

## LEASE AGREEMENT

THIS LEASE (this "Lease"), the effective date of which shall be the date last executed, below, by the Parties hereto (the "Effective Date") by and between NORFOLK SOUTHERN RAILWAY COMPANY a Virginia **corporation** (the "**Landlord**") and TOWN OF PINEVILLE, a(n) NORTH CAROLINA municipal corpooation (the "**Tenant**").

**1. Premises; Use.** For and in consideration of the agreements set forth herein, to be paid, kept and performed by Tenant, Landlord hereby leases and rents to Tenant, insofar as its right, title and interest in the Premises enables it to do so, and without any warranty or representation, that certain real property located at Milepost R 10 in PINEVILLE, MECKLENBURG COUNTY, NORTH CAROLINA, having an area of 18,098.91 square feet, more or less, the location and dimensions of which are substantially shown on Exhibit "A" attached hereto (the "**Land**"), together with all improvements thereon (the "**Improvements**"). The Land and the Improvements are collectively referred to herein as the "**Premises**". This Lease is subject to all encumbrances, easements, conditions, covenants and restrictions, whether or not of record.

The Premises shall be used for **parking, egress, and ingress** purposes (the "**Intended Use**") and no other purpose. The Premises shall not be used for any illegal purposes, centralized garbage disposal or recycling systems, for the storage of unlicensed vehicles, nor in any manner to create any nuisance or trespass. No smoking is permitted in or about the Premises. Landlord reserves unto itself and its permittees, the permanent right to construct, maintain or replace upon, under, or over the Premises, any pipe, electrical, telecommunications, and signal lines, or any other facilities of like character now installed or hereinafter to be installed. Landlord further reserves unto itself and its permittees the right to enter upon the Premises at any and all times for the purposes of operating, maintaining, constructing or relocating any trackage or railroad facilities located on, or in the vicinity of, the Premises.

The terms and conditions of the Rider, if any, attached hereto as Exhibit "B" are incorporated herein by this reference. In the event of an inconsistency between the terms hereof and the terms of the Rider, the terms of the Rider shall prevail.

**2. Term.** To have and to hold for a term of 4 years, said term to begin on November 1, 2024, and to end at midnight on October 31, 2028 (the "**Term**"). Thereafter continuing on a periodic basis. In addition to any termination rights that the parties may have hereunder, after the expiration of the Term either party may terminate this Lease for any reason by giving the other party not less than (30) days' notice of such termination. Any such termination pursuant to the preceding sentence shall not relieve Tenant from satisfying and performing all of its obligations hereunder (including, but not limited to, the payment of rental) through the date of such termination and shall not relieve either party from performing any obligation that, pursuant to the terms of the Lease, survives the termination of the Lease.

**3. Base Rental.** Commencing on **November 1, 2024** (the "**Rental Commencement Date**") and thereafter on each anniversary thereof during the Term, Tenant shall pay to Landlord, without offset, abatement or demand, initial base rental of Twenty Five Thousand and 00/100 Dollars (**\$25,000.00**). The amount of the base rental shall be increased (and not decreased) on an annual basis by the percentage of increase, if any, in the United States, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) (1982-1984 = 100) U.S. City Average,

All Items (the “**Index**”) as set forth below. If the Index has changed so that the base year differs from that used in this Paragraph, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics, to the 1982-84 base. If the Index is discontinued or revised during the Term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

The “**Adjustment Date**” shall mean the first anniversary of the Rental Commencement Date and each anniversary thereof during the Term. The Index published nearest to the Rental Commencement Date shall be the “**Base Index**”. The Index published nearest to the date three (3) months prior to the then current Adjustment Date shall be the “**Adjustment Index**”. On each Adjustment Date, the base rental shall be adjusted by multiplying the base rental payable under this Lease at the Rental Commencement Date by a fraction, the numerator of which fraction is the applicable Adjustment Index and the denominator of which fraction is the Base Index. The amount so determined shall be the base rental payable under the Lease beginning on the applicable Adjustment Date and until the next Adjustment Date (if any).

