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the Shipper to the terms and conditions of this Supplemental Sidetrack Agreement.

Print/Type Name: Bethany L. Cypher

Print/Type Title: Vice President of Real Estate and Development

## EXHIBIT A

PS - FORM 1550  
REVISED APRIL 2013  
AGREEMENT NO. [\*]  
CSX966035

### PRIVATE SIDETRACK AGREEMENT

THIS AGREEMENT, made and effective as of the 13<sup>th</sup> day of December 2022 by and between CSX TRANSPORTATION, INC., a Virginia corporation, whose mailing address is 500 Water Street, C-160, Jacksonville, Florida 32202, hereinafter called "Railroad," and HERNANDO COUNTY, a political subdivision of the State of Florida, whose mailing address is 15470 Flight Path Drive, Brooksville Florida 34604, hereinafter called "Industry," WITNESSETH:

#### 1. PURPOSE:

1.1 The purpose of this Agreement is to detail the provisions of the construction, maintenance and use of Private Sidetrack named Rail Park, at 23 feet south of Milepost SR806, for the tender and receipt of rail freight traffic for the account of Industry. The private sidetrack(s), which consists of the track structure (rails, ties and fastenings), ballast, grading, drainage structure, turnout, bumping post and other appurtenances (hereinafter the "Sidetrack"), is located at or near HI VIS supply Track, Track #1, Track #2, and Track #3, in the County of Hernando, State of Florida, as shown on attached drawing(s) labeled HI VIS supply Track, Track #1, Track #2, and Track #3, dated 8/19/2022, (hereinafter the "Plan").

#### 2. OWNERSHIP AND CONSTRUCTION:

2.1 Railroad agrees to construct and shall own that portion of Track No. Lead Track, from Point of Switch (hereinafter "P.S.") in Railroad's connecting mainline track at 23 feet south of Mile Post SR 806, Track Station Lead Track Station 1+00, to Lead Track Station 1+50 (hereinafter "Railroad's Segment"). Industry agrees to construct and shall own the remainder of Lead Track (hereinafter "Industry's Segment"), as shown on the aforementioned Plan.

2.2 The construction of the Sidetrack shall be done in accordance with the provisions of the Railroad's document entitled "Standard Specifications for the Design and Construction of Private Sidetracks," as amended, supplemented, or superseded (hereinafter the "Specifications"), which details the design, construction, clearance, and similar requirements regarding the Sidetrack. Industry acknowledges receipt of a current copy of the Specifications, which are incorporated herein by reference.

2.3 Unless otherwise provided herein, all construction of the respective Segments of the Sidetrack will be done by or for Railroad and Industry at their sole expense, except that the grading, drainage and subballast for the entire Sidetrack will be constructed by and at the sole expense of Industry. Industry agrees: (A) to supply construction plans to Railroad for its review and approval; and (B) to bear all reconstruction expenses that may be incurred by its failure to follow the Specifications.

2.4 Notwithstanding any other provision of this Agreement, Industry agrees to advance zero U.S. DOLLARS (\$0.00) to Railroad to be applied to the expense of the

construction of Railroad's Segment and any signals, communication facilities, derail or other modifications to Railroad's connecting mainline track.

**3. GOVERNMENTAL REQUIREMENT(S):**

3.1 Industry agrees, at its sole expense, to comply with all applicable laws and regulations and to obtain all necessary governmental permits, authorizations, orders, and approvals (hereinafter collectively "Governmental Requirement(s)") necessary for the construction, maintenance, and use of the Sidetrack. Industry agrees to assume the cost of Railroad's defense and to otherwise indemnify and hold Railroad harmless from Industry's failure to comply with or to obtain the Governmental Requirement(s).

