

**INTERCHANGE AGREEMENT AT
MILLINOCKET, MAINE**

THIS AGREEMENT made effective _____

BETWEEN: MONTREAL, MAINE & ATLANTIC RAILWAY LTD.
(hereinafter referred to as "MMA");

AND: _____
[short line selected by Maine] (hereinafter referred to as "Short Line");

WHEREAS, MMA and Short Line each operate lines of railway in the state of Maine, and;

WHEREAS, the railways of MMA and Short Line meet at Mile Post (MP) 109 of MMA's Madawaska Subdivision north of Millinocket, Maine, and Short Line holds trackage rights on MMA's line of railway from said MP 109 to Brownville Jct., Maine pursuant to a trackage rights agreement (the "Trackage Rights Agreement") , passing through MMA's Millinocket Yard, and the parties hereto desire to enter into an agreement to provide for the interchange of traffic between themselves at MMA's Millinocket Yard; and

WHEREAS, MMA's Millinocket Yard is defined as that portion of its railway (comprising all tracks and facilities) located between MP 105.8 and MP 104.6; and

WHEREAS, Short Line will make use of its trackage rights on MMA to access Millinocket Yard under terms and conditions found in the Millinocket – Brownville Jct. Trackage Rights Agreement.

NOW, THEREFORE, in consideration of mutual covenants and agreements, it is agreed by and between MMA and Short Line (hereinafter referred to as a "Party" or the "Parties"):

1. The Parties agree that the official point of interchange shall be in MMA's Millinocket Yard. For the purpose of interchanging loaded and empty freight cars with MMA, Short Line will have the right to use designated tracks in MMA's Millinocket Yard without charge, subject to Canadian Railway Operating Rules ("CROR") and MMA's supervision.

- (a) Delivery will be made and receipt will be taken of interchange cars by Short Line on the tracks so designated by the MMA employee in charge of this location at the time of such delivery and receipt (hereinafter referred to as "Interchange Tracks", which term shall include any other tracks or facilities in Millinocket Yard used by Short Line to move its locomotives or cars to or from the tracks designated for interchange, but not tracks used pursuant to the Trackage Rights Agreement). Loaded and empty cars shall be considered as interchanged from Short Line to MMA and from MMA to Short Line at such time as cars are placed on the Interchange Tracks and the locomotives are detached, provided that the Party delivering such cars has provided the proper billing and/or all necessary documentation required for forwarding; and provided further, that for interchange delivery from one Party to the other, should any car fail to pass the mechanical inspection, then such car shall not be considered interchanged to the other Party until the time such car is repaired so as to pass the appropriate mechanical inspection. Cars so interchanged from MMA to Short Line will be promptly forwarded to destination, and not held in Millinocket for purposes of storage.
- (b) The Parties agree to notify each other, via email, fax, telephone, or other electronic media, a minimum of four (4) hours prior to the anticipated interchange time, of traffic expected to be interchanged at Millinocket.
- (c) The interchange of cars covered by this Agreement shall be governed by the applicable Code of Car Service Rules and Code of Car Hire Rules promulgated from time to time by the Association of American Railroads. In the event of any conflict between the provisions of this Agreement and the aforesaid Rules, this Agreement shall govern.

2. Responsibility for the mechanical condition of cars interchanged shall be transferred from Short Line to MMA and from MMA to Short Line when the cars are interchanged in accordance with Section 1 above. Inspection and repair of cars shall be governed by the Field Manual of Interchange Rules and any other applicable rules adopted by the Association of American Railroads-Mechanical Division.

3. If a discharge, emission or escape of a material or commodity or an emission of ionizing radiation (collectively referred to as a "Discharge") occurs from a container, packaging or equipment being handled by Short Line on the Interchange Tracks, Short Line will immediately notify MMA and will provide all available information concerning the material or commodity. Short Line shall undertake and complete such cleanup response as the Parties in their discretion and any governmental agencies having jurisdiction deem necessary. In the event that Short Line does not promptly undertake and complete such cleanup response, or notifies MMA that it is unable to complete such response, MMA shall have the right to undertake and complete such cleanup response, and Short Line shall be responsible for the costs of such cleanup. No equipment or container from which a Discharge is occurring will be moved off of the Interchange Tracks by Short Line onto MMA's other tracks at Millinocket Yard.

