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CHICAGO, CENTRAL & PACIFIC R.R.
ATTN: J.T. DUNAKEY
PO BOX 1800
WATERLOO IOWA 50704

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MEMORANDUM OF OPERATING AGREEMENT

GEORGE J. BULLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

This Memorandum of Operating Agreement is entered into as of the 31st day of March, 1994, by and between CHICAGO CENTRAL & PACIFIC RAILROAD COMPANY, a Delaware corporation ("Railroad Company"), and MISSOURI RIVER BRIDGE COMPANY, a Delaware corporation ("Bridge Company").

RECITALS

1. Pursuant to that certain Transfer and Assignment Agreement among Railroad Company, CCP Holdings, Inc., a Delaware corporation, and Bridge Company dated as of March 4, 1994, Railroad Company agreed to convey to Bridge Company by quit claim deeds certain right-of-way ("Right-of-Way"), trackage and other assets and improvements located between Mile Post 514.19 at Council Bluffs, Iowa, and Mile Post 514.54 at Omaha, Nebraska, as more particularly described in Exhibit A and Exhibit B, respectively, excepting and reserving from such conveyances a railroad operating easement ("Easement") retained by Railroad Company.

2. The Easement retained and reserved by Railroad Company with respect to the Right-of-Way will enable Railroad Company to continue to conduct common rail freight and other rail transportation operations on the Right-of-Way.

3. In order to clarify and establish their respective rights and obligations with respect to Railroad Company's rail operations on the Right-of-Way pursuant to the Easement, the parties have executed an Operating Agreement dated March 31, 1994.

4. In order to evidence the terms and conditions (excluding economic terms and conditions) of the Operating Agreement in the real estate records, the parties hereto have agreed to execute (in two (2) counterparts, each of which shall be deemed to be an original and collectively shall constitute one and the same instrument, for ease of recording) and file for record this Memorandum of Operating Agreement in the real estate records of Pottawattamie County, Iowa, and Douglas County, Nebraska.

NOW, THEREFORE, in consideration of the foregoing premises and the covenants and agreements set forth in the Operating Agreement, the parties hereto agree and declare that attached hereto as Exhibit C is a true copy (omitting signatures and economic terms) of the Operating Agreement by and between Railroad Company and Bridge Company. This Memorandum does not alter the terms and conditions of the Operating Agreement in any manner.

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IN WITNESS WHEREOF, the parties have executed this Memorandum of Operating Agreement as of the date first above written.

CHICAGO CENTRAL & PACIFIC RAILROAD COMPANY

[SEAL]

NOTARIAL SEAL AFFIXED REGISTER OF DEEDS

By: Lyle D Reed
Lyle D. Reed, President

MISSOURI RIVER BRIDGE COMPANY

[SEAL]

By: John A Adams
Printed
Name: John A Adams
Title: Vice President



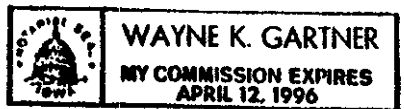
STATE OF IOWA)
) ss.
COUNTY OF BLACK HAWK)

On this 31st day of March, 1994, before me, the undersigned, a Notary Public in and for said County, in said State, personally appeared Lyle D. Reed, to me personally known, who, being by me duly sworn, did say that he is the President of Chicago Central & Pacific Railroad Company; that the seal affixed to the foregoing instrument is the seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and the said Lyle D. Reed acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it voluntarily executed.

Wayne K. Gartner
Notary Public in and for said
County and State

My Appointment Expires:

4-12-96



STATE OF Iowa)
) ss.
COUNTY OF Black Hawk)

On this 31st day of March, 1994, before me, the undersigned, a Notary Public in and for said County, in said State, personally appeared John A. Adair, to me personally known, who, being by me duly sworn, did say that he is the Vice-President of Missouri River Bridge Company; that the seal affixed to the foregoing instrument is the seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and the said John A. Adair acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it voluntarily executed.

Wayne K. Gartner
Notary Public in and for said
County and State

My Appointment Expires:

4-12-96



STATE OF Iowa)
) SS.
COUNTY OF Black Hawk)

The foregoing instrument was acknowledged before me on March 31, 1994, by Lyle D. Reed, President of Chicago Central & Pacific Railroad Company, a Delaware corporation, on behalf of the corporation.

