

**AGREEMENT**  
**Concerning**  
**PROVISION OF CERTAIN SERVICES RELATED TO**  
**HOOSIER STATE PASSENGER RAIL SERVICE**

**Between**  
**THE INDIANA DEPARTMENT OF TRANSPORTATION AND**  
**IOWA PACIFIC HOLDINGS, LLC**

EDS # A249-16-0N150098

THIS AGREEMENT, made and entered into this 31 day of July, 2015, but effective as of August 1, 2015 (the “**Effective Date**”), by and between THE STATE OF INDIANA, acting by and through the Indiana Department of Transportation (“**INDOT**” or “**State**”), and IOWA PACIFIC HOLDINGS, LLC (“**Iowa Pacific**”); Iowa Pacific and INDOT are referred to collectively as the “**Parties**” and individually and generically as a “**Party**”.

**WITNESSETH:**

WHEREAS, National Railroad Passenger Corporation (“**Amtrak**”) currently operates the *Hoosier State* passenger rail service between Indianapolis, Indiana, and Chicago, Illinois, pursuant to an Agreement for the Provision of Rail Passenger service dated as of February 1, 2015, as amended by Amendment 1, dated April 2, 2015, Amendment 2, dated May 1, 2015, and Amendment 3, dated June 30, 2015 (the “**Expiring Amtrak Agreement**”); and

WHEREAS, the Expiring Amtrak Agreement expires on July 31, 2015; and

WHEREAS, INDOT is currently negotiating with Amtrak an agreement pursuant to which Amtrak will provide the train and engine crews, as well as access to the rail lines of host railroads as well as other services to be specified in that new agreement, from August 1, 2015 (the “**Amtrak Agreement**”); and

WHEREAS, INDOT issued its request for proposals with the following vision statement (the “**Vision Statement**”):

The future *Hoosier State* rail service will connect Indianapolis and other Indiana cities to Chicago with additional trains increased speed between stations, improved on-time performance, increased ridership, and improved on-board amenities. The enhanced passenger service will generate more revenue, and reduce the amounts which Indiana Department of Transportation and Indiana Hoosier State Partners are obliged to pay to subsidize this service. The future *Hoosier State* intercity passenger rail service will reinforce Indiana Transportation goals and objectives by providing safer, more reliable, efficient movement of passengers, in a manner which is more cost effective. The future *Hoosier State* service will further alleviate roadway congestion, contribute to economic development, improve energy efficiency and protect environmental quality.

WHEREAS, pursuant to the Expiring Amtrak Agreement, INDOT has the right to choose, through a request for proposals process, one or more contractors to provide certain services related to the operation of the *Hoosier State* intercity passenger rail service instead of Amtrak, or to provide services not provided by Amtrak; and

WHEREAS, INDOT has conducted a request for proposals process and has selected Iowa Pacific to provide the services that will not be provided by Amtrak, and which services are more particularly described in this Agreement; and

WHEREAS, Iowa Pacific is a railroad or railroad carrier as defined at 49 U.S.C. 20102(2).

WHEREAS, Iowa Pacific has agreed to provide such services on the terms and conditions of this Agreement.

WHEREAS, services to be provided by Amtrak to operate the *Hoosier State* passenger rail service under the Amtrak Agreement and the Services to be provided by Iowa Pacific under this Agreement shall constitute the “**Train Service.**”

NOW, THEREFORE, the Parties, in consideration of the premises and the representations, covenants, and promises made herein, do hereby mutually agree as follows:

#### ARTICLE I TERM

1.01. **Term.** The initial term of this Agreement shall be from the Effective Date to June 30, 2017, at 11:59 p.m. Either party may advise the other of its intent to renew this Agreement for up to two (2) periods of two (2) years each upon one hundred eighty (180) days’ notice to the other. If either party does not intend for the Agreement to be extended for an option period, it shall notify the other that the Agreement will not be extended at least one hundred eighty (180) days in advance of the expiration of the then-current term. Nothing in this Section 1.01 is intended to abrogate any rights of termination set forth in this Agreement.

1.02. **Amtrak Agreement.** Iowa Pacific and INDOT shall each have the right to terminate this Agreement upon notice to the other Party if INDOT and Amtrak do not enter into the Amtrak Agreement not less than ten (10) business days prior to the scheduled start of service. In the event this Agreement is terminated pursuant to this Section 1.02, Iowa Pacific shall not be entitled to any compensation from INDOT relative to the Services (as hereafter defined), anything in this Agreement to the contrary notwithstanding. In the event that the Amtrak Agreement is terminated for any reason after August 1, 2015, then this Agreement shall terminate on a date even with the date the Amtrak Agreement terminates, unless the Parties agree otherwise in writing. A copy of the Amtrak Agreement is attached hereto as **Schedule G**. To the extent any provision of this Agreement is inconsistent with the terms and conditions of the Amtrak Agreement, the Amtrak Agreement shall govern.

1.03. **Termination Rights.** This Article I is subject to any termination rights set forth in this Agreement, and Iowa Pacific shall be entitled only to the compensation for post-termination activities that is set forth in Section 5.08 hereof.

## ARTICLE II SERVICES PROVIDED BY IOWA PACIFIC

2.01. **Services Generally.** Iowa Pacific shall provide and perform all the services set forth in this Agreement (collectively, the “**Services**”). Amtrak will provide those services set forth on **Schedule A**, attached hereto and made a part hereof, and Iowa Pacific shall coordinate with Amtrak as required to deliver the Train Services in a safe, reliable manner. The Services shall include any services other than services to be provided by Amtrak under the Amtrak Agreement that are necessary to provide the Train Service seven (7) days each week with one (1) train running from Indianapolis to Chicago in the morning and one (1) return train running from Chicago to Indianapolis at a schedule to be established by INDOT in coordination with Amtrak. In the event that the Amtrak Agreement shall only provide for operation of the Train Service for four (4) days a week, or, in any event, service on a less than daily frequency, then Iowa Pacific shall not be under the obligation to provide daily service for such time as INDOT or Amtrak is unable to secure the right to provide daily service. If INDOT and Amtrak are able to make arrangements acceptable to INDOT and Iowa Pacific to provide daily service after August 1, 2015, then Iowa Pacific shall provide such daily service.

2.02. **Performance Standards.** In addition to the standards set forth in this Agreement relating to specific aspects of the Train Service, Iowa Pacific shall provide its equipment to Amtrak in a timely manner, in accordance with the following requirements:

- (a) Locomotives and passenger cars shall each be present and ready for service at not less than 97% availability on a monthly basis. Availability shall be computed as the actual amount of time each locomotive or passenger car is available for service throughout the month divided by the total number of hours of revenue service in the month.
- (b) All equipment and all components (e.g., heating and cooling systems, head-end power, braking, Positive Train Control) shall be maintained in safe and reliable operating condition, including repairs as needed (including any repairs or modifications required by applicable laws and regulations) and Iowa Pacific must perform housekeeping functions to provide a clean and sanitary condition on the exterior and interior of the equipment, including windows (“**Operational Condition**”).
- (c) Locomotives shall be sufficiently fueled with prime mover, head end power (HEP) and control systems operating as intended.
- (d) There shall be no observable safety conditions in any areas of the equipment open to passengers, in accordance with FRA regulations.
- (e) When used in the lead position of the consist, cab cars and other Non-Powered Control Units (NPCU’s) shall have control systems operating as intended.

- (f) Car doors, vestibule trap doors, and baggage doors shall be operating properly, as applicable.
- (g) In passenger areas, the heating, ventilation and air conditioning (HVAC) systems shall be operating properly per manufacturer specifications or otherwise as intended.
- (h) Electrical systems, including those requiring connections between cars, such as the public address system, train line doors, and at-seat electric outlets, shall be operating properly.
- (i) Ambient lighting fixtures shall be working properly, and reading lights that have been reported as not working shall have bulbs replaced and functioning.
- (j) Exterior and interior train identification and destination signs shall be used, as applicable.
- (k) Restroom plumbing, door locks, and ventilation systems shall be operable. Toilet waste storage tanks shall have been emptied, and restrooms shall be sufficiently stocked with necessary supplies.
- (l) Food service cars shall have all systems and appliances functioning, including plumbing, refrigeration, revenue collection, and storage lockers, as applicable.
- (m) Electronic equipment such as GPS transponders, Wi-Fi wireless local area computer networks, video monitors, and other shall be fully functional, as applicable.

2.03. **Manner of Provision of Services.** Iowa Pacific shall provide the Services to the best of its abilities using the highest professional standards that are applicable to each element of the Services, with the intention of ensuring that the Train Service is operated in a first-class manner that provides a pleasant, reliable and safe travel experience for passengers and provides a cost-effective transportation asset for INDOT that fulfills the Vision Statement.

2.04. **Employees.** Iowa Pacific shall perform the Services with its own employees or with a subcontractor, which may be an affiliate or subsidiary of Iowa Pacific. All direct employees shall be employees of Iowa Pacific and shall not be employees of INDOT. All employees of Iowa Pacific shall have all required or desirable licenses and certifications necessary or appropriate for such employees to fulfill the positions held by such employees. If Iowa Pacific elects to provide any portion of the Services through a subcontractor, Iowa Pacific shall so notify INDOT in writing by providing the name of the subcontractor, a description of the scope of services the subcontractor will provide, and confirmation that the subcontractor agrees to be bound by the terms of this Agreement.

2.05. **Chicago Coordination.** Iowa Pacific shall cause one or more resident managers (each an "Operations Manager") to be on-duty for dispatching and/or safety communications two hours in advance of the earliest departure from and two hours following the last completed trip at either Chicago or Indianapolis, and at all times that the Train Service is travelling or about to travel on the Train Service's route. Iowa Pacific's Operations Manager(s) will either be located in Chicago, Illinois or at Iowa Pacific's Network Operations Center, located in Janesville, Wisconsin, from where Iowa Pacific has the necessary resources to provide adequate communications for on-time and safe Train Service, even in the event of an emergency. Such Operations Manager(s) shall also be on-duty at all other times in which it is necessary or appropriate for the Operations Manager to be on duty in order to facilitate the on-time movement of trains operating as part of the Train Service. The Operations Manager shall also maintain up-

to-date records of operations for incorporation into the Operations Statement as set forth in Section 2.09.

2.06. **Ownership of Equipment and Inventory.** Iowa Pacific shall be solely responsible for providing all equipment, inventory, and materials necessary or appropriate to provide the Services. All such equipment, inventory, and materials shall not be property of INDOT and INDOT shall have no liability with respect thereto. No Iowa Pacific rolling stock shall be incorporated into any Amtrak consist.

2.07. **Monies Collected.** All revenue earned by Iowa Pacific in connection with the Train Service shall be the sole property of Iowa Pacific and not INDOT at the time of collection. Nothing in this Section 2.07 shall abrogate Iowa Pacific's payment and remittance obligations and the right of Amtrak to credit revenue to expenses under Article IV.

2.08. **Train Service Financial Statements.** Prior to the twentieth (20<sup>th</sup>) day of each month, Iowa Pacific shall provide to INDOT a financial statement showing the financial performance of the Train Service for the preceding month (the "**Service Financial Statement**"). The Service Financial Statement shall be prepared in accordance with Generally Accepted Accounting Principles, consistently applied; provided, however, the Service Financial Statement shall be prepared based upon a cash basis of accounting and not an accrual basis. The Service Financial Statement shall be detailed and in a form satisfactory to INDOT in its sole discretion. Upon request, Iowa Pacific shall provide appropriate supporting documentation to INDOT.

2.09. **Iowa Pacific Financial Statements.** Iowa Pacific shall provide to INDOT the financial statements set forth below. In addition to the following financial statements, Iowa Pacific shall provide a response within fifteen (15) days to any request by INDOT for assurances of Iowa Pacific's continuing ability to undertake the financial obligations required to operate the Train Service during the term of this Agreement, which assurances shall be in the form that is satisfactory to INDOT in its sole discretion. All financial statements shall be prepared in accordance with Generally Accepted Accounting Principles, consistently applied. Subject to applicable State law, the State shall not disclose to any third party, without Iowa Pacific's prior approval, any such data, all of which shall be deemed to be confidential or proprietary.

- (a) **Audited Financial Statements.** Iowa Pacific shall provide audited financial statements for the prior fiscal year no later than one hundred twenty days (120) days after the end of Iowa Pacific's fiscal year.
- i. Income statement;
  - ii. Balance sheet;
  - iii. Cash statement; and
  - iv. Statement in change of member equity and retained earnings.
- (b) **Tax Returns.** Iowa Pacific shall provide INDOT with copies of its federal and state income tax returns and/or requests for extensions to file the returns within thirty (30) days of filing the same.

- (c) **Unaudited Financial Statements.** Iowa Pacific shall provide INDOT with the following unaudited financial statements on a monthly basis, to be submitted to INDOT not later than the fifteenth (15<sup>th</sup>) day of each month:
- i. Income statement;
  - ii. Balance sheet; and
  - iii. Cash statement.

2.10. **Operations Statement.** Prior to the fifteenth (15<sup>th</sup>) day of each month, Iowa Pacific shall provide to INDOT an operating statement showing the operational performance of the Train Service (the "**Operations Statement**") for the preceding calendar month. The Operations Statement shall contain information described on **Schedule B**, attached hereto and made a part hereof. The Operations Statement shall be detailed and in a form satisfactory to INDOT in its sole discretion. Upon request, Iowa Pacific shall provide appropriate supporting documentation to INDOT.

2.11. **Reporting Requirements to INDOT.** Iowa Pacific shall provide INDOT with the following reports in addition to any other reports required to be provided by Iowa Pacific to INDOT:

- (a) A copy of any report submitted to any federal, state or local agency with jurisdiction over the Train Service at the same time that the report is submitted to such agency.
- (b) Immediate written report in any train delay, crew or customer incident, vandalism or trespass.
- (c) Weekly written report including boardings and de-boardings by station, revenue collected, and on time performance ("**OTP**") information.
- (d) Monthly report summarizing daily and weekly reports, providing detailed information on all costs and revenues, and providing information on equipment and facility maintenance.
- (e) Annual report summarizing the monthly reports, and showing detailed annual ridership, cost and revenue data, and equipment and facility maintenance.

2.12. **Independent Contractor; No Partnership.** The Parties acknowledge and agree that the Services performed by Iowa Pacific, its employees, subsidiaries, agents or sub-contractors shall be as an independent contractor vis-à-vis INDOT and that nothing in this Agreement shall be deemed to constitute a partnership, joint venture, or otherwise between the Parties.