**4. MAINTENANCE:**

4.1 Railroad and Industry, at their own expense, shall inspect, maintain, and renew their respective Segments of the Sidetrack: (A) in accordance with the Federal Railroad Administration's Track Safety Standards, (49 C.F.R. Part 213); (B) Railroad Worker Safety Regulations (49 C.F.R. Part 214); and (C) in a safe condition, consistent with the operating circumstances and amount of use. Prior to each entry of Industry upon Industry's Segment of the Sidetrack for maintenance or renew purposes, Industry shall contact local representatives of Railroad's Operating and Engineering Departments and obtain the agreement from those representatives for the dates and amount of time that Industry's Segment will be out of service for such maintenance or renewal purposes. Additionally, both Industry and Railroad agree to keep their respective Segments free from debris, weeds, potholes, ice or snow, poles, temporary or permanent structures, other obstructions (Example: parked vehicles), and/or excavations. Railroad shall have the right, but not the duty, to inspect Industry's Segment.

**5. CLEARANCES:**

5.1 Industry agrees to provide and maintain: (A) the lateral clearance requirements (at least eight feet, six inches [8'6"] from either side of the centerline of the Sidetrack, as increased for flat curves, superelevated curves and approaches thereto); and (B) the vertical clearance requirements (at least twenty-two feet [22'] above the top of the rail), both as detailed in the Specifications, for the entire length of the Sidetrack. Any clearance not in compliance with the foregoing is a "Close" clearance. Each party further agrees to provide and maintain increased lateral and/or vertical clearances, to the extent required by applicable statutes or regulations. Lateral and vertical clearances for power poles and lines must also comply with the National Electric Safety Code (NESC).

5.2 Notwithstanding the foregoing, Industry may maintain Close clearances if: (A) Industry obtains a waiver from any conflicting Governmental Requirement(s); and (B) plans for such Close clearances have been provided to Railroad and are not rejected within sixty (60) days after the date of receipt. Industry agrees to install, maintain, and replace (at its sole expense) any warning signs or lighting or make other adjustments regarding such Close clearances as may be required by Railroad or any Governmental Requirement(s).

5.3 Any gate installed by Industry across the Sidetrack must provide an appropriate clearance, as provided in the Specifications, and must be equipped with a double-end bar hasp so that Railroad may install its own lock. If Railroad is unable to open the gate to deliver or retrieve railcars, Industry shall reimburse Railroad for its costs of making an additional trip to the Sidetrack.

**(The following Section is used if the Industry plans to install a Drop Pit)**

5.4 Industry may, subject to the written approval of Railroad, install and maintain a drop pit for conveyor operation under the Sidetrack at the location shown on the Plan. Industry shall provide a suitable cover which shall be flush with and remain over the pit access roadbed except when the pit is in use. Industry shall, at its sole expense, remove the pit and restore the right-of-way to a condition acceptable to Railroad at the termination of this Agreement if the pit is located on Railroad's right-of-way.

**6. RIGHT-OF-WAY:**

6.1 A portion of Industry's Segment is located on Railroad's right-of-way for a distance of 0 feet, as shown on the aforementioned plan. During the term of this Agreement, Railroad leases to, and Industry leases from Railroad, a strip of right-of-way for a width of thirteen (13) feet - 6 1/2 feet from each side of the centerline - and for the length of the track described above. Industry acknowledges that this lease is not adverse to Railroad's title and does not constitute the granting of any title, easement or license to Railroad's right-of-way.

6.2 The initial amount of the rental (the "Fee") for the lease is zero (0), due and payable on the effective date and annually thereafter, plus any applicable sales or rental tax thereon. The Fee shall be adjusted on an annual basis by the same percentage of increase as reflected in the "Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (1982-84 = 100) specified for All Items - United States compiled by the Bureau of Labor Statistics of the United States Department of Labor" ("CPI"). In no event, however, shall the Fee be less than the Fee payable as of the effective date of this Agreement.

The Fee shall be increased in accordance with the following:

$$\frac{\text{Current Price Index}^*}{\text{Base Price Index}^{**}} \times \text{Fee} = \text{Adjusted Fee}$$

\* Effective CPI in the fourth month prior to the anniversary date of the fee.

\*\* Effective CPI at the time of the effective date of the fee.