Wayne K. Gartner
Notary Public

My Commission Expires:

4-12-96



STATE OF Iowa)
) SS.
COUNTY OF Black Hawk)

The foregoing instrument was acknowledged before me on March 31, 1994, by John A. Adair, Vice-President of Missouri River Bridge Company, a Delaware corporation, on behalf of the corporation.

Wayne K. Gartner
Notary Public

My Commission Expires:

4-12-96



STATE OF NEBRASKA, County of Douglas

Filed for record and entered in Numerical Index on December _____, 1994, at _____ o'clock __m. and recorded in Deed Record _____, Page _____.

County or Deputy County Clerk
Register or Deputy Register
of Deeds

EXHIBIT A

Legal Description
(Bridge - Iowa)

All that portion of the right-of-way and property of the Chicago Central & Pacific Railroad Company's "Fort Dodge, Iowa to Omaha, Nebraska Line" in Section 22, Township 75 North, Range 44 West, Pottawattamie County, Iowa, which is within an area fifty (50) feet on either side of the center line of the railroad track located on such right-of-way and property and which extends southeasterly over the Missouri River from the common Pottawattamie County, Iowa-Douglas County, Nebraska line and which is located between the thread of the Missouri River (approximate Railroad Mile Post WA-514.32) and Railroad Mile Post WA-514.19 (Valuation Station 124+05) on the Iowa side of the Missouri River in Council Bluffs, Iowa, TOGETHER WITH a non-exclusive, perpetual easement ("Access Easement") for the ingress and egress of persons and vehicles (including, without limitation, train equipment) over, upon and across the property owned by Grantor which is contiguous to the above-described Land (on the Iowa side) for the purpose of providing reasonable access to the above-described Land.

EXHIBIT B

Legal Description
(Bridge - Nebraska)

All that portion of the right-of-way and property of the Chicago Central & Pacific Railroad Company's "Fort Dodge, Iowa to Omaha, Nebraska Line" in the Southeast Quarter of Section 12, Township 15 North, Range 13 East, Douglas County, Nebraska, which is within an area fifty (50) feet on either side of the center line of the railroad track located on such right-of-way and property, and which extends northwesterly over the Missouri River from the common Pottawattamie County, Iowa-Douglas County, Nebraska line and which is located between the thread of the Missouri River (approximate Railroad Mile Post WA-514.32) and Railroad Mile Post WA-514.54 (Valuation Station 142+29) on the Nebraska side of the Missouri River in Omaha, Nebraska, TOGETHER WITH a non-exclusive, perpetual easement ("Access Easement") for the ingress and egress of persons and vehicles (including, without limitation, train equipment) over, upon and across the property owned by Grantor which is contiguous to the above-described Land (on the Nebraska side) for the purpose of providing reasonable access to the above-described Land.

SE 1/4 SE 1/4

EXHIBIT C

OPERATING AGREEMENT

This AGREEMENT entered into as of this ___ day of _____, 199__, by and between MISSOURI RIVER BRIDGE COMPANY, a Delaware corporation ("the Bridge Company") and CHICAGO CENTRAL & PACIFIC RAILROAD COMPANY, a Delaware corporation ("the Railroad Company").

WITNESSETH:

WHEREAS, pursuant to the Transfer and Assignment Agreement among the Railroad Company, CCP Holdings, Inc. ("Holdings") and the Bridge Company, dated _____, 199__ (the "Transfer and Assignment Agreement"), the Railroad Company has agreed to convey to the Bridge Company certain right-of-way, trackage and other assets and improvements between Milepost 514.19 at Council Bluffs, Iowa and Milepost 514.54 at Omaha, Nebraska, (more fully described and defined below as the "Right-of-Way") excluding a railroad operating easement which will be retained by the Railroad Company;

WHEREAS, the railroad operating easement to be retained by the Railroad Company on the Right-of-Way (defined below as the "Easement") will enable the Railroad Company to continue to conduct common carrier rail freight and other rail transportation operations on the Right-of-Way;

WHEREAS, the parties desire to clarify and establish their respective rights and obligations with respect to the Railroad Company's rail operations on the Right-of-Way pursuant to the Easement.

NOW, THEREFORE, in consideration of the premises, reservations, covenants and undertakings contained herein, the Bridge Company and the Railroad Company covenant and agree as follows:

SECTION 1. DEFINITIONS

The following terms and phrases shall be defined as follows for the purposes of this Agreement:

"Agreement" shall mean this Operating Agreement.