2.13. **Amtrak Agreement.** Iowa Pacific shall understand and comply with all the requirements of the Amtrak Agreement (of which it acknowledges receipt) regarding INDOT's State Contractors, as defined therein. Notwithstanding any provision of this Agreement, all obligations INDOT is required to impose on any INDOT State Contractor concerning insurance,

indemnity, release, or waiver in the Amtrak Agreement shall apply to Iowa Pacific. Further, to the extent that there is any conflict between the terms of this Agreement and terms of the Amtrak Agreement, the Amtrak Agreement shall prevail. With respect to all obligations or requirements of the State Contractors concerning insurance, indemnity, release, or waiver set forth in the Amtrak Agreement, Amtrak shall be a third party beneficiary hereunder. Iowa Pacific shall notify the INDOT Contract Manager of any deficiencies in Amtrak's performance pursuant to the Amtrak Agreement. INDOT agrees that it will not seek to alter the State Contractors' obligations under the Amtrak Agreement without the written approval of Iowa Pacific during the original term of the Amtrak Agreement. A list of the services being provided by Amtrak under the Amtrak Agreement is attached hereto as **Schedule A**. Iowa Pacific agrees and acknowledges that it is not a third party beneficiary under the Amtrak Agreement.

2.14. **Late Fee.** Iowa Pacific shall pay to INDOT a late fee of \$1,000.00 for each train operated as a part of the Train Service that does not arrive at its terminal location within fourteen minutes and 59 seconds (14'-59") of the regularly published arrival time when such late arrival is a result of an Iowa Pacific equipment malfunction or failure that has caused the delay, or of any other action or inaction on the part of Iowa Pacific or its employees, contractors, principals or agents. Any late fees incurred in a single calendar month shall be deducted from any payments owed to or added to any payment owed from Iowa Pacific the following calendar month.

2.15. **Food and Beverage Service Requirements.** Iowa Pacific shall coordinate with Amtrak and shall provide food and beverage service in accordance with the requirements listed below. Iowa Pacific shall:

- (a) Comply at all times with all applicable laws, rules, and regulations, including but not limited to, (i) all aspects of the then-current version of the Food Code (the "**Food Code**") from time to time promulgated by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration (the "**FDA**") and (ii) Amtrak's "Food Service Sanitation and Public Health Standards" manual as revised October 28, 1997, as it may be amended or superseded from time to time, Amtrak's Integrated Pest Control Program (collectively the "**Amtrak Standards**"), and (iii) the requirements set forth in the U.S. EPA's letter to Don Pingel, Iowa Pacific Holdings, LLC, dated July 24, 2015, attached hereto and incorporated herein as **Schedule D**. The Amtrak Standards are set forth in **Schedule C**, attached hereto and made a part hereof. The provisions of this Paragraph 2.15 (e.g., compliance with the Food Code and Amtrak Standards) apply also to any commissary, food storage area or food provider used by Iowa Pacific. Iowa Pacific shall promptly provide to Amtrak a copy of all steps required by U.S. EPA in **Schedule D** (e.g., drain and flush dates, water sampling results).
- (b) Clean and sanitize all food service areas and equipment in all food service cars and pick up newspapers, magazines, food and beverage containers and wrappers in all passenger areas of the train at least at the end of each trip segment and more often as circumstances may warrant, and ensure that all garbage and trash associated with the food service is collected regularly during each trip, properly bagged, tied and stored at locations on the train approved by the State and Amtrak.

- (c) Regularly off-load at an appropriate facility all garbage and trash associated with the food service.
- (d) Assure that the equipment that is installed in any food service car (e.g., microwave oven, refrigerator, sink with running water) of each *Hoosier State* trainset (including substitute cars that are deployed while regular *Hoosier State* equipment is being serviced) is in good repair and operating condition and in accordance with the Food Code and Amtrak Standards. In the event either the State or Iowa Pacific provides notice (or Amtrak otherwise becomes aware) that any such equipment is not performing satisfactorily or otherwise requires repair, maintenance or replacement, Iowa Pacific will arrange for the prompt requisite repair, maintenance or replacement of such equipment at the earliest practicable time with a view to avoiding or minimizing disruption of food service operations or *Hoosier State* operations.
- (e) Make suitably qualified personnel available, as needed prior to commencement of the services pursuant to this Agreement and thereafter as necessary, to participate in safety training, emergency preparedness training, and on-board operations instructions for Iowa Pacific's personnel. Such training will be provided by Amtrak, and consist of instruction (including emergency evacuation procedures) conducted on board Iowa Pacific equipment plus a qualification ride on the *Hoosier State* or other Amtrak train, it being understood that such training must be completed by each of Iowa Pacific's on-board employees prior to commencement of such employee's performance of service on the Train Service.
- (f) Comply fully with any security requirements imposed by Amtrak. The specific requirements may include: conducting of background investigations on Iowa Pacific food service personnel who meet certain criteria; participation in security training; wearing of appropriate identification; and barring from Amtrak property of Iowa Pacific food service personnel for specific reasons, including but not limited to, personnel who have been convicted or found not guilty by reason of insanity of certain disqualifying criminal offenses.
- (g) Comply with the applicable provisions of Amtrak Policy 7.39 (Contractor Background Check), which Amtrak will provide upon request from Iowa Pacific. As set forth in the policy, individuals who perform certain work in connection with the Train Service on behalf of Iowa Pacific must have background checks conducted within thirty (30) days such employee commencing work on any *Hoosier State* train. Iowa Pacific shall ensure that such background checks are conducted and shall comply with all other provisions of such policy.
- (h) Provide for regular pest control treatment of all food service cars in each *Hoosier State* trainset in accordance with the then-current Amtrak Standards.
- (i) Clean and maintain all public areas of the Train Service trainsets including crew seating areas, restrooms and vestibules.

- (j) Assure that each *Hoosier State* trainset contains suitable space for receptacles in which closed, leak-proof bags or other similar closed containers containing trash generated by the provision of food service can be stored. Within one (1) year of the date of this Agreement, or as the FDA may otherwise require, Iowa Pacific shall provide, maintain and clean, the following storage receptacles on each food service car:
- (i) An FDA-approved receptacle for returnable beverage containers;
  - (ii) An FDA-approved receptacle for recyclable paper; and
  - (iii) An FDA-approved receptacle for garbage (i.e., all trash that does not qualify for (1) or (2) above)).

The storage receptacles described above shall be of a design and construction sufficient to permit the storage of the indicated materials through one (1) round-trip for that trainset in accordance with the Food Code, the Amtrak Standards and other reasonable requirements of Amtrak. For this and other operational efficiencies associated with the food service, it is anticipated that the on-board storage area will be in or adjacent to the food service car. Upon each trainset's arrival at the maintenance facility in Indianapolis, all bags or other receptacles containing trash generated by the provision of food service shall be removed within thirty (30) minutes from the train by Iowa Pacific and handled in accordance with the trash handling requirements set forth at **Schedule C** hereto.

- (k) **Amtrak Actions.** Iowa Pacific agrees that Amtrak shall have the authority to direct certain actions of Iowa Pacific in connection with the provision of food service or, under certain circumstances, to suspend its operations altogether. Iowa Pacific acknowledges that Amtrak and FDA each have direct authority with respect to compliance with the Food Code and the Amtrak Standards. Except for approvals and authorizations that are to be provided by the conductor or assistant conductor in the exercise of their overall control of the Train Service on board the train, and except for notices to Amtrak and/or FDA in connection with FDA or Amtrak inspections, all of Iowa Pacific's requests for any Amtrak approval required hereunder shall be processed initially through, and thereafter coordinated with, the State. Iowa Pacific agrees that Amtrak reserves the right to deny Iowa Pacific access to the Train Service in the event that, in Amtrak's opinion, Iowa Pacific's operations result in any violation of the Food Code or Amtrak Standards that poses a substantial risk to the health or safety of the passengers or crew on the train and is not immediately remedied or corrected by Iowa Pacific. All other directions to Iowa Pacific or actions under the State's food service contract will be administered by the State. Iowa Pacific acknowledges that Amtrak will confer with the State prior to taking any action directly with Iowa Pacific with respect to matters related to compliance with the Food Code or the Amtrak Standards, provided that Amtrak may proceed without such prior consultation in emergency or other exigent circumstances in which such prior

consultation is not reasonably practical (in such events, Amtrak shall communicate with the State's representatives concerning Amtrak's actions by the most expeditious means available in the circumstances.) Iowa Pacific understands that both the FDA and Amtrak will conduct periodic unannounced inspections of food and beverage service provided as part of the Train Service. Any deficiencies determined during such inspections shall be remedied immediately by Iowa Pacific, and any fines or other penalties imposed by the FDA shall be the responsibility of, and shall be paid promptly by Iowa Pacific. If any such inspection cites any "critical" item(s), Iowa Pacific shall provide a written report to Amtrak and the State within five (5) business days of the inspection, indicating the measure(s) taken to remedy the critical item(s) and to assure that it/they will not occur again.

- (l) Communications. Although the State has the primary relationship with and control over Iowa Pacific, communications on certain matters by Amtrak with Iowa Pacific, the FDA and other third parties will need to be coordinated with the State in the manner contemplated by this Section. In general, it is anticipated that Amtrak and the State will act cooperatively so that, to the maximum practical extent consistent with the Food Code, the Amtrak Standards and safe train operations, each is kept reasonably advised of the actions of the other with respect to the food service on the Train Service, Iowa Pacific is not subjected to inconsistent requirements or instructions, and Food Service is available on the Train Service on a consistent, high quality and efficient basis.

- (1) Provided that Amtrak has been given the requisite contact information for the State and Iowa Pacific, as the case may be, Iowa Pacific understands that Amtrak will endeavor to provide telephone notice to the State's representative and to Iowa Pacific's designated representatives if:
  - a. Iowa Pacific's personnel are not on a Train Service trainset at the time appointed for loading of the day's provisions for that train;
  - b. during the course of the day, Iowa Pacific's employee(s) on board the Train Service should become ill or otherwise unable to perform his, her or their duties and such circumstance has not apparently been communicated by such personnel to Iowa Pacific representative and the State; or
  - c. Iowa Pacific's personnel have taken, or declined to take, any action(s) that make them unfit to continue to provide food and beverage service.

The parties acknowledge that so long as Iowa Pacific has an Iowa Pacific supervisor onboard the train, Amtrak will not be obligated to meet the notice requirements in this Section 2.15(l).

- (ii) Iowa Pacific shall provide the State with prompt notice of any written communications that Iowa Pacific receives from Amtrak regarding the food

service that do not appear on their face to have been communicated to the State.

- (iii) Promptly following Iowa Pacific's receipt thereof, Iowa Pacific will provide the State with copies of any incident reports prepared by Iowa Pacific personnel on any *Hoosier State* train that relate to the conduct of Iowa Pacific employees on the train or the condition of the equipment or inventories or supplies on the Train Service, or that otherwise relate to the provision of Food Service on the Train Service. Iowa Pacific acknowledges that Amtrak will instruct its crews to report to Amtrak any conduct of Iowa Pacific personnel or other circumstances related to the activities of Iowa Pacific on board the Train Service that such Amtrak personnel believe to be inconsistent with the Food Code, the Amtrak Standards, courteous service, or safe operation of the Train Service.
  - (iv) Iowa Pacific understands that Amtrak shall endeavor to communicate approvals, concerns, etc. to Iowa Pacific through the State except that communications involving compliance with the Food Code or the Amtrak Standards may be effected directly with Iowa Pacific with copies to the State concurrently.
  - (v) To the extent permitted by applicable law, promptly following Iowa Pacific's receipt thereof, Iowa Pacific shall endeavor to provide the State copies of any other written communications Amtrak receives from third parties regarding the provision of Food Service on the Train Service, including but not limited to any notices from the FDA regarding violations of the Food Code.
- (m) Promotions. All advertising and promotions relating to food service shall comply with Amtrak's advertising policy, as then in effect, and shall be subject to Amtrak's approval with regard to placement and size. Furthermore, Iowa Pacific acknowledges that Amtrak reserves the right to require that any display materials be removed or modified if in Amtrak's reasonable judgment such material poses a safety risk, will damage any Amtrak equipment, or will materially interfere with Amtrak personnel in the performance of their duties on board the Train Service trains.
- (n) Amtrak Crew Purchases. Iowa Pacific agrees that Amtrak crew members shall have access to the services and products of Iowa Pacific at the same prices such products and services are offered to Train Service passengers. Iowa Pacific shall stock eight (8) bottles of water for use by Amtrak employees at no charge in each locomotive prior to each trip.
- (o) Food Service Contract. Iowa Pacific acknowledges that Amtrak reserves the right to review and comment on the food service contract relating to the Train Service and/or any amendment to the food service contract or any subsequent food service contract to assure its terms meet the requirements of this Agreement.

- (p) State Representatives. The State will designate by written notice prior to the commencement of Train Service under this Agreement, representatives to whom communications under this Section 2.15, whether written or telephonic, shall be addressed (including email addresses and cell phone numbers).
- (q) Food Service Representatives. Iowa Pacific shall designate, by written notice to Amtrak and INDOT prior to the commencement of Train Service under this Agreement, Iowa Pacific's representative for communications from INDOT and Amtrak (with email addresses and cell phone numbers).
- (r) Picture Identification. All Iowa Pacific personnel shall prominently wear picture identification while in, on or about Train Service trainsets, stations or layover facilities.
- (s) Food and Beverage Revenue Collection. Iowa Pacific shall collect and account for revenue associated with the provision of food service. If credit cards are used for food and beverage transactions, Iowa Pacific must comply with PCI Standards and must issue receipts and credit card bills to reflect that Iowa Pacific is the provider of food service and not Amtrak or INDOT.

2.16. Connecting Bus Service Requirements. Iowa Pacific may elect to provide regularly scheduled bus service as an element of the Train Service. Iowa Pacific shall:

- (a) Provide station customer service support at Crawfordsville and Dyer.
- (b) Hold buses for inbound trains and provide alternate transportation to Train Service customers' destinations if a bus fails to meet an inbound or departing train.
- (c) Iowa Pacific will hire a contractor (the "**Bus Contractor**") who will own the vehicles used to provide bus service. The Bus Contractor will carry sufficient policies of liability, property, and other insurance to satisfy INDOT and Iowa Pacific. The Bus Contractor shall not enter into any agreement with Iowa Pacific related to this Agreement unless the agreement contains a provision that indemnifies and holds harmless all entities described in Sections 5.02 and 5.03 of this Agreement for all activities related to the bus service described herein.
- (d) Iowa Pacific shall be responsible for selling tickets for the bus service described in this Section 2.16 and shall coordinate with INDOT to provide schedule information to Amtrak not less than forty-five (45) days prior to the date on which such schedule will become effective.

2.17. Compliance with Regulatory Requirements. Iowa Pacific shall comply with all applicable federal, State, and local laws, rules, regulations, ordinances, directives, and notices, including any amendments to such requirements ("**Regulatory Requirements**"), and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable State or federal statute or the promulgation of rules

or regulations thereunder after execution of this Agreement shall be reviewed by INDOT and Iowa Pacific to determine whether the provisions of this Agreement require formal modification.