Base rental shall be due in advance. Except in the event of default, base rental for any partial rental periods shall be prorated. The acceptance by Landlord of base rental shall not constitute a waiver of any of Landlord's rights or remedies under this Lease. All payments of base rental, and any additional rental payable hereunder, shall be sent to the Treasurer of Landlord at Mail Code 5629, P.O. Box 105046, Atlanta, Georgia 30348-5046, or such other address as Landlord may designate in any invoice delivered to Tenant. Prior to or simultaneously with Tenant's execution of this Lease, Tenant has paid to Landlord (a) a non-refundable, application fee in the amount of \$500.00, and (b) the first installment of base rental due hereunder. In the event Tenant fails to pay base rental or any other payment called for under this Lease on or before the due date, Tenant shall pay a late charge equal to five percent (5%) of the unpaid amount. In addition, any sum not paid within thirty (30) days of its due date shall accrue interest thereafter until paid at the rate per annum equal to the lesser of (a) the highest interest rate permitted by applicable law; or (b) eighteen percent (18%).

**4. Taxes.** See Rider.

**5. Utilities.** Landlord shall have no obligation to provide light, water, heat, air conditioning or any other utilities or services to the Premises. Tenant shall place any and all utility and service related bills in its name and shall timely pay the same, along with all assessments or other governmental fees or charges pertaining to the Premises, including without limitation those related to stormwater. If Tenant does not pay same, Landlord may (but shall not be obligated to) pay the same, including any and all late fees and penalties, and such payment shall be added to and treated as additional rental of the Premises.

**6. Maintenance and Repairs.** Tenant, at its sole cost, shall keep and maintain all of the Premises (including, but not limited to, all structural and non-structural components thereof and all systems) in good order and repair (including replacements) and shall keep the Premises free of pests and rodents. Notwithstanding the foregoing Tenant shall not be responsible for maintaining any of Landlord's personal property and/or railroad tracks and related facilities located on the Premises. Tenant hereby waives (a) any rights at law or in equity to require Landlord to perform any repair, replacement or maintenance to the Premises, and (b) any right to abate rental or terminate this Lease due to the failure by Landlord to perform any repairs, replacements or maintenance. Tenant shall not create any lien, charge or encumbrance upon the Premises, and Tenant shall promptly remove or bond over any such lien, charge or encumbrance.

**7. Modifications and Alterations to the Premises.** Except for the construction, maintenance, and repair of parking spaces. Tenant shall make no modifications, alterations or improvements to the Premises without the prior written consent of Landlord, which consent may not be unreasonably withheld, conditioned, or delayed.. Any modifications or alterations consented to by Landlord shall be completed in a good, workmanlike and lien-free manner, in accordance with all applicable laws, codes, regulations and ordinances and by contractors approved by Landlord. Tenant may remove any moveable equipment or trade fixtures owned by Tenant during the Term, provided that any damage caused by such removal shall be repaired by Tenant in a manner reasonably acceptable to Landlord.

**8. Return of Premises.** At the expiration or prior termination of this Lease, Tenant shall remove all of its moveable equipment and trade fixtures and repair any or all alterations made to the Premises by or on behalf of Tenant. Upon Landlord's request, Tenant shall promptly and with due care remove any or all of the improvements located on the Premises and installed by or on behalf of Tenant. Tenant shall immediately repair, in a manner reasonably acceptable to Landlord, any damage arising out of any such removal or repair. Tenant shall also return the Premises, including the subsurface, in as good order and condition as said Premises may have been prior to the use and occupation thereof by Tenant, normal wear and tear excepted, and free from holes, obstructions, debris, wastes, or contamination of any kind that occurred during the Term and caused by Tenant. Tenant agrees that any improvements not removed from the Premises that are owned by Tenant may be deemed the property of Landlord at Landlord's option. Failure to comply with this Paragraph 8 will constitute holding over by Tenant.

If Tenant fails to restore the Premises, including removal of the improvements, as provided herein prior to the date Tenant is required to vacate the Premises or as otherwise requested by Landlord, then Landlord may, at Landlord's option, but at the sole cost and expense of Tenant, remove or arrange to remove all such property, improvements, obstructions, debris, waste, and contamination, and restore or arrange to restore both the surface and the subsurface of the Premises to as good order and condition as said Premises may have been prior to the use and occupation thereof by Tenant. Promptly upon bill rendered by Landlord, Tenant shall pay to Landlord the total cost of such removal and restoration, including, but not limited to, the cost of cleaning up and removing any contaminated soil or water.