"The Bridge Company" shall mean the Missouri River Bridge Company, a Delaware corporation.

"Bridge Structure" shall mean the approach slabs, decking, piles, trusses, floor beams, stringers, piers, pedestals, spans, including the Swing Span, abutments, machinery, and all other structural and non-structural components of the bridge and approaches thereto, excluding the Trackage, located on the Right-of-Way by which the Trackage crosses the Missouri River.

"Closing Date" shall mean the date the transfer and assignment of assets from the Railroad Company to the Bridge Company is consummated.

"Easement" shall mean the perpetual operating easement retained and reserved by the Railroad Company for common carrier rail freight and other rail transportation operations on the Right-of-Way pursuant to the terms of the Quit Claim Deeds.

"Holdings" shall mean CCP Holdings, Inc., a Delaware corporation.

"Loss or Damage" shall mean all costs, liabilities, judgments, fines, fees (including without limitation reasonable attorneys' fees and disbursements) and expenses (including without limitation defense expenses) of any nature arising from or in connection with death of or injury to persons, including without limitation employees of the parties; or damage to or destruction of property, including without limitation the Trackage, or any property on the Right-of-Way, in connection with providing Rail Service on the Right-of-Way; or business losses resulting from or in connection with an act or omission giving rise to a claim for Loss or Damage.

"Modification" or "Modifications" shall mean alterations or additions to, or removal of, the Trackage or the Bridge Structure, and changes in railroad signals or communication

facilities located on the property of the Bridge Company and used by the Railroad Company in its operations.

"Modification Agreement" shall mean a written agreement between the parties hereto entered into in anticipation of a Modification.

"Per Car Charge" shall mean the charge specified in Section 11 of this Agreement.

"Quit Claim Deeds" shall mean those certain deeds executed by the Railroad Company on _____, 199__ conveying certain property interests to the Bridge Company and retaining and reserving the Easement to the Railroad Company.

"The Railroad Company" shall mean the Chicago Central & Pacific Railroad Company, a Delaware corporation.

"Rail Service" shall mean the common carrier rail freight and other rail transportation operations which are conducted or which may in the future be conducted by the Railroad Company on the Right-of-Way.

"Right-of-Way" shall mean the real estate described in the Quit Claim Deeds and more particularly described on Exhibit A

attached thereto, and all improvements thereon, including the Bridge Structure and the Trackage, and all appurtenances and hereditaments relating thereto.

"Swing Span" shall mean the movable section of the Bridge Structure over the Missouri River.

"Trackage" shall mean the trackage, including the rails, fastenings and ties, including bridge ties, to which the rails are fastened, located on the Right-of-Way or affixed to the Bridge Structure as of the Closing Date that was included in the Easement, and any additional trackage which shall thereafter be located on the Right-of-Way or affixed to the Bridge Structure pursuant to a Modification.

"Transfer and Assignment Agreement" shall mean that certain Transfer and Assignment Agreement by and among the Bridge Company, Holdings, and the Railroad Company, dated _____, 199__.

SECTION 2. RAIL SERVICE

2.1 Pursuant to the terms and conditions of the Easement, the Railroad Company shall have the right to use the Trackage and the Right-of-Way to provide Rail Service thereon. The Railroad Company shall have no right or obligation to conduct, and shall not conduct, directly or indirectly, any activity whatsoever

on the Trackage and Right-of-Way that is not related to providing Rail Service. The Bridge Company shall have no right or obligation to conduct, and shall not conduct, directly or indirectly, Rail Service on the Right-of-Way.

2.2 The Railroad Company reserves the exclusive right to grant trackage rights over the Trackage to other carriers subject to the prior consent of the Bridge Company, which consent shall not be unreasonably withheld.

SECTION 3. MAINTENANCE

3.1 The Bridge Company shall be solely responsible for the maintenance, repair and renewal at its own expense and with its own supervision and labor of the Trackage, the Bridge Structure and all signals and communications facilities located on the Right-of-Way which are used by the Railroad Company in its operations thereover. The Bridge Company shall maintain, repair and renew the Trackage to Federal Railroad Administration ("FRA") Class 2 track standards and shall maintain at all times a vertical clearance of not less than 19'2", a horizontal clearance of not less than 14'0", and a weight limit of not less than 263,000 lbs. The Railroad Company shall not operate locomotives, cars or other equipment over the Trackage which exceed such clearance and weight standards without the prior approval of the Bridge Company. The Bridge Company shall take all reasonable steps to ensure that any interruptions to rail operations caused by maintenance, repair and

renewal activities on the Trackage or the Bridge Structure will be kept to a minimum.