In the event the CPI is converted to a different standard reference base or otherwise revised or changed, the calculation of the percentage increase shall be made with the use of such conversion factor, formula, or table for converting the CPI as may be published by the Bureau of Labor Statistics or, if said Bureau shall not publish the same, then as reasonably determined by Railroad.

6.3 Should Railroad elect to use a different but similar method for adjusting the Base Fee amounts on its leased real property during the term of this Agreement, the new method shall automatically apply to this Agreement without the necessity of a written amendment.

6.4 Industry is responsible for obtaining all necessary right-of-way (through ownership, easement, permit or otherwise), for its Segment of the Sidetrack that is not located on Railroad's right-of-way. The width of such right-of-way must be, at a minimum, sufficient to provide for the Sidetrack and clearances, cuts, fills, drainage ditches, walkways or roads, as determined by Railroad.

6.5 Industry shall ensure the construction, installation, removal, or abandonment of any pipeline or wireline facilities along, under or over any portion of Sidetrack that is not located within Railroad's right of way, shall be in accordance with Railroad's applicable Design and Construction Standard Specifications. Industry shall contact local representatives of Railroad's Operating and Engineering Departments and obtain the agreement from those representatives for the dates and amount of time that Industry's Segment will be out of service for such the construction, installation, removal, or abandonment.

6.6 Industry shall not block or permit the blockage of the sight view area of any road crossing over the Sidetrack.

## **7. RAIL SERVICE:**

7.1 Railroad agrees, pursuant to the provisions of this Agreement, its tariffs, circulars, rules, and rail transportation contracts, to operate over the Sidetrack in the delivery, placement and removal of railcars consigned to or ordered by Industry, at such times established by Railroad. Railroad may also use Industry's Segment of the Sidetrack for its own general or emergency operating purposes, so long as such purposes do not materially affect the use of the Sidetrack for rail service to Industry. Industry agrees to abide by all applicable provisions of this Agreement and Tariffs CSXT 8100/8200 Series, including, without limitation, those addressing responsibility for and payment of demurrage and other accessorial charges. Railroad reserves the right to cancel the Agreement for any breach of such provisions.

7.2 In the event Railroad delivers to Industry Segment a railcar which was neither ordered nor tendered by Industry, or Industry's invitee, Industry shall provide written notice to Railroad, and Railroad will use commercially reasonable efforts to remove such railcar. Railroad shall not be liable to Industry for any such delivery or removal.

7.3 Railroad shall be deemed to have delivered any railcar consigned to or ordered by Industry when such railcar has been placed on Industry's Segment, so as to allow access by Industry, and Railroad's locomotive has uncoupled from the railcar. At that time, Railroad shall be relieved of all liability as a common or contract carrier or as a bailee, and possession of the railcar and its contents shall be transferred to Industry. Similarly, any obligation of Railroad as a common or contract carrier or as a bailee shall not begin until it has coupled its locomotive to the loaded railcar and departed the Sidetrack.

7.4 Industry is responsible for all railcars and their contents while in Industry's possession and assumes all responsibility for payment of all damage to any railcar and its contents that may occur during that time, even if caused by third parties.

7.5 If Railroad is unable to deliver a railcar on the Sidetrack for loading or unloading due to the acts of Industry or any third party, then such railcar will be considered as constructively placed for demurrage purposes at the time of attempted delivery.

**(The following Section is used in the event of an excessive curvature on the Industries Segment)**

7.6 Industry acknowledges that the curvature in the Sidetrack may be too excessive (> 12 Degrees) to allow operation of railroad equipment and railcars of certain size and/or characteristics thereon. Industry, therefore, assumes all risks of loss, and all cost(s) of delay or non-delivery of any consignment, and agrees to make no claim against Railroad if Railroad is unable to operate any particular equipment or rail cars on Sidetrack because of said curvature. Industry also recognizes that such degree of curvature may enhance the possibility or likelihood of derailment, and Industry also assumes all risk of loss, cost(s), damages, or expenses resulting from such derailment.

