

CAR STORAGE & SWITCHING AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into as of the 21st day of May, 2018, by and between **PROGRESSIVE RAIL, INC.**, (hereinafter referred to as "Railroad") and **NORTHERN INDUSTRIAL SANDS LLC**, (hereinafter referred to as "Industry"). Railroad and Industry are each at times referred to herein as a "Party", and collectively as the "Parties".

RECITALS

WHEREAS Industry desires to have Railroad store empty rail cars on Railroad controlled tracks in Wisconsin and subsequently remove cars from storage for reactivation in rail service, and

WHEREAS Railroad is agreeable to accommodate Industry's request for occasional track capacity for purposes of storing empty rail cars and switching services to place railcars into storage and subsequently remove stored cars from storage for reactivation,

THEREFORE, the Parties have mutually agreed as follows:

1. Track Space and Maintenance

For the term herein stated, Railroad agrees to store Industry rail cars on Railroad-controlled tracks in Wisconsin. Railroad makes no representation that rail cars will be stored together. Rail cars will be stored on such tracks as Railroad deems available and appropriate at its discretion.

Car storage is subject to track availability at Railroad's sole discretion.

Maintenance of the tracks used for rail car storage during the term hereof shall be the responsibility of the Railroad.

2. Rail Car Storage Fee

Industry shall pay Railroad the sum of Five Dollars (\$5.00) per rail car per day, or portion thereof, for track space used for the storage of Industry rail cars. Rail car storage fees shall be invoiced monthly by Railroad until cars are removed from storage.

3. Switching Service

Industry shall pay Railroad Three Hundred Fifty Dollars (\$350.00) per car for switching service onto storage tracks.

Upon request from Industry to remove cars from storage, Industry shall pay Railroad Three Hundred Fifty Dollars (\$350.00) per car for switching service from storage tracks.

Industry shall be invoiced for switching service based upon completion of movement to or from storage tracks.

4. Selective Switching

Rail cars will be removed from storage on a "last in/first out" basis. If Industry requests extraction of specific cars, Customer agrees to pay Railroad Four Hundred Fifty Dollars (\$450.00) per car for such special switching fees.

5. Applicable Rates

Industry agrees to pay all applicable rates and charges published in Freight Tariffs WNR 6004-Series, and WNR 8000-Series, unless otherwise agreed pursuant to Appendix A attached hereto.

6. Indemnification

IN NO EVENT SHALL ANY PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST OR PROSPECTIVE PROFITS) IN RESPECT OF THIS AGREEMENT OR FOR ANY FAILURE OF PERFORMANCE RELATED HERETO, HOWSOEVER CAUSED.

7. MISCELLANEOUS

- a. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota, excluding its conflicts of law principles. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO KNOWINGLY AND IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY.
- b. it is the intention of the Parties that its terms not be construed against any of the Parties by reason of the fact that it was prepared by one Party.
- c. The Parties agree that entry into this Agreement does not constitute a partnership, joint venture, or any other business relationship between Railroad and Industry.
- d. All references in this Agreement to "Railroad" and "Industry" shall mean and include such Party and all its officers, contractors, agents and employees, and others acting under its or their authority.
- e. This Agreement constitutes and expresses the entire Agreement and understanding between the Parties and may not be deemed or construed to have been modified or amended, except by written instruments signed by the parties hereto.
- f. This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement. A electronic transmission of a signed copy of this Agreement shall be deemed an original.
- g. Nothing in this Agreement is intended to confer upon any third person any rights or remedies under, or by reason of, this Agreement.

8. Payment Terms

Payment by Industry to Railroad of invoiced amounts are due within thirty (30) days of date of invoice. Overdue accounts are subject to interest charges at 1.5% per month.

9. Cars Must be AAR Interchangeable

Rail cars billed to Railroad for storage must be in AAR interchangeable condition.

10. No Car Hire or Car Mileage Payable

Railroad shall not pay car hire (either daily per diem or mileage based car hire) on Industry rail cars covered by this agreement. Cars shall be zero-rated to Railroad.

11. Term

This Agreement shall be effective June 1, 2018 and shall continue in effect for a period of one year until May 31, 2019 (the "Initial Term"). Unless otherwise terminated, amended or replaced, then upon expiration of the Initial Term, the Agreement shall renew for successive one (1) month periods (each a "Renewal Term" and collectively with the Initial Term the "Term"). For each Renewal Term, all prices in the Agreement, whether for services, storage, track lease, switching, or otherwise, will increase by 5.0%. After expiration of the Initial Term, either party may terminate the Agreement by giving the other party written notice not less than (15) fifteen days in advance of the next upcoming Renewal Term.