(a) Iowa Pacific shall satisfy the requirements listed in the FRA regulatory compliance and deliverables matrix attached hereto as **Schedule E**. Iowa Pacific shall coordinate with Amtrak as shown on **Schedule E** and as otherwise necessary to ensure compliance with the Regulatory Requirements, including, but not limited to the following:

- (1) Accident/incident reporting pursuant to 49 C.F.R. 225.11 and 226, for which Amtrak shall be the primary reporting entity, with Iowa Pacific to coordinate as the advisory reporting entity. Iowa Pacific shall maintain accident statistics in accordance with the Regulatory Requirements and shall coordinate on a monthly basis with Amtrak to produce a report that compiles the statistics of both Amtrak and Iowa Pacific. Amtrak shall be responsible for submitting the report to FRA. The FRA reporting code for the Hoosier State Service is: **HIES**.
  - a. Iowa Pacific shall submit simultaneously to INDOT and to Amtrak all rail safety- and security-related reports relating to Iowa Pacific's services in connection with the Train Service that are required to demonstrate compliance with the requirements of any federal, state or local entity having jurisdiction over (i) the Train Service or (ii) any property Iowa Pacific uses to provide its services in connection with the Train Service. Iowa Pacific acknowledges that Amtrak and Iowa Pacific will each maintain primary responsibility for rail safety and security reporting to FRA and other such regulatory bodies for the requirements applicable to each of Amtrak's and Iowa Pacific's respective operations. Iowa Pacific shall provide all documentation to INDOT and Amtrak promptly upon having prepared such documentation in final form. Iowa Pacific acknowledges and affirms that the requirement imposed by this Paragraph 2.16(a)(1)(a) to provide copies of safety and security reports to INDOT and Amtrak does not relieve Iowa Pacific of any of its regulatory reporting obligations.
- (2) Preparation of, and coordination for approval by FRA of, a Positive Train Control Implementation Plan pursuant to 49 C.F.R. 236.1011.
- (3) Testing of vehicles prior to start of revenue service pursuant to 49 C.F.R. 238.111(a).
- (4) Emergency preparedness training pursuant to 49 C.F.R. 239.101(a)(2)(iii) and (iv).
- (5) Fire safety analysis pursuant to 49 C.F.R. 238.10(d).

- (b) The Regulatory Requirements include, among others, (a) the Americans With Disabilities Act and accompanying guidance and regulations and (b) FDA rules and regulations as set forth at Section 2.15.
- (c) Iowa Pacific warrants that Iowa Pacific and its subcontractors, if any, of any tier, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for INDOT. Failure to do so may be deemed a material breach of this Agreement and grounds for immediate termination and denial of further work with INDOT.
- (d) Prior to the start of revenue operations of the Train Service, Iowa Pacific shall submit to INDOT a fully-executed copy of the Certificate attached hereto as **Schedule F**, certifying that Iowa Pacific has complied with all of the Regulatory Requirements.
- (e) Federal Audit Requirements. INDOT considers Iowa Pacific to be a “vendor” for purposes of this Agreement. However, if required by applicable provisions of the Office of Management and Budget requirements found at 2 C.F.R. Part 200 (formerly Circular Circular A-133) (Audits of States, Local Governments, and Non-Profit Organizations), following the expiration of this Agreement, Iowa Pacific shall arrange for a financial and compliance audit of funds provided by the State pursuant to this Agreement. Such audit is to be conducted by an independent public or certified public accountant (or as applicable, the Indiana State Board of Accounts), and performed in accordance with Indiana State Board of Accounts publication entitled “Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources,” and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of States, Local Governments, and Non-Profit Organizations). Iowa Pacific is responsible for ensuring that the audit and any management letters are completed and forwarded to INDOT in accordance with the terms of this Agreement. Audits conducted pursuant to this paragraph must be submitted no later than nine (9) months following the close of Iowa Pacific’s fiscal year. Iowa Pacific agrees to provide the Indiana State Board of Accounts and INDOT an original of all financial and compliance audits. The audit shall be an audit of the actual entity, or distinct portion thereof that is Iowa Pacific, and not of a parent, member, or subsidiary corporation of Iowa Pacific, except to the extent such an expanded audit may be determined by the Indiana State Board of Accounts or INDOT to be in the best interests of INDOT. The audit shall include a statement from the auditor that the auditor has reviewed this Agreement and that Iowa Pacific is not out of compliance with the financial aspects of this Agreement.
- (f) Certification for Federal-Aid Contracts Lobbying Activities. Iowa Pacific certifies, by signing and submitting this Agreement, to the best of its knowledge and belief that Iowa Pacific has complied with Section 1352, Title 31, U.S. Code, and specifically, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of Iowa Pacific, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal agreements, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with such federal agreement, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Iowa Pacific also agrees by signing this Agreement that it shall require that the language of this certification be included in all contractor agreements including lower tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly. Any person who fails to sign or file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

2.18. **Compliance with Amtrak Operating Requirements.** Iowa Pacific shall comply with the following Amtrak operating requirements, current as of the date of this Agreement, and shall coordinate with Amtrak to ensure at all times that Iowa Pacific's equipment and operations comply with Amtrak's then-current standards:

- (a) Amtrak Specification 815-2 Locomotive Video Cameras Recording System;
- (b) For each individual car and locomotive the "periodic inspection date" must be provided to the Amtrak CNOC office at the following address: CNOCMechanicalDesk@amtrak.com. Iowa Pacific must regularly update the periodic inspection date so it can be accurately captured in Amtrak's system equipment records;
- (c) Non-metallic wire seals must be applied to all safety devices, speed control switches, and event recorders;
- (d) All passenger car defects that occur during a trip (e.g., a toilet that breaks en route) must be recorded by the train crew and stored in the car's electric locker;
- (e) No train may be dispatched from its initial terminal with the HPE trainline short looped. Any defective equipment must be either repaired or set out. Circuitry for the HEP trainline must not be compromised in any way;
- (f) No safety device may be circumvented;

- (g) A copy of form MAP 1173/10C Summary (Class 1 brake/calendar day test/passenger car daily inspection—NRPC 3294), as required by 49 C.F.R. 238.313 must be kept in the cab of the locomotive, as well as in the maintenance facility, for review;
- (h) All wheelsets on each car must comply with the then-current AAR wheelset requirements;
- (i) Iowa Pacific must annually perform ultrasonic testing on all wheels of each car;
- (j) Iowa Pacific shall provide to INDOT and Amtrak a copy of all equipment specifications as part of the Iowa Pacific test plan submittal. Iowa Pacific must promptly notify Amtrak of any changes to clearances or other operational issues;
- (k) Each Iowa Pacific locomotive shall be equipped with an Amtrak-compatible Witronix Train Communication Data system;
- (l) Cars with ABDW brakes may only run in a train of six cars or more, excluding locomotives;
- (m) Amtrak's train conductors shall have overall control of *Hoosier State* trains;
- (n) Amtrak shall have the authority to reject any unit or units of a train consist upon initial terminal inspection.

2.19. **Amtrak-related Costs.** INDOT shall pass through to Iowa Pacific, and Iowa Pacific shall provide credit or reimbursement to INDOT for, any incidental costs charged by Amtrak to INDOT that are not included in the costs allowable under Section 209 of the Passenger Rail Investment and Improvement Act of 2008 ("**Section 209 Costs**"), including but not limited to mobilization costs relating to the Train Service incurred prior to or after the Effective Date, and Amtrak expenses attributable to Amtrak's FDA and safety training of Iowa Pacific personnel.

2.20. **Media Relations.** Iowa Pacific shall not contact or comment in the media with respect to any aspect of the Train Service for which Amtrak is responsible, unless Amtrak has approved such comment in advance. Iowa Pacific shall coordinate all media contact relating to the Train Service as follows:

- (a) Iowa Pacific shall keep an updated listing of emergency contacts with mobile telephone numbers and email addresses with INDOT's media relations director. Iowa Pacific shall immediately notify INDOT of any situations, including incidents and emergencies, which may attract media attention.
- (b) Prior to any press release regarding the Hoosier State or the making or release of any other major announcements concerning the service, Iowa Pacific shall consult with INDOT to ensure such statements are timely, accurate and consistent with INDOT's

policy and requirements concerning the operation of the service. INDOT understands that Iowa Pacific may be required to make statements in emergencies without reviewing them in advance with INDOT, and Iowa Pacific shall in those circumstances advise INDOT as soon as possible of the content of any such statements and shall work with INDOT, to the fullest extent possible, to arrange for timely and accurate release of information in the event of emergencies.

- (c) If so requested by INDOT, Iowa Pacific shall assist in preparing news releases and interface with the media to inform the traveling public of service interruptions, schedule changes and maintenance activities.
- (d) Iowa Pacific or its subcontractors shall maintain a common set of speaking points and standby questions and answers concerning food service and Iowa Pacific's rolling stock that is updated regularly with changing media inquiries and services. Iowa Pacific shall share these updated documents with INDOT. In the event that INDOT requests any change in the speaking points and Q&A, Iowa Pacific shall make such changes in the information included in that list.

### ARTICLE III INDOT'S RESPONSIBILITIES

3.01. **INDOT Contract Manager.** INDOT shall assign one (1) of its employees to manage this Agreement (the "**Contract Manager**"). INDOT may change the Contract Manager upon notice to Iowa Pacific at any time and from time to time and without Iowa Pacific's consent. The Contract Manager shall have full authority to speak on or behalf of INDOT with respect to any matter related or pertaining to this Agreement, the Amtrak Agreement, or the Train Service. Additionally, at the reasonable request of Iowa Pacific or Amtrak, or at INDOT's discretion, the Contract Manager shall serve as a conduit by which information, documents, and other materials may be transmitted between and among Amtrak and Iowa Pacific. Prior to the start of Train Service, Iowa Pacific shall identify and provide INDOT contact information for the individual responsible for all Iowa Pacific coordination with the Contract Manager.

### ARTICLE IV COMPENSATION

4.01. **Compensation.** Iowa Pacific's compensation for the Services shall consist of the following:

- (a) the "INDOT Subsidy", which shall consist of the difference between (x) Amtrak's FFY2014 fixed Section 209 costs based on Amtrak providing all components of the Hoosier State Service (as of the Effective Date, the annual sum of \$3,054,331 or prorated on a monthly basis to \$254,527.83), and (y) INDOT's costs to Amtrak pursuant to the Amtrak Agreement, (as of the Effective Date, estimated at \$2,713,833 per year

net after estimated revenue is credited or pro-rated on a monthly basis to \$226,152.75). If the INDOT Subsidy for any month is positive, INDOT shall remit payment to Iowa Pacific in that amount, if Iowa Pacific is current on all payments to INDOT (otherwise it shall be done by crediting Iowa Pacific with the positive amount). If the INDOT Subsidy for any month is negative, Iowa Pacific shall remit that amount to INDOT in cash within 35 days of INDOT's invoice.

- (b) "Other Gross Revenue" consisting of all sources of revenue available to Iowa Pacific and attributable or allocable to the Train Service, including but not limited to ticket fares (in excess of the revenue netted against expenses by Amtrak in (a) above), fees for transport of private cars, advertising, food and beverage service, and Wi-Fi service up to the maximum amount of Iowa Pacific's Operating Expenses as defined below for that month.
- i. Operating Expenses includes Iowa Pacific's operating expenses on a cost basis for the month including but not limited to, fuel, power, on board services labor and food, beverage and paper products, route advertising, janitorial services, mechanical services, motor coach expenses, marketing and similar expenses for the Train Service. General overhead operating expenses (rent, office space, utilities (other than those at the Indianapolis maintenance site), executive salaries, etc. shall not be included. Insurance premiums and other similar expenses shall be allocated between Iowa Pacific's other operations and the Train Service. Build out of coach cars (but not capital acquisition costs), dining cars and locomotives shall be amortized on a monthly basis over 23 months. Operating expenses shall be itemized each month for INDOT review.
- (c) If the INDOT Subsidy and Other Gross Revenue exceed the Operating Expenses for any month, Iowa Pacific shall pay INDOT the "State Net Revenue Share", which shall consist of twenty-five percent (25%) of the amount by which the INDOT Subsidy and Other Gross Revenue exceeds Iowa Pacific's total operating expenses for any calendar month. Iowa Pacific shall remit the State Net Revenue Share to INDOT each month, in cash, based on the previous calendar month's results.

#### ARTICLE V GENERAL TERMS AND CONDITIONS.

5.01. **Insurance.** Iowa Pacific shall carry any insurance that INDOT or INDOT's contractor or subcontractor is required to carry pursuant to the Amtrak Agreement, as set forth below in this Section 5.01. INDOT reserves the right to unilaterally amend Iowa Pacific's insurance requirements in the event of any change in INDOT's obligations under the Amtrak Agreement or upon any change in any analogous requirement in any host railroad agreement that affects INDOT's obligations under the Amtrak Agreement. Any railroad over which Iowa Pacific operates the Train Service shall be an "**Operating Railroad**". Further, in the event of a conflict among any insurance requirements of Amtrak, INDOT or any host railroad, the most stringent requirement shall govern. Additionally, with respect to any policy of insurance carried

by Iowa Pacific with respect to the Train Service or any rolling stock or other property used by Iowa Pacific in connection with the Train Service (collectively, the “**Insurance Policies**”), INDOT shall be named as an additional insured with respect to such Insurance Policies. All Insurance Policies shall provide that such Insurance Policies shall not be cancelled or materially amended except on thirty (30) days’ notice to INDOT. Iowa Pacific shall deliver to INDOT copies of all Insurance Policies on or before July 30, 2015, and certificates for all renewal Insurance Policies shall be delivered to INDOT within thirty (30) days of the effectiveness of the renewal of such Insurance Policies.

(d) Iowa Pacific shall procure and maintain, at no cost to Amtrak or any Operating Railroad, during the entire period that it operates the Train Service, the types of insurance specified below. Iowa Pacific shall submit to INDOT and to Amtrak a certificate of insurance giving evidence of the required coverages prior to commencing the Train Service. All insurance shall be procured from insurers authorized to do business in the jurisdiction where operations are to be performed. Iowa Pacific shall require all of its subcontractors to carry the insurance required herein, or may, at its option, provide the coverage for any or all subcontractors and, if so, the evidence of insurance submitted shall so stipulate. The insurance shall provide for thirty (30) days’ prior written notice to be given to Amtrak and each Operating Railroad in the event coverage is substantially changed, canceled or non-renewed. As set forth in the Amtrak Agreement, Amtrak reserves the right to suspend performance of Amtrak’s services in support of the Train Service until it has received evidence of insurance coverage in conformance with the requirements of this Section 5.01. During the term of this Agreement Iowa Pacific shall provide copies of policies of insurance (or if unavailable, binders adopting the same) required hereunder upon written request of Amtrak within ten (10) days or such other time as agreed to the Parties.