**9. Destruction of or Damage to Premises.** If all or substantially all of the Premises are destroyed by storm, fire, lightning, earthquake or other casualty to the extent the Premises can no longer be utilized by Tenant for the Intended Use, this Lease shall terminate as of the date of such destruction, and rental shall be accounted for as between Landlord and Tenant as of that date. In the event of such termination, rental shall be prorated and paid up to the date of such casualty. In no event shall Tenant have any right to terminate this Lease if the casualty in question was caused or contributed to by Tenant, its agents, employees, contractors or invitees.

**10. Indemnity.** Except for damage caused solely by Landlord's negligence, Tenant agrees to indemnify, defend and save harmless Landlord, Landlord's parent companies, subsidiaries, affiliates, lessors, licensors, and subsidiaries of parent companies (collectively the "**Landlord Related Entities**") and Landlord's and Landlord's Related Entities' officers, directors, members, shareholders, lenders, agents and employees (collectively the "**Landlord Entities**") against all claims (including but not limited to claims for bodily injury, death or property damage), economic losses, liabilities, costs, injuries, damages, actions, mechanic's liens, losses and expenses (including but not limited to reasonable attorney's fees and costs) to whomsoever, including, but not limited to, Tenant's agents, workmen, servants or employees, or whatsoever occurring (collectively, "**Claims**") arising out of or relating to Tenant's use or occupancy of the Premises. To

the fullest extent permitted by applicable laws, Tenant hereby waives and releases the Landlord Entities from any Claims (including but not limited to Claims relating to interruptions in services) arising out of or relating in any way to the Tenant's use or occupancy of the Premises.

**11. Governmental Orders.** Tenant agrees, at its own expense, to comply with all laws, orders, regulations, ordinances or restrictions applicable by reason of Tenant's use or occupancy of the Premises or operation of its business.

**12. Condemnation.** If the Premises or such portion thereof as will make the Premises unusable for the purpose herein leased shall be condemned by any legally constituted authority for any public use or purpose, or sold under threat of condemnation, then this Lease shall terminate as of the date of such condemnation or sale, and rental shall be accounted for between Landlord and Tenant as of such date. All condemnation awards shall belong to Landlord; provided, however, and to the extent permitted under applicable law, Tenant shall be entitled to file a separate claim against the condemning authority for loss of its personal property and moving expenses so long as the filing of such claim does not affect or reduce Landlord's claim as to such awards or proceeds.

**13. Assignment.** Tenant may not assign this Lease or any interest thereunder or sublet the Premises in whole or in part or allow all or a portion of the Premises to be used by a third party without the prior written consent of Landlord. If Tenant is a corporation, partnership, limited liability company or other entity, the transfer of more than fifty percent (50%) of the ownership interests of Tenant or the transfer of a lesser percentage which results in a transfer of control of Tenant (WHICH INCLUDES, WITHOUT LIMITATION, TRANSACTIONS IN WHICH TENANT SELLS ITS BUSINESS, SELLS ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF ITS BUSINESS OR MERGES OR CONSOLIDATES WITH ANOTHER ENTITY), whether in one transaction or a series of related transactions, shall constitute an assignment for purposes of this Lease. All requests for an assignment or sublease shall be accompanied by a copy of the proposed assignment or sublease agreement and an administrative fee in the amount of \$750.00. Any assignee shall become liable directly to Landlord for all obligations of Tenant hereunder. No such assignment or sublease nor any subsequent amendment of the Lease shall release Tenant or any guarantor of Tenant's obligations hereunder. If any such subtenant or assignee pays rental in excess of the rental due hereunder or if Tenant receives any other consideration on account of any such assignment or sublease, Tenant shall pay to Landlord, as additional rent, one-half of such excess rental or other consideration upon the receipt thereof. Any assignment or sublease made in violation of this Paragraph 13 shall be void and shall constitute a default hereunder.