3.2 The Bridge Company shall also perform, at the expense of the Railroad Company, such additional maintenance as the Railroad Company may require or request.

3.3 Except as may be otherwise provided in Section 7 hereof, the Railroad Company shall not by reason of failure or neglect on the part of the Bridge Company to maintain, repair or renew the Trackage or the Bridge Structure, have or make any claim or demand against the Bridge Company or its officers, agents, or employees for any Loss or Damage suffered by the Railroad Company as a result of any such failure or neglect.

3.4 The Bridge Company agrees that as soon as practicable after the Closing Date but in no event later than June 30, 1995, it will effect such repairs to the Bridge Structure and Trackage including, but not limited to, repair or replacement of bridge ties and the turning mechanism of the bridge as necessary to conform to the standards specified in Section 3.1 and to permit the routine operation of the Swing Span, provided that the total cost of such repairs shall not exceed \$1,500,000. The Bridge Company shall be solely responsible for obtaining an estimate of the cost of such repairs, and a copy of such estimate together with a copy of the Bridge Company's plans and the schedule for completion of such repairs shall be provided to the Railroad

Company's Chief Engineer or his designee at least 30 days prior to commencement of the work. If the Bridge Company fails to effect such repairs within the time specified, the Railroad Company may effect such repairs with its own forces and equipment and the Railroad Company shall be entitled to a credit against the monthly charges specified in Section 11, including the minimum charge specified in Section 11.8, for the actual cost of the repairs performed by the Railroad Company, provided, however, that except with the prior written agreement of the Bridge Company, such credit shall not exceed \$1,500,000. If at any time after such repairs have been completed the Trackage becomes inoperable for any reason or cause due to the condition of the Trackage or Bridge Structure, including but not limited to the causes specified in Section 10.1, and the Bridge Company fails to restore the Trackage to operable condition within a reasonable time, the Railroad Company may effect emergency repairs with its own forces and equipment as necessary to fulfill its rail carrier obligations and shall be entitled to a credit for the actual cost of the repairs performed by the Railroad Company.

3.5 Notwithstanding the foregoing provisions, at any time during the term of this Agreement, upon sixty (60) days advance written notice to the Bridge Company, the Railroad Company may undertake and assume all responsibility for and the cost of maintenance, repair and renewal of the Trackage. Upon assumption of such maintenance, repair and renewal obligations, the Railroad Company shall maintain, repair and renew the Trackage to the

standards it deems necessary for Rail Service; provided that the Railroad Company shall, at a minimum, maintain, repair and renew the Trackage to FRA Class 2 track standards and any signal facilities to their then-current condition. The parties shall negotiate an appropriate adjustment to the Per Car Charge paid by the Railroad Company for use of the Trackage to reflect the Railroad Company's assumption of these obligations. The Bridge Company shall neither have nor make any claim against the Railroad Company for any expense or liability incurred by the Bridge Company as a result of the Railroad Company's assumption of these obligations.

SECTION 4. MODIFICATIONS

4.1 If the Railroad Company reasonably determines at any time that Modifications are required to accommodate its Rail Service over the Trackage, the Railroad Company shall bear all expenses in connection with such Modifications, including without limitation the annual expense (for so long as such Modifications are a part of the Trackage or Bridge Structure) of maintaining, repairing, inspecting, and renewing such Modifications. The Railroad Company shall not commence construction or other work in connection with such Modifications to the Trackage without entering into a Modification Agreement with the Bridge Company and obtaining the Bridge Company's written consent. The parties shall negotiate in good faith to enter into a Modification Agreement for the Railroad Company's Modifications to the Trackage necessary for Rail

Service. All additions made by or at the cost and expense of the Railroad Company to the Trackage or the Bridge Structure pursuant to a Modification shall become the property of the Bridge Company.