(e) Evidence of insurance shall be submitted to:

Phil Balderston  
Risk Management Director  
Finance Department  
National Railroad Passenger Corporation  
60 Massachusetts Avenue, NE  
Washington, D.C. 20002  
Facsimile: (202) 906-2174  
Email: Philip.balderston@amtrak.com

(f) **Workers’ Compensation Insurance.** A policy complying with the requirements of the statutes of the jurisdiction(s) in which the contract work will be performed,

covering all employees of Iowa Pacific. Employer's Liability coverage with limits of liability of not less than \$1,000,000 each accident or illness shall be included.

- (g) **General Liability Insurance and Excess Liability Insurance.** A policy issued to and covering liability imposed upon Iowa Pacific with respect to all work to be performed and all obligations assumed by Iowa Pacific under the terms of this Agreement. Products-completed operations, independent contractors, and contractual liability coverages are to be included, and all railroad exclusions are to be deleted. If any machinery, equipment, storage containers or anything else that has the potential for releasing contaminants (e.g., fuels, lubricants, etc.) into the environment will be brought onto the job site, the policy shall be endorsed to provide coverage for sudden and accidental pollution. Amtrak and each Operating Railroad are to be designated as additional insureds with respect to Iowa Pacific's operations to be performed under this Agreement and the coverage shall contain a waiver of subrogation against INDOT, Amtrak and each Operating Railroad. Coverage under this policy, or policies, shall have limits of liability of not less than \$200,000,000 per occurrence for bodily injury (including disease or death), personal injury and property damage (including loss of use) liability, with a \$200,000,000 annual aggregate. Iowa Pacific shall be solely responsible for the amount of any deductible/retention applying to coverage under this policy in the same manner as if the amount of deductible/retention were covered by a commercial insurance policy placed by Iowa Pacific.
- (h) **Automobile Liability Insurance.** A policy issued to and covering the liability of Iowa Pacific arising out of the use of all owned, non-owned, hired, rented or leased vehicles which bear, or are required to bear, license plates according to the laws of the jurisdiction in which they are to be operated, and which are not covered under Iowa Pacific's General Liability Insurance. The policy shall designate INDOT, Amtrak and each Operating Railroad as additional insureds with respect to INDOT's operations to be under this Agreement and the policy shall contain a waiver of subrogation against INDOT, Amtrak and each Operating Railroad. Coverage under this policy (or policies) shall have limits of liability of not less than \$5,000,000 per occurrence, combined single limit for bodily injury and property damage liability.
- (i) **Property Insurance.** A policy issued to Iowa Pacific to protect its interest in any owned or non-owned equipment to be used in performance of this Agreement, covering all risks of physical loss or damage to such equipment. The coverage under such policy shall have limits of liability adequate to protect the value of the equipment on a replacement cost basis. INDOT, Amtrak and each Operating Railroad are to be designated as loss payees as their interests may appear and the policy shall contain a waiver of subrogation against INDOT, Amtrak and each Operating Railroad, their respective employees and agents.
- (j) **Liquor Liability Insurance.** A policy issued to Iowa Pacific covering liability imposed upon Iowa Pacific with respect to the sale or distribution of alcoholic beverages. Amtrak, the Operating Railroads, and their respective officers, directors,

employees and agents, are to be named as additional insureds with respect to operations to be performed. Coverage under this policy shall have limits of liability of not less than five million dollars (\$5,000,000) combined single limit for bodily injury (including disease or death), personal injury, and property damage (including loss of use) liability.

- (k) **Pollution Liability Insurance.** A policy issued to and covering the liability of Iowa Pacific arising out of the pollution or impairment of the environment, including costs of investigation and clean-up, caused by Iowa Pacific's provision of the Train Service. INDOT, Amtrak and each Operating Railroad shall be named as additional insureds with respect to operations to be performed by Iowa Pacific, and the policy shall contain a waiver of subrogation against INDOT, Amtrak, each Operating Railroad, their respective employees and agents. Coverage under this policy (or policies) shall have limits of liability of not less than \$10,000,000 each claim.
- (l) If any named insured requests cancellation of insurance, (a) Iowa Pacific's insurer shall immediately notify Iowa Pacific, Amtrak, INDOT and the Operating Railroads (at the locations listed below) of such request for cancellation; and (b) such insurance shall not be cancelled unless and until Iowa Pacific, Amtrak, INDOT and the Operating Railroads have given in writing their consent to such cancellation. All notice contemplated by this Section shall be provided by certified mail delivered as follows:

For INDOT: Indiana Department of Transportation  
Attn: Deputy Commissioner of Engineering and Asset Management  
100 N. Senate Avenue, Room N758  
Indianapolis, IN 46204-2216

With a copy to:

Chief Legal Counsel/Deputy Commissioner  
Indiana Department of Transportation  
100 N. Senate Avenue, Room N758  
Indianapolis, IN 46204-2216

For Amtrak: Cathy H. Rawlings  
Director, Risk Management  
National Railroad Passenger Corporation  
60 Massachusetts Avenue, NE  
Washington, D.C. 20002

Michael W. Franke  
Senior Director – State Government Contracts  
National Railroad Passenger Corporation  
Chicago Union Station  
500 West Jackson Boulevard, 2nd Floor  
Chicago, IL 60661

For BRC: Mr. Patrick O'Brien, President  
The Belt Railway of Chicago  
6900 S. Central Avenue  
Bedford Park, IL 60638

For Metra: Mr. Marty Ryan  
Acting Chief Transportation Officer  
Metra Chicago Transit  
547 W. Jackson Boulevard, 5th Floor  
Chicago, IL 60661

For Norfolk Southern: Randy Hunt  
Director, Joint Facilities / NRPC Officer  
Norfolk Southern Corporation  
1200 Peachtree Street, NE, Box 158  
Atlanta, Georgia 30309

For CSX Transportation: Jay S. Westbrook  
Vice President Passenger Operations  
500 Water Street  
Jacksonville, FL

For UP: Ms. ~~Jennifer~~ Josephine Jordan  
NRPC Operations Officer  
Union Pacific Railroad Company  
850 Jones Street  
Omaha, NE 68102

For Iowa Pacific: Mr. David Michaud

General Counsel  
Iowa Pacific Holdings LLC  
118 South Canal Street, Suite 400  
Chicago, Illinois 60661

5.02. **Indemnification of INDOT.** Iowa Pacific shall, and shall require all of its subcontractors to, indemnify, defend and save harmless INDOT and its agents, officials, employees, attorneys, contractors, subcontractors, consultants, successors, and assigns harmless from any and all losses and liabilities, damages, penalties, fines, forfeitures, demands, claims, causes of action, suits, judgments, costs, and expenses incidental thereto (including costs of defense and attorneys' fees) (collectively, "**Losses**") arising from or relating to the Train Service, or an Iowa Pacific Default (as hereafter defined), except that Iowa Pacific's obligation to indemnify, defend, and save INDOT harmless shall not extend to any Losses caused solely by the intentional misconduct or gross negligence of INDOT. INDOT shall not provide indemnification to Iowa Pacific.

5.03. **Indemnification of Amtrak.** Iowa Pacific shall, and shall require all of its subcontractors to, defend, indemnify and hold harmless Amtrak and any Operating Railroad, their respective officers, directors, employees, agents, servants, successors, assigns and subsidiaries (collectively, "**Amtrak Indemnitees**"), from and against any and all Losses, and without regard to the cause or to the negligence of the State or any Indemnitee, which any or all of them may hereafter incur, be responsible for or pay as a result of injury, death, disease, or occupational disease ("**Personal Injury**") to any person (including Iowa Pacific's employees), and for damage to or loss (including loss of use and environmental contamination) of any property (including property of Iowa Pacific, of Iowa Pacific's employees or subcontractors and of the Parties hereto) ("**Property Damage**"), arising out of or in any degree directly or indirectly caused by or resulting from (a) the equipment provided by Iowa Pacific; (b) activities of or services performed by or for Iowa Pacific or Iowa Pacific's officers, employees, agents, servants, subcontractors, sub-subcontractors or the employees of any of them, or any other person acting for or by permission of Iowa Pacific or Iowa Pacific's agents (collectively, "**Iowa Pacific's Agents**"); (c) violation of any Regulatory Requirement by an Iowa Pacific Agent; or (d) Losses based upon a claim that Iowa Pacific infringed any patent, copyright, royalty, trademark or service mark or other third party proprietary right, or involved in the wrongful use of any trade secret or confidential information, provided however:

- (a) Iowa Pacific shall not be obligated to indemnify the Amtrak Indemnitees for Losses as a result of Personal Injury to Amtrak employees or Property Damage to property of Amtrak or Amtrak employees regardless of cause or the negligence of INDOT, Iowa Pacific or Iowa Pacific's Agents.
- (b) That with respect to Losses as a result of Personal Injury or Property Damage suffered by any person or entity, other than Iowa Pacific or Iowa Pacific's Agents or INDOT, occurring at a location other than a facility where the Third Party Equipment is serviced and maintained (a "Service Site"), Iowa Pacific shall not be obligated to

indemnify an Amtrak Indemnitee to the extent such Losses were caused by the negligence, gross negligence or willful misconduct of that Amtrak Indemnitee.

- (c) Iowa Pacific's duty to indemnify and insure the contractual liabilities assumed in this Subsection 5.03(c) shall not, with respect to claims by any passenger, exceed \$200 million per occurrence and annual aggregate, as currently set forth in 49 USC § 28103(a)(2); provided, however, that the obligation set forth in this Paragraph 5.03(c) shall increase in accordance with the liability requirements of said Section 28103(a)(2), as the statute may be amended.

5.04. **Default.**

- (a) The following shall constitute an event of default under this Agreement by INDOT (each, an "**INDOT Default**"):

- ii. INDOT shall fail to pay any sum of money due to Iowa Pacific as and when due; and
- iii. INDOT shall fail to comply with any covenant or term described in this Agreement.

- (b) The following shall constitute an event of default under this Agreement by Iowa Pacific (each, an "**Iowa Pacific Default**"):

- iv. Iowa Pacific shall fail to pay any sum of money due to INDOT as and when due; and
- v. Iowa Pacific shall fail to comply with any covenant or term described in this Agreement.
- vi. Iowa Pacific (i) admits, in writing, that it is unable to pay its debts as such become due; (ii) makes an assignment for the benefit of its creditors; (iii) files a voluntary petition under the United States Bankruptcy Code (title 11, United States Code) or, if such a petition is filed against it and an order for relief is entered, or if Iowa Pacific files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States bankruptcy code or any other present or future applicable law, regulation, decision or ordinance or Iowa Pacific shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, conservator, liquidator, or similar official of Iowa Pacific, of all or any part of its properties or of its rights under this Agreement or any interest therein, or (iv) takes any action in furtherance of any action described in this paragraph.

vii. Iowa Pacific shall violate or fail to conform to any Regulatory Requirement and Iowa Pacific shall fail to correct such violation in accordance with the requirements of applicable law or regulation.

viii. Any other action or inaction of Iowa Pacific that is specifically described in this Agreement as a Default on the part of Iowa Pacific.

- (c) Iowa Pacific shall deliver to INDOT a copy of any notice or other document that alleges or notifies that Iowa Pacific is in violation of any Regulatory Requirement with which Iowa Pacific is required to comply. Such copy shall be delivered to INDOT within three (3) days of Iowa Pacific receiving the same. Additionally, Iowa Pacific shall immediately notify INDOT of any complaint or petition filed against or judgment entered against Iowa Pacific or any of its assets.
- (d) Except as provided in Section 5.12(b), prior to the exercise of any remedy by any Party, the non-defaulting Party shall provide notice of the occurrence of the INDOT Default or Iowa Pacific Default, as the case may be, which notice shall specify the nature of the INDOT Default or Iowa Pacific Default. If the INDOT Default or Iowa Pacific Default can be cured solely with the payment of money to the non-defaulting Party (a "**Monetary Default**"), then INDOT shall have 45 days to cure the Monetary Default and Iowa Pacific shall have thirty (30) days to cure the Monetary Default. If the INDOT Default or Iowa Pacific Default cannot be cured solely with the payment of money to the non-defaulting Party (a "**Non-Monetary Default**") then INDOT shall have 45 days to cure the Non-Monetary Default and Iowa Pacific shall have thirty (30) days to cure the Non-Monetary Default. If the INDOT Default or Iowa Pacific Default, as the case may be, is not timely cured, the non-defaulting Party may exercise the remedies provided in Sections 5.05 and 5.06.

5.05. **INDOT's Remedies.** Upon the occurrence of an Iowa Pacific Default, INDOT shall have the following rights and remedies:

- (a) INDOT may terminate this Agreement.
- (b) INDOT may recover from Iowa Pacific any past due sums owed to INDOT by Iowa Pacific.
- (c) In addition to the rights and remedies granted to INDOT pursuant to Subsection (a) and (b) above, INDOT shall additionally have all rights and remedies available to it at law or in equity.
- (d) Each of INDOT's remedies shall be cumulative as to each other and not in the alternative of each other. INDOT shall not be required to elect its remedy.

5.06. **Iowa Pacific's Remedies.** Upon the occurrence of an INDOT Default, Iowa Pacific shall have the following rights and remedies:

- (a) Iowa Pacific may terminate this Agreement.
- (b) Iowa Pacific may recover from INDOT any past due sums owed to Iowa Pacific by INDOT.
- (c) Iowa Pacific's remedies set forth in this Section 5.06 are Iowa Pacific's sole and exclusive remedies at law or in equity for any INDOT Default; provided, however, the remedies in this Section 5.06 are cumulative as to each other and Iowa Pacific shall not be required to elect between those remedies.

5.07. **Liquidated Damages.** INDOT will be damaged if Iowa Pacific fails to perform the Train Service in compliance with the terms of this Agreement, or if Iowa Pacific's act or omission disrupts the operations of the Hoosier State service. It is impractical and/or difficult to ascertain the exact damage that INDOT will sustain in such circumstances. If any train on any calendar day cannot be used in revenue service or is removed from service due to Iowa Pacific's act or omission, INDOT will assess, and will require Iowa Pacific to remit to INDOT \$7,500.00 per day for each day on which a scheduled train fails to operate.

5.08. **Post-Termination Services.** In the event that this Agreement is terminated for any reason, at INDOT's sole option Iowa Pacific shall provide such Services as shall be necessary or reasonably appropriate in order to safely wind down the Train Service, finalize all financial transactions to which this Agreement relates, refund any sums due to Train Service customers and passengers, and to facilitate any audit required by INDOT. Iowa Pacific shall be entitled to compensation for costs actually incurred in connection with providing only those Post-Termination services or activities that INDOT specifically directs it to undertake, or that INDOT agrees are necessary to accomplish the tasks stated in the previous sentence. The Parties specifically agree that Iowa Pacific shall not be entitled to any compensation for unearned anticipated profits that it would have earned had this Agreement not been terminated.