**14. Environmental.** Tenant covenants that neither Tenant, nor any of its agents, employees, contractors or invitees shall cause or permit any aboveground or underground storage tanks or associated piping (collectively "Tanks") to be located on or under the Premises or any Hazardous Materials (as hereinafter defined) to be stored, handled, treated, released or brought upon or disposed of on the Premises. Tenant shall comply, at its own expense, with any and all applicable laws, ordinances, rules, regulations and requirements respecting solid waste, hazardous waste, air, water, pollution or otherwise relating to the environment or health and safety (collectively "Environmental Laws"). Tenant shall not under any circumstance dispose of trash, debris or wastes on the Premises and will not conduct any activities on the Premises which require a hazardous waste treatment, storage or disposal permit. As used herein, the term "Hazardous Materials" means asbestos, polychlorinated biphenyls, oil, gasoline or other petroleum based liquids, and any and all other materials or substances deemed hazardous or toxic or regulated by applicable laws, including but not limited to substances defined as hazardous under the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42

U.S.C. §9601 et seq., or the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq. (or any state counterpart to the foregoing statutes) or determined to present the unreasonable risk of injury to health or the environment under the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq. Tenant shall indemnify, defend and hold the Landlord Entities harmless from and against any and all claims, judgments, damages, penalties, fines, costs (including without limitation, consultant's fees, experts' fees, attorney's fees, investigation and cleanup costs and courts costs), liabilities or losses resulting from (1) the storage, handling, treatment, release, disposal, presence or use of Hazardous Materials in, on or about the Premises from and after the date of this Lease during the Term, or (2) the violation by Tenant of any provision of any Environmental Laws. Without limiting the generality of the foregoing indemnity, in the event Landlord has reason to believe that the covenants set forth in this Paragraph 14 have been violated by Tenant, Landlord shall be entitled, at Tenant's sole expense, to take such actions as Landlord deems necessary in order to assess, contain, delineate and/or remediate any condition created by such violation. Any sums expended by Landlord shall be reimbursed by Tenant, as additional rental, within thirty (30) days after demand therefor by Landlord. Landlord has the right to enter the Premises at all reasonable times for purposes of inspecting the Premises in order to evaluate Tenant's compliance with the covenants of this Paragraph 14. In the event Tenant delivers or receives any notices or materials from any governmental or quasi-governmental entity and such notices or materials relate to Tanks or Hazardous Materials in, on or about the Premises, Tenant shall immediately send to Landlord a copy of such notices or materials. Tenant shall also provide Landlord with a detailed report relating to any release of a Hazardous Material in, on or about the Premises whenever such release is required to be reported to governmental authorities pursuant to the Environmental Laws. Upon the expiration or earlier termination of this Lease, Landlord shall have the right to cause to be performed such environmental studies of the Premises by an environmental consultant as are necessary to determine whether any Hazardous Materials have been stored, handled, treated, released, brought upon or disposed of on the Premises during the Term in violation of the terms hereof. If any such study reveals any violation of this Lease, Tenant shall promptly reimburse Landlord for the costs of such studies and Tenant shall immediately undertake a further investigation, if necessary, and remediation of such contamination. Landlord may undertake such investigation and remediation if Tenant fails to do so within a reasonable time frame, in which case Tenant shall promptly reimburse Landlord for the cost of same within thirty (30) days after demand therefore by Landlord. The obligations of this Paragraph 14 shall survive the expiration or earlier termination of this Lease.

**15. Default; Remedies.** In the event (i) any payment of rental or other sum due hereunder is not paid within ten (10) days after the due date thereof; (ii) the Premises shall be deserted or vacated; (iii) Tenant shall fail to comply with any term, provision, condition or covenant of this Lease, other than an obligation requiring the payment of rental or other sums hereunder, and shall not cure such failure within twenty (20) days after notice to the Tenant of such failure to comply; (iv) Tenant shall attempt to violate or violate Paragraph 13 above; or (v) Tenant or any guarantor shall file a petition under any applicable federal or state bankruptcy or insolvency law or have any involuntary petition filed thereunder against it, then Landlord, in addition to any remedy available at law or in equity, shall have the option to do any one or more of the following:

**(a)** Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord. Tenant agrees to indemnify the Landlord Entities for all loss, damage and expense which Landlord may suffer by reason of such termination.