SECTION 5. OPERATIONS

5.1 The Bridge Company shall be solely responsible for opening and closing the Swing Span in accordance with applicable regulations. During the period when the River is open to navigation, in advance of each train movement over the Trackage, the Railroad Company shall provide the Bridge Company with reasonable notice of its intent to use the Trackage. In the event that any of the Railroad Company's trains are unreasonably delayed due solely to the failure of the Bridge Company's employees to close the Swing Span, the Railroad Company shall have the right to use its own employees to close the Swing Span to allow such movement thereover, provided, however, that the Railroad Company shall indemnify, protect, defend and hold harmless the Bridge Company from any Loss or Damage incurred by the Bridge Company as a result of the Railroad Company's operation of the Swing Span.

5.2 The Railroad Company shall retain the exclusive right to manage, direct and control the operation of all trains, locomotives, cars and equipment over the Trackage, subject only to the Bridge Company's right to open and close the Swing Span and to control the movement and speed of trains on the Trackage during the time maintenance, repair, or renewal work is being performed on the

Trackage or the Bridge Structure. The Bridge Company shall exercise its rights herein in a manner that will ensure that the trains, locomotives, cars, and equipment of the Railroad Company and any other user of the Trackage will be operated without prejudice or partiality to any party and in such manner as will afford the most economical and efficient manner of movement of all traffic thereover.

5.3 The Railroad Company shall pay all taxes, assessments, fees, charges, costs and expenses related solely to providing Rail Service on the Right-of-Way or ownership of the Easement. The Bridge Company shall pay all taxes, assessments, fees, charges, costs and expenses related solely to ownership of the Trackage, Bridge Structure and Right-of-Way. The parties shall negotiate in good faith to allocate assessments, fees, charges, costs and expenses related to use of the Right-of-Way; provided however, that nothing in this Section 5.3 shall be construed to require the Railroad Company to pay real estate or ad valorem taxes; provided further, that nothing in this Section 5.3 shall be construed to require either party to pay real estate or ad valorem taxes assessed against the other party.

SECTION 6. CLEARING OF OBSTRUCTIONS, DERAILMENTS AND WRECKS

6.1 Whenever the Railroad Company's use of the Trackage requires rerailling, wrecking service or wrecking train service, the Railroad Company shall be solely responsible for performing or

providing such service in accordance with industry practices and for clearing the Right-of-Way of all obstructions within a reasonable time. The Bridge Company shall be solely responsible for performing any necessary repairs to the Trackage and Bridge Structure within a reasonable time. In the event that the Bridge Company fails to perform such necessary repairs and restoration within a reasonable time, the Railroad Company may perform such repairs and the Bridge Company shall reimburse the Railroad Company for all reasonable and necessary costs incurred in performing such service. The cost, liability and expense of the foregoing, including without limitation, for any Loss or Damage resulting therefrom, shall be apportioned in accordance with the provisions of Section 7 hereof.

SECTION 7. ALLOCATION OF LIABILITY

7.1 Notwithstanding (i) anything else contained in this Agreement or (ii) otherwise applicable law regarding allocation of liability based on fault or otherwise, as between the parties hereto liability for Loss or Damage resulting from or in connection with the maintenance, construction, operations or other acts or omissions of either party shall be borne and paid by the parties as follows:

- (a) When such Loss or Damage results from the acts or omissions of one party hereto in connection with the performance or failure of

performance of any obligation for which such party is solely responsible hereunder, regardless of any third party involvement, such Loss or Damage shall be borne by that party; and

(b) When such Loss or Damage results from the acts or omissions of both parties, or of third parties, or from unknown causes, Acts of God, or any other cause whatsoever, such liability shall be borne by the party or parties responsible under applicable law.

7.2 Each party agrees that it will pay for all Loss or Damage the risk of which it has herein assumed, the judgment of any court to the contrary and otherwise applicable law regarding liability notwithstanding, and will forever indemnify, protect, defend and hold harmless the other party, its successors and assigns, from such payment.

7.3 In the event that both parties hereto shall be liable under this Agreement for any claim, demand, suit or cause of action, and the same shall be compromised and settled by voluntary payment of money or valuable consideration by one of the parties, release from liability will be taken in the name of both parties and all of each party's officers, agents, and employees. Neither party shall make any such compromise or settlement in excess of \$25,000 without prior, written authority of the other party having

liability, which consent shall not be unreasonably withheld, but any settlement made by one party in consideration of \$25,000 or less shall be a settlement releasing all liability of both parties and shall be binding upon both parties.