**8. HAZARDOUS MATERIALS:**

8.1 Sections 8.3 and 8.4 herein, shall apply when the Sidetrack is used for the delivery or tender of any dangerous, flammable, explosive, or hazardous commodity (hereinafter "Hazardous Materials"), as determined by the U.S. Department of Transportation under the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801, et seq.) and the Hazardous Materials Regulations (49 C.F.R. Parts 170-179) issued thereunder, as amended from time to time.

8.2 Excepting railcar shipments, no Hazardous Materials shall be placed: (A) on the Sidetrack; (B) within the clearance requirements established herein; or (C) within one hundred (100) feet of Railroad's connecting mainline track.

8.3 Industry shall comply with all recommended practices of the Association of American Railroads and all Governmental Requirement(s) regarding the loading, unloading, possession, transfer and/or storage of Hazardous Materials, including but not limited to the installation and use of pollution abatement and control structures and other equipment that is prudent or required under such practices and/or Governmental Requirement(s).

8.4 In the event of a Hazardous Materials leak, spill, or release, Industry shall immediately notify the appropriate Governmental Response Center and Railroad's Operations Center and, at its sole expense, take all appropriate steps to clean, neutralize and remove the spill.

**9. ALTERATIONS:**



9.1 Industry shall supply Railroad with construction plans of any addition, deletion, or modification, including grade crossings, (hereinafter jointly the "Alterations") to Industry's Segment of the Sidetrack, and obtain Railroad's written consent (which will not be unreasonably withheld) prior to making any Alterations. The Alterations are also subject to the aforementioned Specifications.

#### **10. SUSPENSION AND TERMINATION:**

10.1 Railroad may temporarily suspend its operations over the Sidetrack if, in its sole opinion, the condition of Industry's Segment of the Sidetrack is unsafe or if such operations would interfere with its common carrier duties. Railroad may impose the suspension orally but shall also provide a written notice to Industry regarding such temporary suspension.

10.2 Either party may terminate this Agreement upon the default of the other party. The party claiming a default must provide the other party with notice. If the default is not corrected within thirty (30) days of the date of such notice, the party claiming default may terminate this Agreement upon written notice. Use of the Sidetrack by Railroad during any notice period shall not be considered as a waiver of any default claimed by it.

10.3 Industry understands that it must tender and/or receive a sufficient number of railcar shipments over the Sidetrack in order for Railroad to continue to keep Railroad's Segment of the Sidetrack in place. Should Railroad determine that the number of railcar shipments is insufficient, Railroad may notify Industry and offer to continue to keep Railroad's Segment in place in exchange for payment of an annual continuation charge from Industry. The amount of the continuation charge may vary from year to year. Industry shall have a period of thirty (30) days from the date of notice from Railroad within which to either accept or decline payment of the continuation charge. Should Industry decline to pay the continuation charge or not respond during the thirty (30) day period, then Railroad shall have the right to suspend service over the Sidetrack or to terminate this Agreement upon notice to Industry.

10.4 This Agreement will terminate, without the necessity of further notice, upon the abandonment of Railroad's connecting mainline track.

10.5 Either party may terminate this Agreement, beginning five (5) years after the Effective Date by extending thirty (30) days' notice to the other party.

10.6 Upon the termination of this Agreement, Industry shall remove that portion of its Segment that rests upon the right-of-way of the other party. If not removed within sixty (60) days after such termination, title to that remaining Segment will pass to the Railroad, who may then remove it and restore the underlying right-of-way at the expense of the Industry.

10.7 Railroad provides transportation service to Industry over the Sidetrack. Railroad may make changes in its signal and switching technology in response to changes in regulation. Railroad may invoice, and Industry shall pay, amounts Railroad deems necessary, in its reasonable discretion, for the installation of switch, signal and other upgrades associated with the Sidetrack which Railroad deems appropriate to meet Federal, State, or local laws or

regulations. Railroad will have the right to discontinue shipments over the Sidetrack or terminate this Agreement upon thirty (30) days advance written notice if Industry does not pay any amount invoiced by Railroad for upgrades pursuant to this paragraph.