5.09. **Survival.** The rights, duties, and obligations of the Parties shall survive the expiration or termination of this Agreement.

5.10. **Inspections.**

- (a) **INDOT Inspections.** INDOT shall have the right, but not the obligation, to inspect (1) any rolling stock used in connection with the operation of the Train Service and (2) any other facility used by Iowa Pacific in connection with the provision of any of the Services. INDOT shall conduct such inspections only at reasonable times (which shall include, without limitation, any time in which the Train Service is running and from 5:00 am to 11:59 pm any day, but in any event not less than one hour prior to a train's scheduled departure time), but INDOT shall not be required to give Iowa Pacific notice of any inspection. INDOT shall have the right to engage one or more contractors or consultants, who are to be selected by INDOT in its sole discretion, to perform such inspection and any such contractor or consultants shall have the same

rights as INDOT with respect to any inspection. Any inspection conducted by or on behalf of INDOT shall be solely for the benefit of INDOT and Iowa Pacific shall not be entitled to rely on the results of any such inspection.

- (b) Amtrak Inspections. Iowa Pacific agrees that Amtrak may inspect Iowa Pacific's facilities or equipment used in support of the Hoosier State Service at any time.
- (c) INDOT shall not be required to disclose the results of any inspection to Iowa Pacific. The knowledge of INDOT or INDOT's contractor or consultant about any condition concerning the rolling stock or the Train Service shall not in any way affect Iowa Pacific's indemnification or other obligations under this Agreement.

5.11. **Further Assurances**. Without additional consideration, each Party, upon the request of the other Party, shall execute such documents and instruments as shall be necessary to carry out the intent of the Parties with respect to this Agreement. Prior to any subsidiary of Iowa Pacific Holdings, LLC performing any obligation of Iowa Pacific under this Agreement, such subsidiary shall, for no additional consideration, execute an instrument confirming that it has agreed to be bound by the terms and conditions of this Agreement.

5.12. **Termination**.

- (d) Termination for Convenience. This Agreement may be terminated by INDOT for any reason. Termination of this Agreement shall be effected by delivery of a termination notice to Iowa Pacific at least thirty (30) days prior to the effective date of the Termination.
- (e) Termination for Cause. INDOT may immediately terminate this Agreement upon written notice to Iowa Pacific in the event of an Iowa Pacific Default that results (a) from Iowa Pacific's failure to timely abate a violation of any Regulatory Requirement or (b) poses an immediate danger to the public, where Iowa Pacific was aware of the conditions giving rise to such Iowa Pacific Default and failed to timely rectify such conditions. In the event of a termination for cause, INDOT shall not be liable for any of Iowa Pacific's costs in connection with the termination of the Train Service.

5.13. **Iowa Pacific Transfer**.

- (a) Except as provided in paragraph (b) of this Section 5.13, any voluntary or involuntary sale, assignment, conveyance, pledge, mortgage, encumbrance, grant of right of entry, or grant of other special use, management, or contract of or with respect to the Train Service or Iowa Pacific's rights, obligations, or duties under this Agreement (each, a "**Transfer**") in violation of this Section 5.13 shall be null and void *ab initio* and INDOT, at its option, may declare any such attempted action to be an Iowa Pacific Default.
- (b) Except for rights-of-entry, rights of special use, and subcontracts entered into by Iowa Pacific in the ordinary course of its business that do not transfer Iowa Pacific's

ultimate responsibility for ensuring that Iowa Pacific's obligations under this Agreement are performed, Iowa Pacific shall not enter into or perform or cause to enter into or perform any Transfer without the prior written consent of INDOT, which INDOT may withhold or condition in its sole and absolute discretion. INDOT selected Iowa Pacific to perform the obligations hereunder based upon the specialized skills, qualifications and expertise of Iowa Pacific and its management and employees and the financial qualifications of Iowa Pacific. The Parties acknowledge that it is of the essence of this Agreement that Iowa Pacific personally performs its obligations under this Agreement.

- (c) The term "Transfer" shall include, without limitation, (i) any sale, pledge, hypothecation, encumbrance, transfer, gift, bequest, of any membership or other equity interest in Iowa Pacific and (ii) any circumstance or event that results in Ed Ellis to cease to have full day-to-day control and management of Iowa Pacific.

5.14. **Time.** Time is of the essence in this Agreement.

5.15. **Release and Waiver of Claims.**

- (a) Iowa Pacific releases and waives any and all claims against Amtrak and the Operating Railroads, their respective employees and agents, without regard to any negligence or fault on the part of Amtrak or any Operating Railroad, for damage to or destruction of any equipment owned or provided by Iowa Pacific used in connection with the Train Service.
- (b) Iowa Pacific releases and forever discharges Amtrak from any and all claims, demands, indebtedness, agreements, promises, obligations, damages or liabilities, costs, expenses (including attorneys' fees or liens), and causes of action in law or in equity, of any kind, whether known or unknown, suspected or unsuspected, fixed or contingent, liabilities or damages of any nature whatsoever, in any way arising from or relating to the termination of this Agreement or the Amtrak Agreement.

5.16. **Continuation of Performance.** Iowa Pacific shall proceed diligently with performance of this Agreement, pending final resolution of any dispute, request for relief, claim, appeal, or action arising under this Agreement, unless FRA determines continued operation is unsafe or INDOT determines continuation of operations is not in the best interests of the State.

ARTICLE VI  
**TERMS AND CONDITIONS REQUIRED BY  
APPLICABLE STATE LAW, EXECUTIVE ORDER OR STATE POLICY**

6.01. **Access to Records.** Iowa Pacific shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Agreement, and shall make such materials available at their respective offices at all reasonable times during the period of this Agreement and for ten (10) years from the date of final payment

under the terms of this Agreement, for inspection or audit by INDOT, or its authorized representative, and copies thereof shall be furnished free of charge, if requested by INDOT. Iowa Pacific agrees that, upon request by any local, state or federal agency participating in any state- or federally-assisted programs INDOT may release or make available to the agency any working papers from an audit performed by INDOT of Iowa Pacific in connection with this Agreement, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.

6.02. **Assignment; Successors.** Iowa Pacific shall bind its successors and assignees in writing to all the terms and conditions of this Agreement. Iowa Pacific shall not assign the whole or any part of this Agreement without INDOT's prior written consent which INDOT shall grant or withhold in its sole discretion.

6.03. **Assignment of Antitrust Claims.** As part of the consideration for the award of this Agreement, Iowa Pacific assigns to the State all right, title and interest in and to any claims Iowa Pacific now has, or may acquire, under State or federal antitrust laws relating to the products or services which are the subject of this Agreement.

6.04. **Audits.** Iowa Pacific acknowledges that it may be required to submit to an audit of funds paid through this Agreement. Any such audit shall be conducted in accordance with IC §5-11-1, *et seq.*, and audit guidelines specified by the State or applicable federal requirements.

6.05. **Authority to Bind Iowa Pacific.** The signatory for Iowa Pacific warrants that he/she has the necessary authority to enter into this Agreement. The signatory for Iowa Pacific represents that he/she has been duly authorized to execute this Agreement on behalf of Iowa Pacific, and has obtained all necessary or applicable approval to make this Agreement fully binding upon Iowa Pacific when his/her signature is affixed to this Agreement.

6.06. **Compliance with Laws.**

- (a) Iowa Pacific and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC §4-2-6, *et seq.*, IC §4-2-7, *et seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If Iowa Pacific is not familiar with these ethical requirements, Iowa Pacific should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If Iowa Pacific or its agents violate any applicable ethical standards, INDOT may, in its sole discretion, terminate this Agreement immediately upon notice to Iowa Pacific. In addition, Iowa Pacific may be subject to penalties under IC §§4-2-6, 4-2-7, 35-44-1-3, and under any other applicable laws.
- (b) Iowa Pacific certifies by entering into this Agreement that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. Iowa Pacific agrees that any payments currently due to the State of Indiana may be withheld from payments due to Iowa Pacific. Additionally, further work or payments may be

withheld, delayed, or denied and/or this Agreement suspended until Iowa Pacific is current in its payments and has submitted proof of such payment to INDOT.

- (c) Iowa Pacific warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State of Indiana, and agrees that it will immediately notify INDOT of any such actions. During the term of such actions, Iowa Pacific agrees that INDOT may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Agreement.
- (d) If a valid dispute exists as to Iowa Pacific's liability or guilt in any action initiated by INDOT or its agencies, and INDOT decides to delay, withhold, or deny work to Iowa Pacific, Iowa Pacific may request that it be allowed to continue, or receive work, without delay. Iowa Pacific must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the Parties. Any payments that INDOT may delay, withhold, deny, or apply under this Section 6.06 shall not be subject to penalty or interest, except as permitted by IC §5-17-5.
- (e) Iowa Pacific affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- (f) As required by IC §5-22-3-7:

(3) Iowa Pacific and any principals of Iowa Pacific certify that:

- (A) Iowa Pacific, except for de minimis and nonsystematic violations, has not violated the terms of:
  - (i) IC §24-4.7 [Telephone Solicitation Of Consumers];
  - (ii) IC §24-5-12 [Telephone Solicitations]; or
  - (iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

- (B) Iowa Pacific will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

(4) Iowa Pacific and any principals of Iowa Pacific certify that an affiliate or principal of Iowa Pacific and any agent acting on behalf of Iowa Pacific or on behalf of an affiliate or principal of Iowa Pacific, except for de minimis and nonsystematic violations,

- (A) has not violated the terms of IC §24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

- (B) will not violate the terms of IC §24-4.7 for the duration of the Agreement, even if IC §24-4.7 is preempted by federal law.

6.07. **Drug-Free Workplace Certification.** Iowa Pacific hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace, and that it will give written notice to INDOT and the Indiana Department of Administration within ten (10) days after receiving actual notice that an employee of Iowa Pacific in the State has been convicted of a criminal drug violation occurring in Iowa Pacific's workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Agreement payments, termination of the Agreement and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total Agreement amount set forth in this Agreement is in excess of \$25,000.00, Iowa Pacific hereby further agrees that this Agreement is expressly subject to the terms, conditions and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all agreements with and grants from the State in excess of \$25,000.00. No award of an agreement shall be made, and no purchase order or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by Iowa Pacific and made a part of the agreement as part of the executed contract.

Iowa Pacific certifies and agrees that it will provide a drug-free workplace by:

- (a) Publishing and providing to all of its employees a statement notifying their employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Iowa Pacific's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- (b) Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) Iowa Pacific's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- (c) Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment the employee will (1) abide by the terms of the statement; and (2) notify Iowa Pacific of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- (d) Notifying in writing INDOT within ten (10) days after receiving notice from an employee under subdivision (B)(2) above, or otherwise receiving actual notice of such conviction;

- (e) Within thirty (30) days after receiving notice under subdivision (B)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, State or local health, law enforcement, or other appropriate agency; and
- (f) Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

6.08. **Employment Eligibility Verification.**

- (a) Iowa Pacific affirms under the penalties of perjury that it does not knowingly employ an unauthorized alien.
- (b) Iowa Pacific shall enroll in and verify the work eligibility status of all its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. Iowa Pacific is not required to participate should the E-Verify program cease to exist.
- (c) Iowa Pacific shall not knowingly employ or contract with an unauthorized alien. Iowa Pacific shall not retain an employee or contract with a person that Iowa Pacific subsequently learns is an unauthorized alien.
- (d) Iowa Pacific shall require its subcontractors of any tier who perform work under this Agreement to certify to Iowa Pacific that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. Iowa Pacific agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.
- (e) INDOT may terminate this Agreement for default if Iowa Pacific fails to cure a breach of this provision no later than thirty (30) days after being notified by INDOT.

6.09. **Force Majeure.** In the event that either Party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected Party (hereinafter referred to as a “**Force Majeure Event**”), the Party who has been so affected shall immediately give notice to the other Party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement.

6.10. **Funding Cancellation Clause.** When the Director of the Office of Management and Budget makes a written determination that funds are not appropriated or otherwise available to support continuation of the performance of this Agreement, this Agreement shall be cancelled.

A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

6.11. **Choice of Law.** This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

6.12. **Non-Discrimination.**

- (a) Pursuant to I.C. 22-9-1-10 and the Civil Rights Act of 1964, Iowa Pacific, shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Agreement, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, sexual orientation, gender identity, disability, national origin, ancestry or status as a veteran. Breach of this covenant may be regarded as a material breach of this Agreement. Acceptance of this Agreement also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.
- (b) Iowa Pacific understands that INDOT is a recipient of federal funds. Pursuant to that understanding, Iowa Pacific agrees that if Iowa Pacific employs fifty (50) or more employees and does at least \$50,000.00 worth of business with the State and is not exempt, Iowa Pacific will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. Iowa Pacific shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of this Agreement.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's Title VI enforcement shall include the following additional grounds: sex, ancestry, age, religion and disability.) The following are examples of where this policy shall be applied relative to the State.

- (c) During the performance of this Agreement, Iowa Pacific, for itself, its assignees and successors in interest agrees to the following assurances under Title VI of the Civil Rights Act of 1964:

- 1. **Compliance with Regulations:** Iowa Pacific shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49 CFR Part 21, as they may be amended from time to time

(hereinafter referred to as the “**Regulations**”), which are herein incorporated by reference and made a part of this Agreement.

2. **Nondiscrimination:** Iowa Pacific, with regard to the work performed by it during this Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Iowa Pacific shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulation, including employment practices when this Agreement covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by Iowa Pacific for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Iowa Pacific of Iowa Pacific’s obligations under this Agreement, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, national origin, religion, disability, ancestry, or status as a veteran.
4. **Information and Reports:** Iowa Pacific shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by INDOT and Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Iowa Pacific is in the exclusive possession of another who fails or refuses furnish this information, Iowa Pacific shall so certify to INDOT or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of Iowa Pacific’s noncompliance with the nondiscrimination provisions of this Agreement, INDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding payments to Iowa Pacific under this Agreement until Iowa Pacific complies, and/or (b) cancellation, termination or suspension of this Agreement, in whole or in part.
6. **Incorporation of Provisions:** Iowa Pacific shall include the provisions of paragraphs 6.12(c)(1) through (5) above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

Iowa Pacific shall take such action with respect to any subcontract or procurement as INDOT or the Federal Highway Administration may direct as a means of enforcing such provisions

including sanctions for non-compliance, provided, however, that in the event Iowa Pacific becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, Iowa Pacific may request INDOT to enter into such litigation to protect the interests of the State, and, in addition, Iowa Pacific may request the United States of America to enter into such litigation to protect the interests of the United States of America.