**(b)** Without terminating this Lease, terminate Tenant's right of possession, whereupon rental shall continue to accrue and be owed by Tenant hereunder. Thereafter, at Landlord's option,



Landlord may enter upon and relet all or a portion of the Premises (or relet the Premises together with any additional space) for a term longer or shorter than the remaining term hereunder and otherwise on terms satisfactory to Landlord. Tenant shall be liable to Landlord for the deficiency, if any, between Tenant's rental hereunder and all net sums received by Landlord on account of such reletting (after deducting all costs incurred by Landlord in connection with any such reletting, including without limitation, tenant improvement costs, brokerage commissions and attorney's fees).

**(c)** Pursue a dispossessory, eviction or other similar action against Tenant, in which event Tenant shall remain liable for all amounts owed hereunder, including amounts accruing hereunder from and after the date that a writ of possession is issued.

**(d)** Perform any unperformed obligation of Tenant, including, but not limited to, cleaning up any trash, debris or property remaining in or about the Premises upon the expiration or earlier termination of this Lease. Any sums expended by Landlord shall be repaid by Tenant, as additional rent, within ten (10) days after demand therefor by Landlord.

Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedies available at law or in equity. Tenant agrees to pay all costs and expenses, including, but not limited to, reasonable attorney's fees and consultant's fees, incurred by Landlord in connection with enforcing the performance of any of the provisions of this Lease, whether suit is actually filed or not. Acceptance of rental or any other sums paid by Tenant shall not constitute the waiver by Landlord of any of the terms of this Lease or any default by Tenant hereunder. Landlord shall not be required to mitigate damages, and the parties intend to waive any burden that applicable law may impose on Landlord to mitigate damages; provided, however, if applicable law nevertheless requires Landlord to mitigate damages then (i) Landlord shall have no obligation to treat preferentially the Premises compared to other premises Landlord has available for leasing; (ii) Landlord shall not be obligated to expend any efforts or any monies beyond those Landlord would expend in the ordinary course of leasing space; and (iii) in evaluating a prospective reletting of the Premises, the term, rental, use and the reputation, experience and financial standing of prospective tenants are factors which Landlord may properly consider.

**16. Signs; Entry by Landlord.** Landlord may place "For Lease" signs upon the Premises one hundred twenty (120) days before the termination of this Lease and may place "For Sale" signs upon the Premises at any time. Landlord may enter the Premises with prior notice to Tenant at reasonable hours during the Term (a) to show the same to prospective purchasers or tenants, (b) to make repairs to Landlord's adjoining property, if any, (c) to inspect the Premises in order to evaluate Tenant's compliance with the covenants set forth in this Lease, or (d) to perform activities otherwise permitted or contemplated hereby.

**17. No Estate in Land.** This Lease shall create the relationship of landlord and tenant between Landlord and Tenant; Tenant's interest is not assignable by Tenant except as provided in Paragraph 13, above.

**18. Holding Over.** If Tenant remains in possession of the Premises after expiration of the term hereof with Landlord's written consent, Tenant shall be a month-to-month tenant upon all the same terms and conditions as contained in this Lease, except that the base rental shall become two times the then current base rental, and there shall be no renewal of this Lease by operation of law. Such month-to-month tenancy shall be terminable upon thirty (30) days written notice by either party to the other. Tenant waives any right that it may have to additional notice pursuant to applicable law. If Tenant remains in possession of the Premises after the expiration of the term

hereof without Landlord's written consent, Tenant shall be a tenant at sufferance subject to immediate eviction. In such event, in addition to paying Landlord any damages resulting from such holdover, Tenant shall pay base rental at the rate of three times the then current base rental. In such circumstance, acceptance of base rental by Landlord shall not constitute consent or agreement by Landlord to Tenant's holding over and shall not waive Landlord's right to evict Tenant immediately.