7.4 In case a lawsuit or lawsuits shall be commenced against either party hereto for or on account of any Loss or Damage for which the other party may be solely or jointly liable under this Agreement, the party thus sued shall give the other party timely written notice of 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, to the extent of such liability, such party shall indemnify, protect, defend and hold harmless the party so sued from all Loss or Damage in accordance with the liability allocation set forth in this Agreement. Neither party shall be bound by any 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 action. When so notified, and said opportunity to assume or join in the defense of the action has been afforded, the party so notified shall to the extent of its liability under this Agreement be bound by such judgment.

SECTION 8. TERM; TERMINATION

8.1 This Agreement shall terminate upon the termination of the Easement, provided however that the Railroad Company shall

have the right upon giving 12 months' advance written notice to the Bridge Company to terminate this Agreement and discontinue its use of the Trackage. Upon such termination, the Railroad Company shall have no further right to use the Trackage. The Railroad Company shall be solely responsible for obtaining any necessary approvals of regulatory agencies having jurisdiction for the discontinuance of its Rail Service on the Trackage and shall indemnify, protect, defend and hold harmless the Bridge Company from any liability for the Railroad Company's failure to obtain such approvals.

8.2 Termination of this Agreement shall not relieve either party of any obligation or liability arising under this Agreement prior to such termination.

SECTION 9. COMPLIANCE WITH LAWS

The Bridge Company and the Railroad Company shall comply with the provisions of all applicable laws, regulations, and rules respecting the operation, condition, inspection, and safety of the Trackage, the Bridge Structure and the Right-of-Way and the operation of locomotives, cars and other equipment thereover. Each party shall indemnify, protect, defend and hold harmless the other, its affiliates, and its directors, officers, agents and employees from and against all fines, penalties, and liabilities imposed upon the other party, its affiliates or any of its directors, officers, agents, or employees under such laws, rules and regulations by any

public authority or court having jurisdiction, when attributable to its failure to comply with the provisions of this section.

SECTION 10. CASUALTY LOSSES

10.1 In the event that any portion of the Trackage, Bridge Structure or Right-of-Way that is being used by the Railroad Company for the continued provision of Rail Service is damaged or destroyed by flood, fire, civil disturbance, earthquake, storm, sabotage or Act of God, or accidents or vandalism caused by third parties or for which the cause is unknown, the Bridge Company shall within a reasonable time (i) repair, or cause to be repaired, that portion of the Trackage, Bridge Structure or Right-of-Way so damaged or destroyed to substantially the same condition as existed prior to such damage or destruction, or (ii) replace, or cause to be replaced, such portion with property of like kind, condition or quality. The cost and expense of such repair or replacement shall be borne by the Bridge Company.

10.2 Except when subject to Section 7, in the event that the Trackage, Bridge Structure or any portion of the Right-of-Way is damaged or destroyed by accidents caused by either party or vandalism by the employees or agents of either party, the party that caused the accident or whose employees or agents caused the vandalism shall bear the cost and expense thereof.

SECTION 11. COMPENSATION; BILLING

11.1 As compensation for the use of the Trackage, the Railroad Company shall pay the Bridge Company monthly \$_____ for each loaded and empty car handled by the Railroad Company over the Trackage (the "Per Car Charge"). For the purposes of this Section, each locomotive and caboose shall be counted as one car and each platform or well of an articulated multi-platform or multi-well intermodal railcar shall be counted as one car. Such Per Car Charge shall be subject to change to reflect any increase or decrease in labor, material and other costs as hereinafter provided in Section 11.5, provided however that in no event shall the revised Per Car Charge be less than the initial Per Car Charge specified in this Section 11.1.

11.2 At the end of each calendar month, the Railroad Company shall furnish to the Bridge Company a statement of the number of loaded and empty cars including each locomotive, caboose and intermodal well and platform handled by the Railroad Company over the Trackage during the month.

11.3 Any payments due and payable by either party under this Agreement shall be paid within forty-five (45) days after receipt of an invoice therefor, by check delivered to the address of the payee as set forth in Section 14.4. No payments shall be withheld because of any dispute as to the correctness of items in the invoice rendered, and any discrepancies reconciled between the

parties hereto shall be adjusted in the accounts of a subsequent month. In the event that the Railroad Company fails to make such payments within the period specified herein, the Railroad Company shall be liable for interest on the amount owed which shall accrue at the highest lawful rate for the forbearance of money and shall reimburse the Bridge Company for all costs, including reasonable attorneys' fees, incurred by the Bridge Company in seeking to collect any such amounts owed.