12. Certificates of Insurance

Industry, at Industry's sole expense, shall use best efforts to secure Certificate(s) of Insurance Coverage from the rail cars owners and provide copies to Railroad certifying to the existence of insurance coverage as follows:

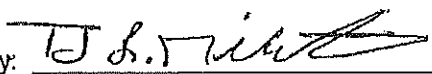
General Public Liability insurance kept in force at all times during the Term of this Agreement, providing coverage for bodily injury, including, but not limited to, death coverage, personal injury, and property damage coverage with a combined single limit (minimum) of \$2,000,000 per each occurrence.

Notwithstanding the above provisions, Industry shall be permitted to self-insure the types and limits of insurance specified herein. Upon request, Industry shall provide Railroad with a written confirmation of self-insurance

Railroad shall assume no liability for the cars except when caused by negligence of the Railroad in moving the cars to or from the storage tracks.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate as of the date first herein written.

NORTHERN INDUSTRIAL SANDS LLC
4165 Shoreline Drive, Suite 200
Spring Park, MN 55384

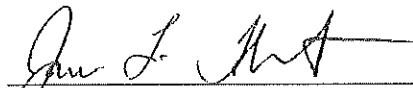
By: 

Print Name: Brian L. Gilbertson

Title: COO

Date: 5/24/18

PROGRESSIVE RAIL, INC.
21778 Highview Avenue
Lakeville, MN 55044

By: 

Print Name: James L. Thornton

Title: Managing Director - Legal; Secretary

Date: 5/29/18

APPENDIX A
PROGRESSIVE RAIL INCORPORATED
FACILITY USE AGREEMENT

Customer : Northern Industrial Sands, LLC
Commodity : storage/switch
Contract ID : WNR-0106
Effective : June 1, 2018
Expires : May 31, 2019

Except as otherwise provided below, all rates and charges pursuant to tariffs WNR 6004-C, and WNR 8000-A shall apply.

In lieu of specific charges provided in the above-captioned tariffs for the services herein identified, Railroad and Industry agree that the charges provided below shall apply:

Description of Service	Unit	Unit Price	Comments/Notes
Rail car storage fee	Per car per day	\$5.00	Storage fees interchange for cars.
Switch fee	Per switch	\$350.00	Switch fee in/out
Selective switch fee	Per car	\$450.00	"Cherry picking" fee
Other	Industry shall pay Railroad within 30 days of receipt of invoice. Industry Billing Representative: Brian Gilbertson Email: bgilbertson@northern-cap.com Phone: 612.806.0557		



BECK, CHAET,
BAMBERGER & POLSKY, S.C.

Email: lstanley@bcblaw.net

October 1, 2020

To: All Buyers of Equipment Owned by Northern Industrial Sands, LLC, et al.

RE: *Notice of Deadline to Remove Equipment*

Dear Buyer:

This letter is to inform you of the deadline to remove any and all equipment purchased from Northern Industrial Sands, LLC, et al. ("NIS"), either through the public auctions held by IronPlanet, Inc. (also known as Ritchie Bros. Auctioneers) or directly from the receivership estate. **All equipment must be removed from the dry plant and wet plant properties on or before October 31, 2020.**

Due to the scheduled auction of the dry plant property, no accommodations can be made to store any equipment purchased from NIS at the dry plant property beyond October 31, 2020. In the event that any equipment is left at the dry plant property after October 31, 2020, we will consider that equipment to have been abandoned to the receivership estate and any such equipment will be sold along with the real estate.

In the event that you wish to store equipment at the wet plant property formerly leased by NIS after October 31, 2020, you will need to make arrangements for such storage with the landowners directly. Landowner contact information can be obtained from Ramboll Group or Larry McGlumphy. Any questions regarding equipment removal can be directed to Ramboll Group. Thank you.

Very truly yours,

BECK, CHAET, BAMBERGER & POLSKY, S.C.

/s/ Lauren C. Stanley

Lauren C. Stanley

cc: Mr. Jim Kane (via e-mail)
Michael Polsky, Esq. (via e-mail)

Phone: 414-273-4200 – Fax: 414-273-7786
330 E. Kilbourn Avenue, Two Plaza East, Suite 1085, Milwaukee, WI 53202