## 11. LIABILITY AND INSURANCE:

11.1 Except as otherwise provided herein, any and all damages, claims, demands, causes of action, suits, expenses, judgments and interest whatsoever (hereinafter collectively "Losses") in connection with injury to or death of any person or persons whomsoever (including employees, invitees and agents of the parties hereto) or loss of or damage to any property whatsoever arising out of or resulting directly or indirectly from the construction, maintenance, repair, use, alteration, operation or removal of the sidetrack shall be divided between the Railroad and Industry as follows:

(A) Each party shall indemnify and hold the other party harmless from all Losses arising from the indemnifying party's willful or gross negligence, its sole negligence and/or its joint or concurring negligence with a third party.

(B) The parties agree to jointly defend and bear equally between them all Losses arising from their joint or concurring negligence.

(C) Notwithstanding the foregoing, and irrespective of the sole, joint or concurring negligence of Railroad, Industry acknowledges that it is solely responsible for and agrees to indemnify and save Railroad harmless from all Losses arising from: (i) the failure of Industry to properly maintain its Segment of the Sidetrack; (ii) the construction, alteration or removal of the Sidetrack by Industry; (iii) the presence of a Close clearance on Industry's Segment; or (iv) the explosion, spillage and/or presence of Hazardous Materials on its properties, facility or on Industry's Segment, but only when such Losses would not have occurred but for the dangerous nature of the Hazardous Materials.

(D) Railroad may be the lessee/operator of the mainline track that connects with the Sidetrack. In that event, the indemnities from Industry to Railroad under this section shall also include the lessor/owner of such track.

11.2 Industry at its sole cost and expense must procure and maintain in effect during the continuance of this Agreement, a policy of Commercial General Liability Insurance (CGL), naming Railroad, and/or its designee, as additional insured and covering liability assumed by Industry under this Agreement. A coverage limit of not less than FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00) Combined Single Limit per occurrence for bodily injury liability and property damage liability is required to protect Industry's assumed obligations. If said CGL insurance policy(ies) do(es) not automatically cover Industry's contractual liability under this Agreement, a specific endorsement adding such coverage shall be purchased by Industry. If said CGL policy is written on a "claims made" basis instead of a "per occurrence" basis, Industry shall arrange for adequate time for reporting losses. Failure to do so shall be at Industry's sole risk.

The evidence of insurance coverage shall be provided to Railroad and endorsed to provide for thirty (30) days' notice to Railroad prior to cancellation or modification of any policy. Mail CGL certificate, along with agreement, to CSX Transportation, Inc., Speed Code J180, 500 Water Street, Jacksonville, FL 32202. On each successive year, send certificate to [RenewalCOI@csx.com](mailto:RenewalCOI@csx.com). Securing such insurance shall not limit Industry's liability under this Agreement but shall be security therefor.

**11.3 RESERVED**

11.4 Specifically to cover construction or demolition operations within fifty feet (50') of any operated railroad track(s) or affecting any railroad bridge, trestle, tunnel, track(s), roadbed, overpass or underpass, Industry shall: (a) notify Railroad; and (b) require its contractor(s) performing such operations to procure and maintain during the period of construction or demolition operations, at no cost to Railroad, Railroad Protective Liability (RPL) Insurance, naming Railroad, and/or its designee, as Named Insured, written on the current ISO/RIMA Form (ISO Form No. CG 00 35 01 96) with limits of FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00) per occurrence for bodily injury and property damage, with at least TEN MILLION AND 00/100 U.S. DOLLARS (\$10,000,000.00) aggregate limit per annual policy period, with Pollution Exclusion Amendment (ISO CG 28 31 11 85) if an older ISO Form CG 00 35 is used. The original of such RPL policy shall be sent to and approved by Railroad prior to commencement of such construction or demolition. Railroad reserves the right to demand higher limits.