11.4 Upon request, a party disputing the accuracy of any invoice shall be entitled to receive from the billing party copies of such supporting documentation and/or records as are kept in the ordinary course of the billing party's business and which are reasonably necessary to verify the accuracy of the invoice as rendered.

11.5 The Per Car Charge specified in Section 11.1 shall be revised upward or downward effective July first of each year, beginning with the bill rendered for the month of July, 1994 to compensate for 100% of the increase or decrease in the cost of labor and material, excluding fuel, as reflected in the Annual Indexes of Charge-Out Prices and Wage Rates (1977=100), included in "AAR Railroad Cost Indexes" and supplements thereto, issued by the Association of American Railroads. In making such determination, the final "Material prices, wage rates and supplements combined (excluding fuel)" indexes for the Western District shall be used. The Per Car Charge shall be revised by calculating the percent of

increase or decrease in the index of the year to be revised (1993 Index for the first annual adjustment) as related to the index for the previous year (1992 Index for the first annual adjustment) and by applying that percent to the Per Car Charge.

11.6 By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final index figure for 1992; "B" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final index figure for 1993; "C" to be the Per Car Charge; and "D" to be the percent of increase or decrease, the revised Per Car Charge stated herein would be revised by the following formula:

(1) $\frac{B - A}{A} = D$

(2) $(C \times D) + C =$ revised Current Charge, effective July 1 of the year being revised.

11.7 In the event the base for the Annual Indexes of Charge-Out Prices and Wage Rates issued by the Association of American Railroads shall be changed from the year 1977, appropriate revision shall be made. If the Association of American Railroads or any successor organization discontinues publication of the Annual Indexes of Charge-Out Prices and Wage Rates, an appropriate substitute for determining the percentage of increase or decrease shall be negotiated by the parties hereto. In the absence of agreement, the parties shall submit the matter to binding arbitration as outlined in Section 13 herein.

11.8 Notwithstanding the foregoing provisions of this Section, for the period of 60 consecutive months commencing with the first month following completion of the repairs to the Bridge Structure and Trackage specified in Section 3.4, the compensation to be paid by the Railroad Company pursuant to this Section shall be subject to a minimum payment of \$_____ per month, regardless of the Railroad Company's use or non-use of the Trackage during that month and such obligation on the part of the Railroad Company shall survive termination of this Agreement.

SECTION 12. INSURANCE

12.1 The Railroad Company, at its sole cost and expense, shall procure or cause to be procured and maintain or cause to be maintained during the continuance of this Agreement, railroad operating and liability insurance covering liability assumed by the Railroad Company under this Agreement with a limit of not less than Ten Million Dollars (\$10,000,000) combined single limit for personal injury and property damage per occurrence, with deductible or self insurance not greater than Three Million Dollars (\$3,000,000). The Railroad Company shall furnish to the Bridge Company certificates of insurance evidencing the above coverage in the form of a policy (or policies) at the time of execution of this Agreement. Such insurance shall contain a contractual liability endorsement which will cover the obligations assumed under this Agreement and an endorsement naming the Bridge Company as "additional insured." In addition, such insurance shall contain

notification provisions whereby the insurance company agrees to give thirty (30) days' written notice to the Bridge Company of any change in or cancellation of the policy. All of these endorsements and notice provisions shall be stated on the certificate of insurance which is to be provided to the Bridge Company.

12.2 The Bridge Company, at its sole cost and expense, shall procure or cause to be procured and maintain or cause to be maintained during the continuance of this Agreement, operating and liability insurance covering liability assumed by the Bridge Company under this Agreement with a limit of not less than Ten Million Dollars (\$10,000,000) combined single limit for personal injury and property damage per occurrence, with deductible or self insurance not greater than Three Million Dollars (\$3,000,000). The Bridge Company shall furnish to the Railroad Company certificates of insurance evidencing the above coverage in the form of a policy (or policies) at the time of execution of this Agreement. Such insurance shall contain a contractual liability endorsement which will cover the obligations assumed under this Agreement and an endorsement naming the Railroad Company as "additional insured." In addition, such insurance shall contain notification provisions whereby the insurance company agrees to give thirty (30) days' written notice to the Railroad Company of any change in or cancellation of the policy. All of these endorsements and notice provisions shall be stated on the certificate of insurance which is to be provided to the Railroad Company.