4. MMA shall maintain, at its own cost, the Interchange Tracks. If and to the extent additional interchange tracks or facilities are required, in the sole discretion of MMA, in the future to accommodate the interchange of traffic between MMA and the Short line, then MMA shall, at its sole expense, construct or provide such additional tracks or facilities. MMA shall be required to use only reasonable and customary care, skill and diligence in the operation, maintenance, repair, renewal and management of the Interchange Tracks. In the event use of the Interchange Tracks shall at any time be interrupted or traffic thereon or thereover be delayed at any time for any cause, MMA and Short Line shall not by reason of this Agreement have or make any claim against the other for loss, damage, or expense of any kind, caused by or resulting from such interruption or delay.

5. Each Party shall comply with the provisions of the U.S. CFR Part 49, as amended from time to time, and the regulations of the United States Federal Railroad Administration ("FRA"), and all other applicable federal and state laws, regulations and rules respecting the operation, condition, inspection and safety of trains, engines, cars and equipment while such trains, engines, cars and equipment are being operated, stored, or parked on the Interchange Tracks. Each Party shall indemnify, protect, defend and save harmless the other Party and its the directors, officers, agents and employees from and against all fines, penalties and liabilities asserted against or imposed upon any of them under such laws, rules and regulations by any agency, public authority or court having jurisdiction with respect to the interchange tracks when attributable to the failure of the Party to comply with its obligations in this regard.

6. Each Party will comply with all applicable federal, state, municipal and local laws, rules, regulations, and ordinances governing solid waste, hazardous materials and commodities, and air, water, noise and other pollution in its use of the Interchange Tracks. Prior to transporting solid waste or hazardous materials or commodities on the Interchange Tracks, Each Party will:

- (a) comply or arrange for compliance with all applicable laws, rules and regulations governing transportation of hazardous materials and commodities, including but not limited to regulations concerning notification, manifest information, loading, blocking and bracing, placarding, commodity mix, and commodity containers; and
- (b) ensure that it has all requisite authorizations to handle the solid waste or hazardous materials or commodities.

7. The responsibility of the Parties hereto, as between themselves, for loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever, resulting from, arising out of, incidental to, or occurring in connection with exercise of the rights granted in this Agreement, shall be borne and determined as follows:

- (a) Whenever any loss of, damage to, or destruction of any property whatsoever, including the Interchange Tracks and turnouts therefrom (except Cargo Related Claim Liability as defined hereinafter), or injury to or death of any person or persons whomsoever, or any

damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation (collectively "Damage"), occurs with any of the trains, locomotives, cars, or equipment of, or in the account of Short Line being involved, without any of the trains, locomotives, cars, or equipment of, or in the account of MMA being involved, Short Line shall assume all liabilities therefor and bear all costs and expenses in connection therewith, and shall forever protect, defend, indemnify, and save harmless MMA and its directors, officers, agents or employees from and against all such liabilities, costs, and expenses, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of any of such indemnitees.

- (b) Whenever any Damage occurs with any of the trains, locomotives, cars, or equipment of, or in the account of MMA being involved, without any of the trains, locomotives, cars, or equipment of, or in the account of Short Line being involved, MMA shall assume all liabilities therefor, and bear all costs and expenses in connection therewith, including, without limitation all costs and expenses referred to in Section 7(l) hereof, and MMA shall forever protect, defend, indemnify, and save harmless Short Line and its directors, officers, agents, and employees from and against all such liabilities, costs, and expenses, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of any of such indemnitees.
- (c) Whenever any Damage occurs with any of the trains, locomotives, cars, or equipment of, or in the account of both Short Line and MMA being involved, Short Line and MMA shall each separately assume and bear all liabilities, costs, and expenses for loss of and damage to its own trains, locomotives, cars (including without limitation lading), and equipment operated by it and for injury to and death of each of its own respective officers, agents, and employees, and persons in its care and custody, including without limitation all costs and expenses referred to in Section 7(l) hereof . All liabilities, costs, and expenses for injuries to and death of any other person or persons whomsoever, for loss of, damage to, or destruction of all other properties (including without limitation the Interchange Tracks) and for any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, so occurring shall be borne equally by Short Line and MMA.
- (d) Notwithstanding any other provisions of this Agreement, each Party shall be responsible for liability for any death, personal injury, or damage to property to the extent such death, personal injury, or damage to property was caused by acts or omissions of any of that Party's employees while under the influence of drugs or alcohol. An FRA positive test for drugs or a FRA alcohol test of .04% or greater shall establish that an employee was "under the influence of drugs or alcohol," for the purposes of this Section 7.