**19. Notices.** Any notice given pursuant to this Lease shall be in writing and sent by certified mail, return receipt requested, by hand delivery or by reputable overnight courier to:

(a) Landlord: c/o Director Real Estate, Norfolk Southern Corporation, 650 W Peachtree St NW, Atlanta, GA 30308, or at such other address as Landlord may designate in writing to Tenant.

(b) Tenant: TOWN OF PINEVILLE, 200 DOVER ST, , PINEVILLE NC 28134, **NO P.O. BOXES**, or at such other address as Tenant may designate in writing to Landlord.

Any notice sent in the manner set forth above shall be deemed delivered three (3) days after said notice is deposited in the mail if sent by certified mail (return receipt requested), or upon receipt if sent by hand delivery or reputable overnight courier. Any change of notice address by either party shall be delivered to the other party by the manner of notice required hereby.

**20. Track Clearance.** Notwithstanding anything contained in this Lease, and irrespective of the sole, joint, or concurring negligence of Landlord, Tenant shall assume sole responsibility for and shall indemnify, save harmless and defend the Landlord Entities from and against all claims, actions or legal proceedings arising, in whole or in part, from the conduct of Tenant's operations, or the placement of Tenant's fixtures, equipment or other property, within twenty-five feet (25') of Landlord's tracks, if any, located on or adjacent to the Premises. In this connection it is specifically understood that knowledge on the part of Landlord of a violation of the foregoing clearance requirement, whether such knowledge is actual or implied, shall not constitute a waiver and shall not relieve Tenant of its obligations to indemnify the Landlord Entities for losses and claims resulting from any such violation.

**21. Brokerage.** Landlord and Tenant hereby covenant and agree to indemnify and hold the other harmless from and against any and all loss, liability, damage, claim, judgment, cost and expense (including without limitation attorney's fees and litigation costs) that may be incurred or suffered by the other because of any claim for any fee, commission or similar compensation with respect to this Lease, made by any broker, agent or finder claiming by, through or under the indemnifying party, whether or not such claim is valid.

**22. Tenant's Insurance.** Tenant shall provide the following insurance for the Term. All insurance shall be maintained in the form and with a company (or companies) satisfactory to the Landlord.

(a) **Commercial General Liability Insurance:** This insurance shall be provided by a current ISO occurrence form policy including coverage for damages because of bodily injury, property damage, personal and advertising injury, and the products-completed operations hazard. This insurance shall have a maximum deductible of no more than \$5,000, annual limits of at least \$2,000,000 occurrence, \$2,000,000 general aggregate, and \$2,000,000 products/completed operations aggregate. Any portion of this requirement may be satisfied by a combination of General Liability and/or Excess/Umbrella Liability Coverage.

**(b) Automobile Liability Insurance:** If Tenant operates any vehicles on the leased property, Tenant shall be required to carry Automobile Liability Insurance. This insurance shall be provided by a current ISO occurrence form policy (or equivalent) and apply on an “any auto” (Symbol 1) basis, including coverage for all vehicles used in connection with the Work or Services on the leased property, providing annual limits of at least \$1,000,000 per occurrence for bodily injury and property damage combined including uninsured and underinsured motorist coverage, medical payment protection, and loading and unloading.

**(c) Workers’ Compensation:** If Tenant has any employees that will enter the leased property, Lessee shall maintain workers’ compensation insurance as required by statute in the state in which the Work or Services, as applicable, will take place.

**(d) Employer’s Liability:** Provided that Tenant is required to maintain workers’ compensation coverage required by (c), Employer’s Liability insurance shall be provided with limits of at least \$1,000,000 for each bodily injury by accident, bodily injury by disease, and annual aggregate.

**General Insurance Requirements.** Each insurance policy referred to in this Lease shall comply with the following requirements, and Tenant to cause its insurance to comply with the following.

**(a) Additional Insureds.** All insurance required by this Lease (excluding only Workers’ Compensation) shall name the Landlord as additional insureds with an appropriate endorsement to each policy.

**(b) Tenant’s Coverage Primary and Without Right to Contribution.** All policies secured by Tenant, whether primary, excess, umbrella or otherwise, and providing coverage to the Landlord as an additional insured (i) are intended to take priority in responding and to pay before any insurance policies the Landlord may have secured for itself must respond or pay and (ii) may not seek contribution from any policies the Landlord may have secured for itself.