SECTION 13. ARBITRATION

13.1 Any irreconcilable dispute arising between the parties with respect to this Agreement shall be settled through binding arbitration by a sole, disinterested arbitrator to be selected jointly by the parties. If the parties fail to select such arbitrator within sixty (60) days after demand for arbitration is made by either party hereto, then they shall jointly submit the matter to binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expenses of the arbitrator, if any, shall be borne equally by the parties hereto.

13.2 Notwithstanding Section 13.1, any irreconcilable dispute arising between the parties with respect to this Agreement which involves an amount of value exceeding one hundred thousand dollars (\$100,000) shall be settled through binding arbitration by a panel of three disinterested arbitrators selected in accordance with this Section 13.2. Within sixty (60) days after demand for arbitration is made by either party hereto, each party shall select one arbitrator. The two arbitrators so selected shall within sixty (60) days thereafter jointly select a third arbitrator. The three arbitrators so selected shall constitute the arbitration panel and shall resolve the dispute pursuant to the Commercial Arbitration

Rules of the American Arbitration Association ("the Rules"). If either party fails to select an arbitrator within the sixty (60) days provided, or if the two arbitrators shall fail to jointly select the third arbitrator within the sixty (60) days provided, such arbitrator(s) shall be appointed, and the dispute thereafter settled by the arbitration panel, pursuant to the Rules. The decision of the arbitration panel shall be final and conclusive upon the parties hereto. Each party to the arbitrations shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel and of the arbitrator it selects or which is appointed for it in lieu of its own selection. The compensation, costs and expenses of the third arbitrator shall be borne equally by the parties hereto.

SECTION 14. GENERAL PROVISIONS

14.1 This Agreement and the agreements referenced herein constitute the entire agreement between the parties hereto with respect to the subject matter contained herein and there are no agreements, understandings, restrictions, warranties or representations between the parties other than those set forth or provided for herein.

14.2 This Agreement may not be amended except by an instrument in writing signed by the parties hereto.

14.3 Waiver of any provision of this Agreement, in whole or in part, can be made only by an agreement in writing signed by the parties and such waiver in any one instance shall not constitute a waiver of any other provision in the same instance, nor any waiver of the same provision in another instance, but each provision shall continue in full force and effect with respect to any other then-existing or subsequent breach.

14.4 A notice or demand to be given by one party to the other shall be given in writing by personal service, telegram, express mail, Federal Express, DHL or any other similar form of courier or delivery service, or mailing in the United States mail, postage prepaid, certified, return receipt requested and addressed to such party as follows:

(a) In the case of a notice or communication to the Bridge Company:

President
Missouri River Bridge Company
1006 East 4th Street
Waterloo, Iowa 50703.

(b) In the case of a notice or communication to the Railroad Company:

President
Chicago Central & Pacific Railroad Company
P.O. Box 1800
1006 East 4th Street
Waterloo, Iowa 50704.

2-111

Either party may, from time to time, provide changes in the above addresses by notice to the other party in writing dispatched as provided in this Section. All notices, demands, requests, and other communications under this Agreement shall be in writing and shall be deemed properly served and to have been duly given (i) on the date of delivery, if delivered personally or by courier or delivery service on the party to whom notice is given, or if made by telecopy properly directed to the party to whom notice is to be given, or (ii) on receipt, if mailed to the party to whom notice is to be given by registered or certified mail, return receipt requested, postage prepaid and properly addressed.

14.5 If any provision of this Agreement shall be held or be deemed to be or shall, in fact, be illegal, invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions herein contained illegal, invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or sections of this Agreement shall not affect the remaining portions of this Agreement or any part thereof.

14.6 This Agreement and each and every provision hereof is for the exclusive benefit of the parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of damages or otherwise against either of the parties hereto.

14.7 All headings in this Agreement are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

14.8 All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of, and be enforceable by, the parties hereto and their respective successors and permitted assigns. Except to a corporate parent, subsidiary or other affiliate, the Bridge Company may not assign its rights or obligations under this Agreement.

14.9 This Agreement may be executed in counterparts, each of which shall be considered an original, but all of which together shall constitute but one and the same instrument.

14.10 This Agreement shall be governed by and construed under the laws of the State of Iowa.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first set forth above by their duly authorized representatives.

WITNESS:

MISSOURI RIVER BRIDGE COMPANY

By: _____

Title: _____

WITNESS:

CHICAGO CENTRAL & PACIFIC
RAILROAD COMPANY

By: _____

Title: _____