At Railroad's option, in lieu of purchasing RPL insurance from an insurance company (but not CGL insurance), Industry may pay Railroad, at Railroad's current rate at time of request, the cost of adding this Agreement, or additional construction and/or demolition activities, to Railroad's Railroad Protective Liability (RPL) Policy for the period of actual construction. This coverage is offered at Railroad's discretion and may not be available under all circumstances.

**12. ASSIGNMENT:**

12.1 This Agreement may not be assigned without the written consent of either party but shall be assumed by their successors through merger or acquisition. Industry may sell or assign its Segment of the Sidetrack and right-of-way upon notice to Railroad, but such transactions shall not affect this Agreement or carry any rights regarding any rail service described in this Agreement.

12.2 Notwithstanding the provisions of Sections 12.1 or 10.4, Railroad may assign this Agreement to any new owner or operator of its connecting mainline track.

**13. MISCELLANEOUS:**

13.1 Each provision of this Agreement is severable from the other provisions. If any such provision is ruled to be void or unenforceable, the remaining provisions will continue in full force and effect.

13.2 Other documents may also describe and cover a portion of the rail service and other provisions of this Agreement. Should any conflict arise between such other documents and this Agreement, Railroad may designate which provision will control.

13.3 The section captions in this Agreement are for the convenience of the parties and are not substantive in nature. All words contained in this Agreement shall be construed in accordance with their customary usage in the railroad industry.

13.4 The failure of either party to enforce any provision of this Agreement or to prosecute any default will not be considered as a waiver of that provision or a bar to prosecution of that default unless so indicated in writing.

13.5 All notices shall be in writing, shall be sent to the address contained in the introductory section and shall be considered as delivered: (A) on the next business day, if sent by telex, telecopy, telegram or overnight carrier; or (B) five (5) days after the postmark, if sent by first class mail.

13.6 The late payment of any charge due Railroad pursuant to this Agreement will result in the assessment of Railroad's then standard late fee and interest charges at the rate of eighteen percent (18%) per annum, or at the highest lawful rate, until payment in full is received.

13.7 Industry agrees to reimburse Railroad for all reasonable costs (including attorney's fees) incurred by Railroad for collecting any amount due under this Agreement.

(The following section is used in the event that the Industry is Switching their own cars)

**14. INDUSTRY SWITCHING:**

14.1 Industry shall have the right to switch with its own trackmobile or locomotive power over its Segment of the Sidetrack under the terms hereof. However, in no event shall Industry perform any switching service or operate over Railroad's Segment of the Sidetrack, or over any other trackage owned by Railroad. Any device used by Industry to move railcars on its Segment of the Sidetrack (whether trackmobile, locomotive or other) shall be disconnected from said railcars and locked and secured by Industry when not in use. Further, in consideration therefor, Industry assumes all risk of loss, damage, cost, liability, judgment and expense, (including attorneys' fees) in connection with any personal injury to or death of any persons, or loss of or damage to any property, whether employees of either Industry or Railroad or third persons, or property of either Industry or Railroad or of other persons, that may be sustained or incurred in connection with, or arising from or growing out of, the operation of Industry's trackmobile or locomotive power upon said Sidetrack.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate (each of which shall constitute an original) as of the effective date of this Agreement.

**Witness for Railroad:**

**CSX TRANSPORTATION, INC**

David Nichols  
David Nichols

By: Matthew R. Cangiolosi

Print/Type Name: Matthew R. Cangiolosi

Print/Type Title: Director Real Estate

**Witness for Industry:**

**HERNANDO COUNTY**

John Allocco

By: [Signature]

Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the Industry to the terms and conditions of this Agreement

Print/Type Name: John Allocco

Print/Type Title: Chairman

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY  
BY [Signature]  
County Attorney's Office



**BROOKVILLE - TAMPA BAY REGIONAL AIRPORT**  
**Track Diagram**  
**Brooksville, FL**

PAGE 1 OF 1  
 NOTE: The track diagram above was created using scaled aerial imagery. Any and all track stationing/measurements are approximate and should not be relied upon for any engineering or construction purposes. For illustrative purposes only.

DRAWN BY: RSF  
 DATE: 8/18/2022