**(c) Severability of Interests (Cross Liability).** No cross liability exclusions are permitted that apply to the Additional Insureds, and there may not be any restrictions in any policy that limits coverage for a claim brought by an additional insured against a named insured.

**(d) Waiver of Subrogation.** To the fullest extent permitted by law, all insurance furnished by Tenant in compliance with Lease shall include a waiver of subrogation in favor of the Landlord with an appropriate endorsement to each policy.

**(e) Notice of Cancellation, Modification or Termination.** All policies required under this Lease shall not be subject to cancellation, termination, modification or changed, or non-renewed except upon thirty (30) days’ prior written notice to the Additional Insureds.

**(f) No Limitation.** The insurance coverages maintained by Tenant shall not limit any of their indemnity obligations or other liabilities under this Lease.

**(g) Certificates of Insurance.** Tenant shall furnish certificates of insurance to Landlord at . The Certificate of Insurance shall be on an ACORD form. The Insured box on the ACORD form shall be filled out with the Tenant’s Legal name and address **EXACTLY** as defined on the Agreement Header and Signature Line of this Lease.



On the ACORD form, the box titled **DESCRIPTION OF OPERATIONS/ LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/ SPECIAL PROVISIONS** shall include this **EXACT** language:

**“Norfolk Southern Corporation and its Subsidiaries, as Certificate Holder has been endorsed to all of the applicable policies as an additional insured including the General Liability policy, the Umbrella/Excess Policy (if used), and, if required by the Lease, the Employer’s Liability policy and the Automobile Liability policy. All policies have been endorsed to waive subrogation against Norfolk Southern Corporation and its Subsidiaries, as well as to indicate that they may not seek contribution against policies issued to Norfolk Southern Corporation or its subsidiaries. All policies have been endorsed to provide Norfolk Southern Corporation and its Subsidiaries 30 days’ notice of cancellation.”**

The **CERTIFICATE HOLDER** box on the ACORD form shall include this **EXACT** name and address:

**Norfolk Southern Corporation and its Subsidiaries  
650 W Peachtree St NW,  
Atlanta, GA 30308**

A Sample Copy of an insurance certificate showing the required language to be included on the insurance Certificate is attached to this Lease in Exhibit D.

**23. Joint and Several.** If Tenant comprises more than one person, corporation, partnership or other entity, the liability hereunder of all such persons, corporations, partnerships or other entities shall be joint and several.

**24. No Warranties; Entire Agreement.** TENANT ACCEPTS THE PREMISES “AS IS” WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF QUIET ENJOYMENT, THE IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER IMPLIED WARRANTIES. LANDLORD SHALL NOT BE LIABLE FOR, AND TENANT HEREBY RELEASES LANDLORD FROM ALL CLAIMS FOR ECONOMIC LOSSES AND ALL OTHER DAMAGE OF ANY NATURE WHATSOEVER ACCRUING TO TENANT, INCLUDING, BUT NOT LIMITED TO THE VALUE OF ANY BUILDINGS, STRUCTURES OR IMPROVEMENTS OF TENANT UPON THE PREMISES, RESULTING FROM OR ARISING BY REASON OF ANY DEFICIENCY, INSUFFICIENCY OR FAILURE OF TITLE OF LANDLORD. THIS LEASE CONTAINS THE ENTIRE AGREEMENT OF THE PARTIES HERETO AS TO THE PREMISES, AND NO REPRESENTATIONS, INDUCEMENTS, PROMISES OR AGREEMENTS, ORAL OR OTHERWISE, BETWEEN THE PARTIES, NOT EMBODIED HEREIN, SHALL BE OF ANY FORCE OR EFFECT.

**25. Survival.** The provisions of Paragraphs 7, 8, 10, 14, 18 and 21 shall survive the expiration or earlier termination of this Lease.