- (e) For the purposes of this Section 7, as between Short Line and MMA, references to "MMA" shall include any other carrier not party to this Agreement. Whenever any liabilities, costs, or expenses are assumed by or apportioned to a party hereto under the foregoing provisions of this Section 7, that party shall forever protect, defend, indemnify, and save harmless the other party to this Agreement and its directors, officers, agents, and employees from and against those liabilities, costs, and expenses so assumed by that Party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of any of such indemnitees.
- (f) In every case of death or injury suffered by an employee of either Short Line or MMA, when compensation to such employee or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employer's liability, or other law, and either of said parties under the provisions of this Agreement is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such Party shall not be released from paying any such future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.
- (g) For the purposes of this Section 7 the word "equipment" shall mean and be confined to (i) cabooses, (ii) vehicles and machinery which are capable of being operated on railroad tracks that, at the time of an occurrence, are being operated on the Interchange Tracks, and (iii) vehicles and machinery that, at the time of an occurrence, are on the Interchange Tracks or the right-of-way thereof for the purpose of the maintenance or repair thereof or the clearing of wrecks thereon.
- (h) The term "Damage" as used in this Section 7 shall include related court costs, expenses, and attorney's fees. Liability shall not include fines and penalties, which shall always be paid by the Party against whom they were assessed, except as provided under Section 5.
- (i) Under no circumstances will either of the Parties to this Agreement assert a claim for punitive or exemplary damages against the other Party.
- (j) (1) All liability arising from or growing out of loss, damage and delay to lading, including all incidental, related and miscellaneous damages resulting directly or indirectly therefrom that is covered by the AAR Freight Claim Article (all such liability being hereinafter called "Cargo Related Claim Liability") will be apportioned between Short Line and MMA in accordance with applicable rules and procedures of the AAR's Damage Prevention and Freight Claim Article (hereinafter the "AAR Freight Claim Article") including its Rules of Order, Principles and Practices, Freight Claim Rules, and prior arbitration decisions interpreting or construing any of them (hereinafter collectively referred to as "AAR Rules and Procedures").

(2) In the event of any dispute about responsibility to investigate, adjust and defend a cargo related claim or about apportionment of liability under this subsection (j), Short Line and MMA shall invoke the AAR Freight Claim Article to provide for arbitration under the AAR Rules and Procedures. Short Line and MMA will cooperate fully in any such arbitration proceeding and will be bound by the final decision of the AAR Freight Claim Article arbitration or appeal committee. If the AAR Freight Claim Article arbitration or appeal committee declines to act as arbitrator, any such dispute will be arbitrated in accordance with the provisions of Section 6 of the Trackage Rights Agreement between the Parties that is being used for access.

(k) In case a claim is asserted or a lawsuit or lawsuits is commenced against either Party hereto for or on account of any damage or injury for which the other Party would be solely or jointly liable under this Agreement, the Party thus notified of a claim or sued shall give the other Party timely written notice of the claim or the pendency of such suit, and thereupon the Party so notified may assume or join in the defense thereof, and if the Party so notified is liable therefor under this Agreement, such Party shall save harmless the Party so notified of a claim or sued from all loss, cost and expense to the extent provided by this Agreement. Neither Party shall be bound by any settlement by or judgment against the other Party unless it shall have been so notified and shall have had reasonable opportunity to assume or join in the defense of the claim or action. When so notified, and the opportunity to join in the defense of the claim or action has been afforded, the Party so notified shall to the extent of its liability under this Agreement be responsible for any such settlement or judgment.

(l) If trains, locomotives or cars of Short Line are wrecked or derailed on the Subject Trackage, Short Line shall pick up and remove said equipment, and Short Line shall bear the entire cost of such service. If Short Line does not pick up and remove such equipment within a reasonable time and such equipment is impeding the movement of trains on the Subject Trackage, MMA may pick up and remove such equipment and bill Short Line for the expense; provided, however, that the right of Short Line to seek and obtain any recoveries and the subrogation rights of insurance carriers shall not be waived as a result the removal of wrecked or derailed equipment.