6.13. **Disadvantaged Business Enterprise Goals.** Iowa Pacific shall maintain affirmative action certificates that represent progress towards meeting INDOT's minority business enterprise, women's business enterprise and veterans' business enterprise goals:

- Minority Business Enterprise: 8%
- Women's Business Enterprise: 8%
- Veteran's Business Enterprise: 3%

6.14. **Payment.** All payments shall be made according to the terms of this Agreement and in conformance with State fiscal policies and procedures and, as required by IC 4-13-2-14.8, by electronic funds transfer to the financial institution designated by Iowa Pacific in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Agreement except as permitted by IC 4-13-2-20.

6.15. **Penalties, Interest and Attorney's Fees.** INDOT will in good faith perform its required obligations hereunder, and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law in part, IC §5-17-5, IC §34-54-8, and IC §34-13-1. Notwithstanding the provisions contained in IC §5-17-5, any liability resulting from INDOT's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

6.16. **Severability.** The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Agreement.

6.17. **Status of Claims.** Iowa Pacific shall be responsible for keeping INDOT currently advised as to the status of any claims made for damages against Iowa Pacific resulting from services performed under this Agreement.

6.18. **General.** This Agreement represents the entire understanding between the Parties relating to the subject matter, and supersedes any and all prior oral and/or written communications, understandings or agreements relating to the subject matter. Any amendment or modification to this Agreement must be in writing and be signed by duly authorized representatives of the Parties. This Agreement will be binding upon the Parties and their permitted successors or assigns. Failure of either Party to enforce any provision of this Agreement will not constitute or be construed as a waiver of such provision or of the right to enforce such provision. The headings are inserted for convenience only and do not constitute part of this Agreement. Except as set forth at Section 2.13 above, there are no third party beneficiaries to this Agreement.

6.19. **Completion of facilities.** As set forth on **Schedule H** attached hereto, the commencement of operation of the Train Service is subject to the completion of installation of certain facilities.

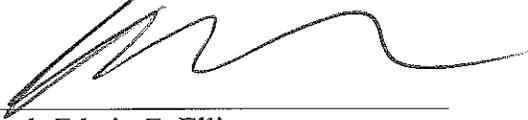
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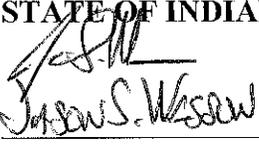
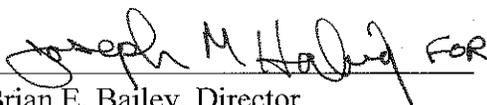
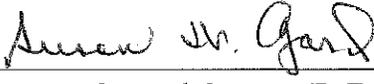
**Non-collusion and Acceptance**

The undersigned attests, subject to the penalties for perjury, that he or she is the properly authorized representative, agent, member or officer of Iowa Pacific, that he or she has not, nor has any other member, employee, representative, agent or officer of Iowa Pacific, directly or indirectly, to the best of his or her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this Agreement.

IN WITNESS WHEREOF, Iowa Pacific and INDOT have, through duly authorized representatives, entered into this Agreement. The Parties having read and understand the forgoing terms of this Agreement do by their respective signatures dated below hereby agree to the terms thereof.

IOWA PACIFIC HOLDINGS, LLC,  
an Illinois limited liability company

By:   
Printed: Edwin E. Ellis  
Title: President

<p><b>STATE OF INDIANA</b>  JASON S. WASSON / DEPT COMMISSIONER (for) Brandye Hendrickson, Commissioner Indiana Department of Transportation Date: <u>7/31/2015</u></p>	<p><b>STATE OF INDIANA</b> <b>State Budget Agency</b>  Brian E. Bailey, Director Date: <u>7/31/2015</u></p>
<p><b>STATE OF INDIANA</b> <b>Department of Administration</b>  Jessica Robertson, Commissioner Date: <u>7/31/15</u></p>	<p><b>Approved as to Form and Legality:</b>  Attorney General Gregory F. Zoeller (for) Date Approved: <u>7-31-2015</u></p>

**SCHEDULE A**  
**AMTRAK SERVICES**

Amtrak will provide the following services in accordance with the Amtrak Agreement:

1. Provide train and engine crews to operate *Hoosier State* service using Iowa Pacific rolling stock.
2. Deadhead rolling stock between Indianapolis Station and the Iowa Pacific maintenance facility in accordance with the schedule set forth in the Amtrak Agreement.
3. Perform non-revenue movement of rolling stock between Chicago and Indianapolis via Amtrak's *Cardinal Service* and perform terminal yard operations.
4. Conduct promotions, sales, information and reservation functions.
5. Perform reservation, ticketing and revenue collection functions.
6. Provide alternate transportation and accommodation in case of emergency interruption to *Hoosier State* service.
7. Perform emergency mechanical repairs on Iowa Pacific rolling stock.
8. Perform emergency fueling.
9. Coordinate with local and regional law enforcement.
10. Perform safety and FDA food safety training for on-board service personnel.
11. Negotiate and maintain operating agreements with host railroads on *Hoosier State* route.
12. Qualify Amtrak crew over trackage in and around Indianapolis.
13. Perform regulatory safety and maintenance reporting for Amtrak operations.
14. Coordinate with Iowa Pacific as required to assemble and submit joint or combined reports as required by FRA.

**SCHEDULE B**  
**INFORMATION TO BE PROVIDED IN OPERATIONS STATEMENT**

1. Equipment –
  - Number of locomotives and percentage available
  - Number and type of railcars and percentage available
  - Equipment defects and anticipated repair and maintenance issues
  
2. Infrastructure issues impacting performance that relate to:
  - Sight obstruction issues
  - Defective track
  - Bridge problems
  - Crossing problems
  - Signal problems
  - Issues related to restricted speed
  
3. Personnel – On Board Service Staff
  - Employee availability and retention
  - Recruitment and training of qualified onboard service staff
  
4. Amtrak and Host Railroad Relationship
  - Crew availability and responsiveness – number of re-crews
  - Management relationship – outstanding issues with Amtrak and resolved issues with Amtrak
  - Management relationship with host railroads
  
5. Schedule Performance
  - Initial terminal delays
  - Final terminal delays
  
6. Customer Experience: Include customer or passenger feedback and comments on
  - Service delivery
  - Food
  - Wi-Fi
  - Stations
  - Restroom cleanliness
  - Overall ride satisfaction
  
7. Marketing—Describe
  - Corporate and or community relationships
  - Sponsorship development activities
  - Event train development

8. Instances of passenger misconduct

- Date, time and description of incident
- Summary of resolution
- Description of involvement by law enforcement, if any

**SCHEDULE C**  
**AMTRAK FOOD AND BEVERAGE SERVICE STANDARDS; TRASH HANDLING**  
**REQUIREMENTS**

**Food and Beverage Service Standards:**

**Required:**

1. FDA Food Code 2013
2. Amtrak Public Health Standards (current revision) provided to the State under separate cover
3. EPA Safe Drinking Water Standards
4. Pertinent sections of 21 CFR 1240 and 1250 provided to the State under separate cover
5. Meeting FDA review and inspection requirements leading to awarding a Certificate of Sanitary Construction for each railroad passenger car
6. FDA / Amtrak Agreement on Annual Backflow Prevention Testing provided to the State under separate cover
7. International Plumbing Code
8. Reduction of Lead in Drinking Water Act

**Recommended:**

9. ASSE standards for backflow preventers
10. USPHS / FDA Handbook on Sanitation of Railroad Passenger Cars
11. USPHS / FDA Handbook on Passenger Railroad Servicing Areas
12. ANSI / NSF standards for food service equipment or the equivalent certification under ETL, UL Sanitation, BISSC, etc.

**Trash Handling Standards:**

**TRASH HANDLING.** Trash will be stored on each trainset until it returns to the layover facility each evening. In the event that such arrangement presents unacceptable health, safety or operational difficulties, in the reasonable judgment of Amtrak, INDOT and Iowa Pacific will cooperate with Amtrak to institute revised procedures. The following standards apply:

- Any receptacles used for the storage of trash shall be of sturdy waterproof construction, have a cover, and be easily attached to the inside of the equipment provided by Iowa Pacific. Amtrak recommends that such receptacles have dimensions of approximately 3' deep by 5' wide by 4' high. Each receptacle shall be removed from the trainset and washed whenever anything is spilled in or on it, and in any event not less than once per week.

- Within 30 minutes of its removal from the train, all trash will be placed in covered dumpsters which, whenever possible, shall be at least 150 feet from the trainset, but in no instance less than 150 feet from the food service car.
- Trash removal from dumpsters should be scheduled to ensure that the dumpsters do not exceed 75% of capacity, and in any event are emptied not less than once a week.
- Sufficient rodent bait/trap stations must be placed around all trash storage areas to control/monitor rodent activity.
- All trash storage areas must be kept clean, sanitary, and free of debris and liquid runoff.

INSPECTIONS. The success of Amtrak's Integrated Pest Control Program depends a great deal on the regular and effective use of enhanced inspection procedures to ensure that Amtrak's sanitation policies and programs are fully and consistently implemented. This includes systematic sanitation and public health pre-departure and train termination inspections, as well as inspections of all train layover and service points. These inspections serve as a measurement of both compliance with the policies and procedures as well as their ongoing suitability and effectiveness.

**SCHEDULE D**  
**US EPA Drinking Water Standards**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUL 24 2015

REPLY TO THE EXTENSION OF:

WG-15J

Mr. Don Pingel  
Senior Manager of Operating Practices  
Iowa Pacific Holdings  
1 Parker Place, Suite 112  
Janesville, WI 53545

Dear Mr. Pingel:

Thank you for contacting the U.S. Environmental Protection Agency regarding Iowa Pacific Holdings' planned rail service from Chicago, Illinois to Indianapolis, Indiana starting July 29, 2015. We appreciate your willingness to comply with EPA's safe drinking water regulations and provide safe water to the public. According to Mr. Neil Bagans, you estimate transporting approximately 133 passengers per day along this route. According to our call on July 22, 2015, you will have food and beverage service aboard these rail cars as well as restrooms. Based on this information, you are subject to the Safe Drinking Water Act (SDWA) as a transient non-community water system (TNCWS). This category of systems includes water systems that serve an average of 25 persons per day for at least 60 days per year. Rail cars fall under a specific category of TNCWS called interstate carrier conveyances (ICCs).

EPA Region 5 and Iowa Pacific Holdings (IPH) will ultimately need to develop an Administrative Order on Consent (AOC) to outline the statutory and regulatory requirements that IPH must meet to maintain compliance under the SDWA. In the interim, we are writing this letter to inform you of our recommendations for startup of water service on your rail cars next week.

In order to protect public health, we would like IPH to perform the following maintenance procedures prior to providing water for human consumption. We recommend that you disinfect and flush (D&F) each of your water tanks in accordance with the manufacturer's operations and maintenance plan, using the appropriate disinfectant and contact time. We would like this to be done on each rail car prior to providing water for human consumption on July 29<sup>th</sup>.

Additionally, ICCs should be sampled periodically for total coliform bacteria to ensure that there is no microbiological contamination in the water systems. On other ICCs, such as aircraft and other rail cars, 100 milliliter samples are collected periodically and sent to

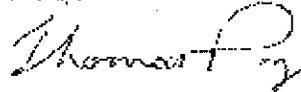
certified labs for total coliform analysis. We would like you to collect water samples from each of your rail cars as soon as possible; we suggest within the first 30 days of operation. Please note that samples should not be collected within 72 hours of disinfecting and flushing, so as not to give false negative results. We have included an attachment giving details on the sampling procedures that we would like you to follow.

Should you find that any of your tanks return positive coliform results, you need to shut the water off until the water tank in the affected rail car can be D&F again. Any coliform positive samples should be further analyzed for *E. coli*. If *E. coli* is found in any tank sample, you need to shut off the water immediately, perform a corrective action D&F and collect follow-up samples. Water should not be served to the public until the follow-up sample results come back clean, i.e. total coliforms negative. It is not necessary to wait 72 hours after a corrective action D&F to collect a follow-up sample.

In order to protect public health and provide a safe reliable source of water, EPA recommends that you follow the above guidelines. We will develop a formal agreement in the near future for water service on your rail cars.

In the meantime, should you have any questions, please do not hesitate to contact Michele Palmer of my staff at 312 355-3646 or [palmer.michele@epa.gov](mailto:palmer.michele@epa.gov).

Sincerely,



Thomas Poy, Branch Chief  
Ground Water Drinking Water Branch

Enclosure

cc: Neil Bagdas  
Michele Palmer  
Nicholas Damato  
Dorothy Wozniak  
Taina Glowacki  
Eira Villanueva  
Cindy Mack

## Enclosure Bacteriological Sampling Protocol

Bacteriological samples are used to indicate the effectiveness of disinfection and flushing procedures. Collect a sample for total coliform and have it analyzed by a State-approved laboratory. The sample must be taken from a "tap" (e.g., water tap, faucet, drinking fountain, or other fixture) which provides water for human consumption to passengers or crew. Human consumption includes drinking, food and beverage preparation, as well as brushing teeth, dishwashing, and hand washing.

If the sample is total coliform-positive (TC+) it must be analyzed for *E. coli*. State-approved labs should test for *E. coli* automatically when any sample is TC+ but it is your responsibility to make sure it is done. For a positive total coliform result, you must restrict access to the water system within 72 hours of notification of the result for total coliform positive with *E. coli*-negative results. Then you must perform a corrective action D&F, before providing water for human consumption.

The presence of *E. coli* in a water sample indicates that the water may be contaminated with human or animal fecal waste. This is a serious situation and requires an immediate response. Within 24 hours of notification of the result for *E. coli*-positive shut off the water. As a corrective measure to an *E. coli* positive result, the system should be disinfected and flushed in accordance with manufacturer recommendations, and follow-up samples collected. Continue with this process until the follow up sample results are total coliform negative. Access to the water cannot be provided until a set of follow up samples is total coliform-negative.

Suggested Sampling Protocols Follow: Critical steps in the sample collection procedure include ensuring the sample collection bottle does not become contaminated, and the faucet or fixture to be sampled will not contribute contamination from the external surface.

### Materials and Preparation for Sampling

The laboratory that will perform the analyses should be contacted in advance of the planned sampling collection date. In advance, it should be determined if the laboratory will provide sample bottles, and if so, how many will be needed. Additionally, it should be determined whether the laboratory will provide a return shipping cooler and ice packs (shipment of AT&WR samples on ice to obtain a shipping temperature of 10 degrees Celsius or less without freezing the sample is recommended). Sufficient time should be allowed to obtain materials and to agree on a sample submittal date.

All materials should be on-hand and ready for use at least 48 hours prior to sampling. (Note that a separate cooler or bagging for airtight for each day/fixture that a sample collection will be needed if samples are not hand-delivered to the laboratory each day.) The analysis of the samples by the laboratory must begin within 30 hours of sample collection or the sample will be invalid and a replacement sample will be required.