**26. Miscellaneous.** Knowledge on the part of Landlord or any employee, agent or representative of Landlord of any violation of any of the terms of this Lease by Tenant shall constitute neither negligence nor consent on the part of Landlord, and shall in no event relieve Tenant of any of the responsibilities and obligations assumed by Tenant in this Lease. All rights, powers and privileges conferred hereunder upon the parties hereto shall be cumulative but not restrictive to those given

by law. No failure of Landlord to exercise any power given Landlord hereunder, or to insist upon strict compliance by Tenant with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Landlord's right to demand exact compliance with the terms hereof. Subject to the terms of the paragraph entitled, "Assignment" set forth herein, this Lease shall be binding upon and shall inure to the benefit of the respective successors and permitted assigns of Landlord and Tenant. If any term, covenant or condition of this Lease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons, entities or circumstances other than those which or to which used may be held invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Lease shall be valid and enforceable to the fullest extent permitted by law. Time is of the essence in this Lease. Neither party shall be bound hereunder until such time as both parties have signed this Lease. This Lease shall be governed by the laws of the State or Commonwealth in which the Premises are located.

**27. Signature.** The parties agree that if an authorized officer of a party fully signs this Agreement in the appropriate location(s) below and then returns that signature to the other party via electronic means with a pdf or similar scanned copy of that signature, then that scanned signature shall serve as that party's signature for the Agreement, and, upon full execution of the Agreement by all parties, shall create a legally binding Agreement.

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**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals, effective as of the date last executed below.

Witness As To Landlord:

\_\_\_\_\_  
Name:

Witness As To Landlord:

\_\_\_\_\_  
Name:

**LANDLORD:**

**NORFOLK SOUTHERN RAILWAY  
COMPANY  
a VIRGINIA Corporation**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date of Landlord Signature: \_\_\_\_\_

[SEAL]

Witness As To Tenant:

\_\_\_\_\_  
Name:

Witness As To Tenant:

\_\_\_\_\_  
Name:

**TENANT:**

**TOWN OF PINEVILLE  
a NORTH CAROLINA municipal corporation**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date of Tenant Signature: \_\_\_\_\_

[SEAL]

BTJ, July 17, 2025, 1331080\ iManage #



## **EXHIBIT B**

RIDER TO LEASE AGREEMENT BY AND BETWEEN THE **NORFOLK SOUTHERN RAILWAY COMPANY**, AS LANDLORD, AND **TOWN OF PINEVILLE**, AS TENANT

This rider is attached to and made a part of the referenced Lease Agreement. In the event of an inconsistency between the terms of this Rider and the terms of the Lease agreement, the terms of this Rider shall control.

**Tenant-Owned Improvements.** Tenant shall have the right to use and maintain the existing parking area, fencing, and (the "Tenant-Owned Improvements") located upon the Premises. Said Tenant-Owned Improvements shall not become fixtures upon the realty, but shall remain the property of Tenant and shall be removed from the Premises upon termination or expiration of the Lease.

**Landlord Pays Taxes.** Notwithstanding any provision of the Lease to the contrary, Landlord shall pay all real estate taxes and assessments (regular or special) pertaining to the Premises on or before the date the same become delinquent. Notwithstanding the foregoing, Tenant shall be responsible for any taxes or assessments imposed upon or assessed against Tenant's personal property, and Tenant shall pay and be liable for all rental, sales and use taxes, and other similar taxes, if any, levied or imposed by any city, state, county or other governmental authority (including any rental tax). Such payments shall be paid concurrently with the payment of base rental or other sum due hereunder upon which the tax is based. If Landlord pays any taxes or assessments which are Tenants responsibility under this Paragraph, Tenant shall reimburse Landlord within ten (10) days after Tenant's receipt of paid invoices for such taxes and assessments.

**Mandatory Barricade/Fence.** Tenant will, at its own expense, erect and maintain a barricade/fence along the Northwest boundary/boundaries of the Premises as shown on the attached Exhibit A. The barricade/fence along the track side boundary shall be located not less than twenty-five (25) feet from the centerline of the track of Landlord shown on the Drawing. The fence is for safety purposes to keep vehicles and pedestrians off of the operating railroad tracks of Landlord. The fence is to be constructed in accordance with specifications approved by Landlord prior to the erection of the fence.



DRAFT