8. Repair and restoration of roadbed, track and structures necessitated by wrecks or derailments on the Interchange Tracks will be performed by MMA and the cost thereof will be distributed in accordance with Section 7 hereof. In the event a Party to this Agreement is involved with or otherwise becomes aware of an accident, wreck, or derailment on the Interchange Tracks, that Party shall immediately notify the other Party to this Agreement. MMA agrees to provide Short Line with reasonable access to the Interchange Tracks for purposes of investigating any accident, wreck, or derailment. Consistent with the need for any investigation, MMA will endeavor to perform wrecking or clearing services as expeditiously as possible so as not to unduly preclude service over the line.

9. Short Line, at its sole cost and expense, shall procure and maintain the insurance coverage specified below. Except with respect to Commercial Railroad Liability Insurance, which shall be placed on a claims-made basis, all insurance shall be placed on an occurrence basis with insurance carriers that are licensed to do business in Maine. Prior to commencement of operations hereunder, Short Line shall provide to MMA a certificate of insurance giving evidence of the required coverage. All such insurance shall provide for no less than ten days' prior written notice by certified mail (return receipt requested) to be given to MMA in the event coverage is substantially changed, cancelled, or not renewed. Short Line, on reasonable request, shall permit MMA to examine original insurance policies.

Short Line shall waive any and all rights or causes of action against MMA for any and all loss of, or damage to, any property owned or used by such Short Line and any property owned by third parties in the custody or control of Short Line. Written notice of this waiver shall be given to each insurance carrier, and said insurance policies shall be properly endorsed, if necessary, to prevent the invalidation of said insurance coverages by reason of this waiver.

Short Line shall procure and maintain the following insurance:

(a) Commercial Railroad Liability Insurance covering liability imposed on Short Line with respect to all of its services and activities on the Interchange Tracks and all obligations assumed by Short Line under this Agreement, including FELA liability and liability for third-party "bodily injury" and "property damage" arising out of the discharge, dispersal, release, or escape of pollutants which is caused by or results from a "railroad accident," all as defined in the policy. Independent Contractors Liability, Personal Injury/Advertising Liability, and Contractual Liability coverages are to be included, and all Railroad and Explosion/Collapse/Underground (X-C-U) exclusions are to be deleted. MMA and its successors or assigns shall be named as additional insureds, and the policy shall contain a waiver of subrogation against MMA and its successors and assigns. Coverage under this policy shall be on a claims-made basis and shall have limits of liability not less than Eight Million Dollars (\$8,000,000) per claim and Sixteen Million Dollars (\$16,000,000) per annum for bodily injury liability (including disease or death), personal injury liability, and property damage liability (including loss of use). Such limits of liability may be adjusted periodically, upon reasonable notice by MMA to Short Line, to reflect inflation, but will be no less than the limits required by Maine DOT from the Short Line for its operations over state-owned trackage.

(b) Property Insurance covering all property on the Interchange Tracks (except the Interchange Tracks themselves) owned or used by Short Line in connection with this Agreement, with limits adequate to protect the full replacement value of such property, and covering all property owned by third parties in the custody or control of Short Line, with limits adequate to cover its liability pursuant to applicable bills of lading and other applicable

statutes, regulations, and laws governing rail carrier liability for loss or damage to lading. The Property Insurance policy shall contain a waiver of subrogation against MMA and its successors and assigns.

(c) Automobile Liability Insurance issued to and covering Short Line's liability arising out of the use of all owned, non-owned, hired, rented or leased vehicles which bear, or are required to bear, license plates in the jurisdiction in which they are to be operated. MMA and its successors and assigns shall be named as additional insureds. Coverage under this policy shall have limits of liability not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury liability (including disease or death), personal injury liability, and property damage liability (including loss of use).