Here are a list of suggested materials needed for sampling:

- 1) Sample collection sheet
- 2) Laboratory chain of custody form
- 3) Indelible pen
- 4) Sample bottles: 150-ml, sterile plastic with non-toxic cap and dechlorinating agent
- 5) Cooler with ice packs (optional) (contained-ice packs are preferable to ice cubes)
- 6) Rubber, latex, or non-latex exam gloves

When collecting a sample, label the bottle (not the lid) prior to sample collection with the following information:

- Sample ID correlating to the sample tap location (e.g., lav or gal) and aft or fore) and other information listed on the laboratory chain of custody form and data sheet
- Date and time of collection
- Analysis requested (e.g., total coliform)
- Sampler's initials

For each rail car, total coliform samples must be collected from a galley tap and a lavatory tap unless there is only one tap. Both lavatory and galley samples should be collected from a cold water tap if possible. If the only sampling point in the lavatory or galley is a hot water tap or the coffee maker, collect the sample at that location and indicate the sampling location on the sample collection sheet. [49 CFR 141.835(b)].

During sampling, exam gloves should be used when handling samples to minimize sample contamination and exposure to sample preservatives. Bottles should be kept closed until ready to be filled.

**SCHEDULE E**

**REGULATORY COMPLIANCE AND DELIVERABLES  
MATRIX**

**Deliverables**

**Railroad/Transit Authority:**

**Contract Operator(s):**

		Program Requirements			Time Periods		
Discipline	Item	Part	Summary (Note: Please refer to RFP for entire rail-2)	Deliverable Type	Approval Required (Y/N)	Date Required	Comments
Civil Rights	1	38.111	ADA Intercity Railcar Requirements - General.	Inspection	No	30 Days Notice Prior to Sample Car Inspection Request	Iowa P
Civil Rights	2	38.113	ADA Intercity Railcar Requirements - Doorways.	Inspection	No	30 Days Notice Prior to Sample Car Inspection Request	Iowa P
Civil Rights	3	38.115	ADA Intercity Railcar Requirements - Interior circulation, handrails and stations.	Inspection	No	30 Days Notice Prior to Sample Car Inspection Request	Iowa P
Civil Rights	4	38.117	ADA Intercity Railcar Requirements - Floors, steps and thresholds.	Inspection	No	30 Days Notice Prior to Sample Car Inspection Request	Iowa P
Civil Rights	5	38.119	ADA Intercity Railcar Requirements - Lighting.	Inspection	No	30 Days Notice Prior to Sample Car Inspection Request	Iowa P
Civil Rights	6	38.121	ADA Intercity Railcar Requirements - Public Information system.	Inspection	No	30 Days Notice Prior to Sample Car Inspection Request	Iowa P
Civil Rights	7	38.123	ADA Intercity Railcar Requirements - Restrooms.	Inspection	No	30 Days Notice Prior to Sample Car Inspection Request	Iowa P
Civil Rights	8	38.125	ADA Intercity Railcar Requirements - Mobility aid accessibility.	Inspection	No	30 Days Notice Prior to Sample Car Inspection Request	Iowa P
OP	9	40.25	Background checks completed on any covered employee before entering covered service	In place / On hand	No	Must be in place at start-up	Antrak & Iowa P Chicago PTD is in effect

Discipline	Item	Part	Summary (Refer to the Safety or other relevant rule.)	Deliverable Type	Approval Required (Y/N)	Date Required	Comments
Track	10	218.7	Designate qualified persons to inspect track for defects and designate qualified persons to supervise restorations & renewals of track under traffic conditions	In place / On hand	No	Must be in place at start-up	Iowa for yard tracks
Track	11	214.30Z	Submission to FRA of on-track safety program (RWP) program for formal review & approval	Submittal	Yes	At least 30 days prior to start-up	Could be Iowa P for yard tracks
Track	12	214.311	Written procedure to achieve prompt and equitable resolution of good faith RWP challenges made	In place / On hand	No	Must be in place at start-up	Iowa P
OP	13	217.2(a)	File with the FRA Administrator one copy of its code of operating rules, timetables, and timetable special instructions before it commences operations. Further requirements are detailed in Parts 217 & 218	Submittal	No	Prior to start-up	Amtrak & Iowa P
OP	14	217.2(a)	Keep one copy of its code of operating rules, timetables, and timetable special instructions and any amendments at System Headquarters	In place / On hand	No	Must be in place at start-up	Amtrak & Iowa P
OP	15	217.3(c)	Written program of operational tests and inspection	In place / On hand	No	At least 30 days prior to start-up	Amtrak & Iowa P
OP	16	217.11 218.35	Program of instruction/training/examination on Operating Rules. Instruction to begin on the date of operations	In place / On hand	No	At least 30 days prior to start-up	Amtrak & Iowa P
OP	17	218.37(a)	Each railroad must have in effect an operating rule for flag protection...	In place / On hand	No	Must be in place at start-up	Amtrak
OP	18	218.37(b)(1)	Adopt & implement written good faith challenge procedures & instruction. Instruction to begin on the date of operations	In place / On hand	No	Must be in place at start-up	Amtrak & Iowa P
OP	19	218.11(g)	Each supervisor responsible for covered employees (except a working supervisor within the definition of co-worker under this part) must be trained in the signs and symptoms of alcohol and drug influence, intoxication and misuse consistent with a program of instruction to be made available for inspection upon demand by FRA.	In place / On hand	No	Must be in place at start-up	Amtrak & Iowa P
OP	20	218.23(d)	Each railroad must provide educational materials that explain the requirements of this part, and the railroad's policies and procedures with respect to meeting those requirements.	In place / On hand	No	Must be in place at start-up	Amtrak

Discipline	Item	Part	Summary (Max. please refer to 40 CFR for entire rule...)	Deliverable Type	Approval Required (Y/N)	Date Required	Comments
OP	21	219.205(c)(2)	Post-accident testing kits	In place / On hand	No	Must be in place prior to commencement of	Amtrak
OP	22	219... Subpart E	Compliant policies in place for the identification of troubled employees.	In place / On hand	No	Must be in place prior to commencement of testing	Amtrak
OP	23	219.401(a)	Railroad to adopt/publish/implement policies relating to the prevention of the use of alcohol and drugs & make available for inspection by FRA.	In place / On hand	No	Must be in place at start-up	Amtrak
OP	24	219... Subpart E	Pre-employment negatives for any covered employee before they are allowed to perform covered service	In place / On hand	No	Must be in place before first performance of safety-sensitive functions	Amtrak
OP	25	219.601(a)	Random plan approved by FRA as well as the implementation tools operational so employees know they are subject to selection and testing	Submittal	Yes	30 Days Prior to Start-up	Amtrak
OP	26	219.602(a)	Must submit to FRA for approval a Random Alcohol Testing Program	Submittal	Yes	At least 30 days prior to start-up	Amtrak
OP	27	219.602(c)(4)	The railroad must publish to each of its covered employees, individually, a written notice that the employee will be subject to random alcohol testing under this part.	In place / On hand	No	45 Days Prior to commencement of testing program	Amtrak
OP	28	219.602(c)(2)	A railroad commencing operations must submit a random testing program	Submittal	Yes	60 days after program	Amtrak
OP	29	219	Support systems hired, qualified and prepared to begin operations on day one to cover random selections (breath and urine), SAP, WFO, and laboratory	In place / On hand	No	Must be in place at start-up	Amtrak
OP	30	220.2(b)	Each railroad shall retain one copy of its current operating rules with respect to radio communications	In place / On hand	No	At least 30 days prior to start-up	Amtrak & Iowa P
OP	31	220.23	Railroad to designate where radio base stations are installed, where wayside stations may be contacted, and the appropriate radio channels used by these stations in connection with railroad operations by publishing them in a timetable or special instruction	In place / On hand	No	Must be in place at start-up	Amtrak & Iowa P
OP	32	220.302	Each railroad shall adopt operating rules that implement the requirements of Subpart C - Electronic Devices	In place / On hand	No	Must be in place prior to pre-revenue testing	Amtrak & Iowa P

Discipline	Item	Part	Summary (Note: Please refer to staff for entire rule.)	Deliverable Type	Approval Required (Y/N)	Date Required	Comments
OP	33	220.313(a)	Each railroad shall maintain a written program of instruction and examination implementing the requirements of Subpart C - Electronic Devices	In place / On hand	No	Must be in place at start-up	Amtrak & Iowa P
OP	34	220.315(a)	The railroad's program of operational tests and inspections shall specifically include a minimum number of tests for electronic devices...	In place / On hand	No	Must be in place at start-up	Amtrak & Iowa P
OP	35	225.11	Accident/incident reporting requirements (requirements detailed throughout Part 225)	Submittal	No	Within 30 days after the month in which the accident/incident occurred	Amtrak & Iowa P Staff will track monthly to ensure incidents not reported twice
OP	36	225.255(a)	Each railroad shall maintain either the Railroad Employee Injury and/or Illness Record (Form FRA F 5100.88) or an alternative railroad-designed record as described in paragraph (b) of this section of all reportable and accountable injuries and illnesses of its employees	In place / On hand	No	Varies	Amtrak & Iowa P
OP	37	225.255(b)	Railroad to develop a form for listing all injuries and occupational illnesses monthly...	In place / On hand	No	Within 30 days after the month in which the accident/incident occurred	Amtrak & Iowa P
OP	38	225.33	Adopt & comply with a written Internal Control Plan maintained at office of railroad reporting officer	In place / On hand	No	Must be in place at start-up	Amtrak & Iowa P
IH	39	227.103(a)	Develop & implement a noise monitoring program	In place / On hand	No	Must be in place at start-up	Iowa P
IH	40	227.107(a)	The railroad shall administer a continuing, effective hearing conservation program...	In place / On hand	No	Must be in place at start-up	Iowa P
IH	41	227.109	Establish & maintain an audiometric testing program	In place / On hand	No	Must be in place at start-up	Iowa P
IH	42	227.118	Institute an occupational noise and hearing conservation training program for all employees included in the hearing conservation program.	In place / On hand	No	Must be in place at start-up	Iowa P
OP	43	228.11	Each railroad, or a contractor of a subcontractor of a railroad, shall keep a record, either manually or electronically, concerning the hours of duty of each employee.	In place / On hand	No	Must be in place at start of testing	Amtrak

Discipline	Item	Part	Summary (Use: Please refer to CFR for status ref.)	Drainable Type	Approval Required (Y/N)	Date Required	Comments
OP	44	228.17	Each carrier shall keep, for each dispatching district, a record of train movements made under the direction and control of a dispatcher who uses telegraph, telephone, radio, or any other electrical or mechanical device to dispatch, report, transmit, receive, or deliver orders pertaining to train movements.	In place / On hand	No	Must be in place at start of testing	Amtrak
OP	45	228.19	Each railroad, or a contractor or a subcontractor of a railroad, shall report to the Associate Administrator for Railroad Safety/Chief Safety Officer, Federal Railroad Administration, Washington, DC 20590, each instance of excess service listed in paragraphs (b) through (e) of this section, in the manner provided by paragraph (f) of this section.	Submittal	No	Within 30 days after the calendar month in which the instance occurs	Amtrak
DP	46	228.201	Electronic record keeping system requirements	If Applicable	If Applicable	Varies	Amtrak
OP	47	228.207	A railroad, or a contractor or subcontractor to a railroad, shall provide its train employees, signal employees, and dispatching service employees and its supervisors or these employees with initial training and refresher training	If Applicable	If Applicable	Varies	Amtrak
OP	48	228.407(b)	Submissions of certain work schedules and any fatigue mitigation plans and determinations of operational necessity or declarations;	Submittal	Yes	Must be in place at start-up	Amtrak
OP	49	228.407(c)(1)	If a railroad subject to this subpart wishes to use a model of human performance and fatigue, not previously approved by FRA, for the purpose of making part or all of the analysis required by paragraph (a) or (d) of this section, the railroad shall submit the model and evidence in support of its scientific validation, for the approval of the Associate Administrator.	If Applicable	If Applicable	Varies	Amtrak
OP	50	228.411(e)	A railroad shall maintain a record of each employee provided training in compliance with this section and shall retain these records for three years.	In place / On hand	No	Must be in place at start-up	Amtrak
MP&E	51	228.20	The carrier shall provide FRA with all electronic records maintained for compliance with this part for any specific locomotives at any mechanical department terminal upon request;	In place / On hand	No	Prior to pre-revenue testing	Iowa P
MP&E	52	228.21a(d)	Each locomotive or MU locomotive in use shall be inspected at least once during each calendar day, according to 228.21(a) or (b). The report shall be filed and retained for at least 92 days in the office of the carrier at the terminal at which the locomotive is cared for. A record shall be maintained on each locomotive showing the place, date and time of the previous inspection.	In place / On hand	No	Prior to pre-revenue testing	Iowa P

Discipline	Item	Part	Summary (Place: Where, refer to: Subject, or: nature, etc.)	Defectable Type	Approval Required (g/h)	Date Required	Comments
MP&E	53	229.22(c)	Each carrier shall designate qualified persons to make the inspections	In place / On hand	No	Prior to pre-revenue testing	Iowa P
MP&E	54	229.23(a)	Each new locomotive shall receive an initial periodic inspection before it is used.	In place / On hand	No	Prior to use	Iowa P
MP&E	55	229.23(i)	The railroad shall provide employees performing inspections under this section with a document containing all tests conducted since the last periodic inspection, and procedures needed to perform the inspection.	In place / On hand	No	Prior to pre-revenue testing	Iowa P
MP&E	56	229.25(a)	All mechanical gauges used by the engineer to aid in the control or braking of the train or locomotive, except load meters used in conjunction with an auxiliary brake system, shall be tested by comparison with a dead-weight tester or a test gauge designed for this purpose.	In place / On hand	No	Prior to use	Iowa P
MP&E	57	229.25(c)	All cable connections between locomotives and jumpers that are designed to carry 600 volts or more shall be thoroughly cleaned, inspected, and tested for continuity.	In place / On hand	No	Prior to pre-revenue testing	Iowa P
MP&E	58	229.25(d)(1)	A written or electronic copy of the instructions in use for event recorder maintenance and inspection shall be kept at the point where the work is performed and a hard-copy version, written in the English language, shall be made available upon request to FRA.	In place / On hand	No	Prior to pre-revenue testing	Iowa P
MP&E	59	229.25(i)	The alerter shall be tested, and all automatic timing resets shall function as intended.	In place / On hand	No	Prior to pre-revenue testing	Iowa P
MP&E	60	229.23(j)	Records of the air brake system maintenance and testing required by this section shall be generated and maintained	In place / On hand	No	Prior to pre-revenue testing	Iowa P
MP&E	61	229.23	Each main reservoir shall be tested as required and recorded appropriately on Form FRA F 5180-49A	In place / On hand	No	Prior to use	Iowa P

Discipline	Item	Part	Summary# (State, Use, ref, to, CFR, to, etc.)	Deliverable Type	Approval Required (Y/N)	Date Required	Comments
MP&E	82	223.1910	Containers shall be provided for carrying fuses and torpedoes. A single container may be used if it has a partition to separate fuses from torpedoes. Torpedoes shall be kept in a closed metal container.	If Applicable	If Applicable	Must be in place at start-up	Iowa P
MP&E	83	223.1910	Each locomotive or remanufactured locomotive ordered on or after June 8, 2012, or placed in service for the first time on or after December 10, 2012, shall be equipped with a securement device on each exterior locomotive cab door that is capable of securing the door from inside of the cab.	If Applicable	If Applicable	Must be in place at start-up	Iowa P
MP&E	84	223.121(b)(1)	The railroad shall establish an internal, auditable, monitorable system that contains records pursuant to the Locomotive Cab Noise Requirements of 223.121.	In place / On hand	No	Must be in place at start-up	Iowa P
MP&E	85	223.123(b)(10)	Written reports of locomotive horn testing required by this part shall be made and shall reflect horn type; the date, place, and manner of testing; and sound level measurements. These reports, which shall be signed by the person who performs the test, shall be retained by the railroad, at a location of its choice, until a subsequent locomotive horn test is completed and shall be made available, upon request, to FRA as provided by 49 U.S.C. 20107.	In place / On hand	No	Must be in place at start-up	Iowa P
MP&E	86	223.213	Locomotive manufacturing information.	In place / On hand	No	Must be in place at start-up	Iowa P
MP&E	87	223.207	A railroad shall develop a Safety Analysis (SA) for each product subject to this subpart prior to the initial use of such product on their railroad.	In place / On hand	No	Must be in place at start-up	Iowa P
MP&E	88	223.311	Prior to the initial planned use of a product subject to this subpart, a railroad shall inform the Associate Administrator for Safety/Chief Safety Officer, FRA, 1200 New Jersey Avenue SE, Mail Stop 25, Washington, DC 20590 of the intent to place this product in service. The notification shall provide a description of the product, and identify the location where the complete SA documentation described in §223.207, the testing records contained in §223.313, and the training and qualification program described in §223.318 is maintained.	Submital	No	60 days prior to use	Iowa P

Discipline	Item	Part	Summary (Note: Please refer to 49 CFR for exact reference.)	Defeasible Type	Approval Required (y/n)	Date Required	Comments
MP&E	69	233.319	Results of product testing conducted by a railroad as required by this subpart shall be recorded on preprinted forms provided by the railroad, or stored electronically. Electronic recording or automated tracking systems, subject to the provisions contained in paragraph (e) of this section, may be utilized to store and maintain any testing or training record required by this subpart. Results of product testing conducted by a vendor or private equipment owner in support of a SA shall be provided to the railroad as part of the SA.	In place / On hand	No	Must be in place at start-up	Iowa P
MP&E	70	233.316	The railroad shall maintain all documents pertaining to the installation, maintenance, repair, modification, inspection, and testing of a product subject to this part in one Operations and Maintenance Manual (OMM).	In place / On hand	No	Must be in place at start-up	Iowa P
MP&E	71	231.12	Passenger Car Safety Appliances (wide vestibules)	Inspection	optional	30 Days Notice Prior to Sample Car Inspection Request	Iowa P
MP&E	72	231.15 231.17	Locomotive Safety Appliances	Inspection	optional	30 Days Notice Prior to Sample Car Inspection Request	Iowa P
STC	73	233.7	Each carrier shall report any signal failures according to Part 238 using Form FRA F6180-H "Signal Failure Report"	In place / On hand	No	Within 15 Days of Failure	Amtrak
STC	74	238.10(f)	Develop PTCP & submit to FRA	If Applicable	If Applicable	Must be in place at start-up	Iowa Pacific with support of Amtrak, INDOT and FRA
MP&E	75	238.10(a)	Railroad to have in place a reporting and tracking system for passenger equipment with a defect not in conformance with Part 238. Further requirements in Part 238	In place / On hand	No	Must be in place at start-up	Iowa P
MP&E	76	238.103(a)	Material tests required to demonstrated compliance with 49 CFR Part 238 Appendix B.	If Applicable	If Applicable	At least 30 days prior to relevant testing.	Iowa P
MP&E	77	238.103(b)	File safety analysis for procuring new passenger cars and locomotives.	In place / On hand	No	Must be in place at start-up	Iowa P

Discipline	Item	Part	Summary (Note: Please refer to 45 CFR for existing rules.)	Deliverable Type	Approval Required (Y/N)	Date Required	Comments
MP&E	78	238.103(a)	(c) File safety analysis for existing passenger cars and locomotives. (i) Not later than January 10, 2001, each passenger railroad shall complete a preliminary fire safety analysis for each category of existing passenger cars and locomotives and rail services.	Submittal	No	Within 90 days	Iowa P
MP&E	79	238.103(a)	Railroad to develop and adopt written procedures for the inspection, testing, and maintenance of all fire safety systems and the safety equipment on the passenger equipment it operates	In place / On hand			
MP&E	80	238.103(a)	Railroad to develop and maintain a written hardware and software safety program to guide the design, development, testing, integration, and verification of software and hardware that controls or monitors equipment safety functions	In place / On hand	No	Must be in place at start-up	Iowa P
MP&E	81	238.107(b)	Railroad to develop, and provide to FRA upon request, a detailed inspection, testing, and maintenance plan consistent with the requirements of Part 238	In place / On hand	No	Must be in place prior to start of pre-revenue testing	Iowa P
MP&E	82	238.103(a)	Railroad to adopt a training, qualification, and designation program for employees and contractors that perform any of the inspections, tests, or maintenance required by Part 238, and trained such employees and contractors in accordance with the program.	In place / On hand	No	Must be in place at start-up	Iowa P
MP&E	83	238.111(a)	For passenger equipment that has previously been used in revenue service in the United States, each railroad to test the equipment on its system prior to placing such equipment in revenue service for the first time on its railroad to ensure the compatibility of the equipment with the railroad's operating system (including the track, and signal system). A description of such testing to be retained by the railroad and made available to FRA for inspection and copying upon request. (If applicable)	In place / On hand	No	Must be in place prior to start of pre-revenue testing	Iowa P
MP&E	84	238.111(b)(2)	Before using passenger equipment for the first time on its system that has not been used in revenue service in the United States, each railroad to prepare a pre-revenue service acceptance testing plan for the equipment, and submit a copy of the plan to FRA at least 30 days prior to testing the equipment and include with that submission notification of the time and places of the pre-revenue service tests to permit FRA observation of such tests (if applicable)	Submittal	No	30 Days Prior to start of pre-revenue testing	Iowa P
MP&E	85	238.112 238.113 238.114 238.115 238.121 238.123	Emergency egress/access, and rescue access systems, emergency lighting, roof access, emergency communications, markings, and signage.	Inspection	No	30 Days Notice Prior to Sample Car Inspection Request	Iowa P

Discipline	Item	Part	Summary (Max. Please refer to 4a&FR for entire ref...)	Deliverable Type	Approval Required (Y/N)	Date Required	Comments
MP&E	86	238.228	Provides requirements for the marking of emergency egress and emergency access doors. Reference: APTA FR-PS-002-98, Rev. 3.	Inspection	No	30 Days Notice Prior to Sample Car Inspection Request	Iowa P
MP&E	87	238.228(c)	Welded Safety Appliances - Existing Equipment. The railroad shall submit a list to FRA that identifies each piece of equipment equipped with a welded safety appliance bracket or support...	If Applicable	No	Must be in place at start-up	Iowa P
MP&E	88	238.228(g)	Welded Safety Appliances - Existing Equipment. Written safety appliance inspection plan	If Applicable	No	Must be in place at start-up	Iowa P
MP&E	89	238.230(b)(2)(i)	Welded Safety Appliances - New Equipment. The railroad shall submit a list to FRA that identifies each piece of new passenger equipment equipped with a welded safety appliance...	If Applicable	No	Must be in place at start-up	Iowa P
MP&E	90	238.230(b)(3)	Welded Safety Appliances - New Equipment. Prior to placing a piece of equipment in service with a welded safety appliance bracket or support as described in this paragraph, the railroad shall submit documentation to FRA, FRA's review and approval, containing the requirements of this part.	If Applicable	No	Must be in place at start-up	Iowa P
MP&E	91	238.230(f)	Welded Safety Appliances - New Equipment. Request for special approval of alternative compliance pursuant to 238.21...	If Applicable	No	Must be in place at start-up	Iowa P
MP&E	92	238.307(a)(2)	Petition for alternative periodic mechanical inspection intervals for specific components or equipment...	If Applicable	Yes	30 Days Prior to start of pre-revenue testing	Iowa P
MP&E	93	238.309(a)(2)	Petition for FRA to approve alternative maintenance procedure providing equivalent safety...	If Applicable	Yes	30 Days Prior to start of pre-revenue testing	Iowa P

Discipline	Item	Part	Summary (Note: Please refer to 49CFR for exact refs...)	Deliverable Type	Approval Required (Y/N)	Rate Required	Comments
OP	94	233.101(a)(2), (b)(1) & (c)	Emergency Preparedness training to be completed	In place / On hand	No	(1) Railroads with less than 100 route miles and less than 200 million passenger miles annually, not more than 90 days after commencing passenger operations. (2) Railroads with at least 100 route miles and at least 200 million passenger miles annually, not more than 180 days after commencing passenger operations. (3) Each employee shall receive initial training within 90 days after the employee's initial date of service.	Amtrak & Iowa P
OP	95	233.101(a)(6)(i)(D)	One pry bar and one fire extinguisher must be on board each passenger car and one flashlight must be with each crewmember	In place / On hand	No	Not more than 120 days after commencing passenger operations	Amtrak will supply flashlight to its crew
OP	95	233.101(a)(6)(i)(D)	Intercity trains to have first aid kit on board each passenger car	In place / On hand	No	Not more than 120 days after commencing passenger operations	Iowa P
OP	97	233.201	File Emergency Preparedness Plan for review and approval with FRA. The content requirement for passenger train emergency preparedness plans are found in 233.101. Additionally, the FRA provides a written guide to preparing such plans.	Submittal	Yes	Formal Filing: 45 days prior to passenger operations	Amtrak & Iowa P
OP	98	240.101(b)	Written program approved by FRA for certifying the qualifications of locomotive engineers	In place / On hand	No	Prior to start-up	Amtrak's submission and written program are already approved by the FRA.
OP	98	240.101(a)	Submission of written certification program to FRA	Submittal	Yes	At least 60 days prior to commencing passenger operations	Amtrak's submission and written program are already approved by the FRA.
OP	100	240.201(a) and (b)	Railroad to designate in writing persons deemed qualified as DSLEs, Locomotive Engineers, and issue certificates	In place / On hand	No	Must be in place at start-up	Amtrak

Discipline	Item	Part	Summary (Note: Please refer to RCFR for entire table.)	Deletable Type	Approval Required (Y/N)	Date Required	Comments
OP	101	240.003(a)	Program to monitor the conduct of engineers	In place / On hand	No	At least 60 days prior to commencing passenger operations	Amtrak
OP	102	242.103	Conductor Certification Program	Submittal	Yes	At least 60 days prior to commencing passenger	Amtrak Amtrak's submitters and other programs are already approved by the FRA

**SCHEDULE F**  
**CERTIFICATE OF COMPLIANCE WITH REGULATORY REQUIREMENTS**

I, \_\_\_\_\_, in my capacity as \_\_\_\_\_ of Iowa Pacific Holdings, Inc. (“**Iowa Pacific**”), certify that Iowa Pacific is in compliance with all Regulatory Requirements as defined at Section 2.17 of that certain Agreement Concerning Provision of Certain Services Related to Hoosier State Passenger Rail Service, dated \_\_\_\_\_, 2015, between the Indiana Department of Transportation and Iowa Pacific Holdings, Inc.

Signed this \_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
[NAME]

[TITLE]

**SCHEDULE G  
AMTRAK AGREEMENT**

**[Attached hereto]**

**SCHEDULE H  
COMPLETION OF FACILITIES**

**[Attached hereto]**



## INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue  
Room 758  
Indianapolis, Indiana 46204

PHONE: (317) 232-5525  
FAX: (317) 234-8365

**Michael R. Pence, Governor**  
**Brandye L. Hendrickson,**  
**Commissioner**

July 31, 2015

Mr. Joseph H. Boardman  
President  
National Railroad Passenger Corporation  
60 Massachusetts Avenue, NE  
Washington, DC 20002  
Re: Hoosier State passenger service – conditions precedent to operation

Dear Mr. Boardman:

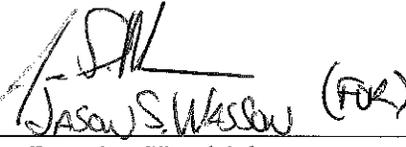
This letter refers to that certain **AGREEMENT FOR THE PROVISION OF HOOSIER STATE RAIL PASSENGER SERVICE**, effective as of August 1, 2015, between the National Railroad Passenger Corporation (hereinafter referred to as “Amtrak”) and the State of Indiana, acting by and through the Indiana Department of Transportation (hereinafter referred to as “the State” or “INDOT”) (the “Agreement”).

INDOT understands that, with respect to the McCurdy maintenance yard for the rolling stock being used to provide the Hoosier State service, a segment of track must be installed to accommodate the relocation of a switch from the CSX mainline to provide access to the McCurdy facility. Representatives of INDOT, Amtrak and Iowa Pacific Holdings, LLC, the entity the State has engaged to provide and maintain rolling stock for the Hoosier State, inspected the track today. Amtrak acknowledges that parties other than Amtrak have represented that this work will be completed no later than August 1, 2015.

INDOT agrees that it will not allow any service to commence under the Agreement until: the installation of that track is completed; INDOT has provided photos of the entire completed track from pit to turn out to Amtrak; IPH’s FRA-certified engineer Steve Hill has confirmed in writing (which may include email) to Amtrak that the work is complete; Amtrak has provided written acceptance to Steve Hill of track completion; and Amtrak has accepted and acknowledged the terms of the agreement between INDOT and Iowa Pacific Holdings, LLC.

Please sign below to indicate Amtrak’s acceptance of the above terms and conditions. Thank you very much for your very prompt attention to this matter.

Very truly yours,

By:   
Brandye Hendrickson  
Commissioner

NATIONAL RAILROAD PASSENGER CORPORATION

Joseph H. Boardman  
By: Michael W. Franke  
Joseph H. Boardman  
President and Chief Executive Officer

Date: 7-31-15