(d) Except as the Parties may otherwise agree in writing:

- (i) no deductible under any insurance policy may exceed \$500,000;
- (ii) except for policies currently in effect, no insurance may be maintained through so-called "umbrella policies"; and
- (iii) Short Line will continue, at its sole cost and expense, to maintain Commercial Railroad Liability Insurance, as described above, for at least six (6) years after Short Line ceases to operate the Subject Trackage pursuant to this Agreement; provided, however, that Short Line instead may opt to procure tail coverage at Short Line's sole cost and expense, so long as the terms and conditions of such tail coverage are acceptable to MMA.

10. All employees operating on MMA's property must be qualified with respect to CROR, and will be governed by the CROR and rules and regulations in MMA's operating timetable, bulletins and instructions for the movement and handling of trains, locomotives and other equipment.

11. Short Line will seek and obtain any regulatory approvals, now or at any future time, necessary and required in connection with any of the transactions or activities contemplated by this Agreement.

12. All payments called for under this Agreement shall be made by either Party within thirty (30) days after receipt of bills therefor. In the event of any good faith dispute as to the correctness of items in the bills rendered, any amounts not disputed will be paid within the time required. The records of each Party hereto, insofar as they pertain to matters covered by this Agreement, shall be open at all reasonable times to inspection by the other Party hereto.

13. Except as provided elsewhere in this Agreement, bills rendered pursuant to the provisions of this Agreement shall include direct labor and material costs, together with the surcharges, overhead percentages equipment rentals in effect at the time any work is performed, as agreed to between the Parties but in the absence of such an Agreement, such rates shall not exceed those established for similar work by the Maine Department of Transportation for the governance of contractors working on the State highway system or some similar agency agreed between the Parties.

14. No Party hereto shall be held responsible for failing to discharge obligations hereunder where such failure is due to circumstances beyond its control, including acts of civil or military authority, national emergencies, fire, labor disputes, flood or catastrophe, other Acts of God, insurrection, riots; provided, however, that such Party shall take reasonable actions to enable it to resume discharging its obligations hereunder.

15. This Agreement will become effective immediately and may be terminated only through agreement by the Parties or through a material and continuing default by Short Line.

16. Termination of the Agreement shall not release MMA or Short Line from any liability which either may have incurred or any obligations which may have accrued under any provisions of this Agreement, or any amendment or supplement hereto, prior to the effective date of termination.

17. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Short Line may not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of MMA, which consent shall not be unreasonably delayed, conditioned or withheld; provided, however, that Short Line may assign this Agreement and all of its rights and obligations hereunder without the consent of MMA to any successor operator or operators of the MaineDOT-owned rail line north of MP 109. MMA agrees that if the rights are not assigned by Short Line to any successor operator, then MMA shall enter into an interchange agreement with such successor operator in the same form as this Agreement. .

18. This Agreement is intended for the sole benefit of the signatories to this Agreement, and their successors and assigns. Nothing in this agreement is intended or may be construed to any person, firm, corporation or other entity, other than the signatories hereto, their permitted successors, and permitted assigns, any legal or equitable right remedy, or claim under this Agreement.

19. This Agreement and each and every provision and term hereof shall be treated as and kept confidential as between the Parties hereto, and shall not be revealed to any third Party or Parties except: (a) as may be required by law or order of a court of competent jurisdiction or (b) as required for resolution of any dispute between the Parties related to this Agreement.

20. All notices required to be given by either Party to the other, shall be in writing and addressed as follows:

TO: MMA:
President
Montreal Maine & Atlantic Railway Ltd.
Northern Maine Junction Park
15 Iron Road
Herman, Maine 04401
Fax No: 207.848.4232

TO: Short Line:

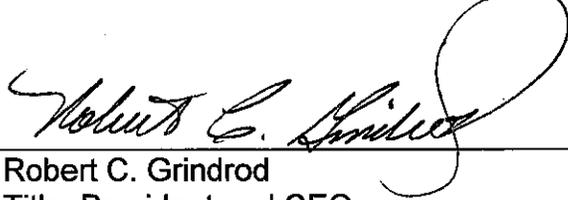
Fax No: _____

Copies of all notices under this Agreement shall be sent to MaineDOT at the following address:

Maine Department of Transportation
16 State House Station
Augusta, Maine 04333-0016
Attention: Chief Counsel

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

MONTREAL MAINE & ATLANTIC RAILWAY LTD.

By: 
Robert C. Grindrod
Title: President and CEO

SHORT LINE

By: _____
Name:
Title: