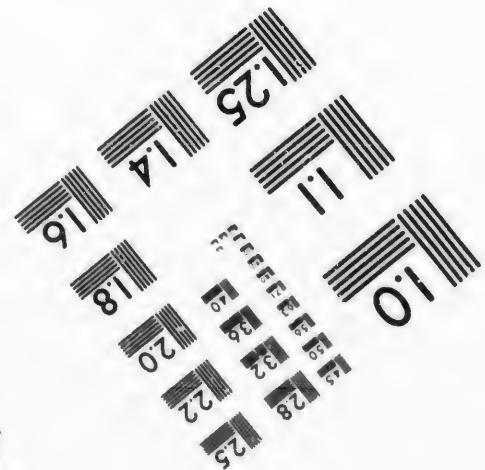
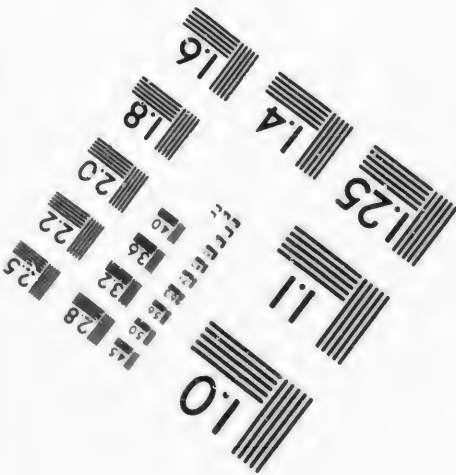
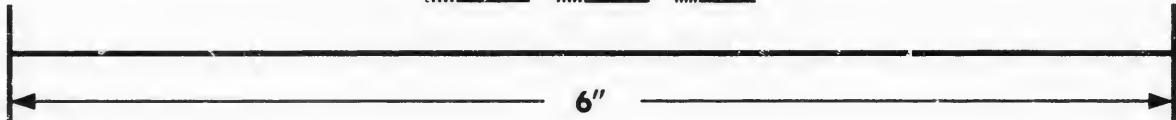
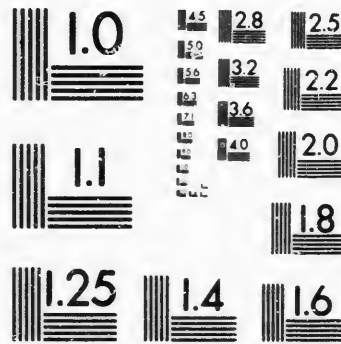


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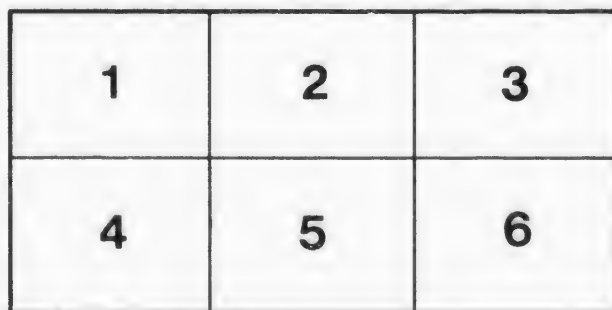
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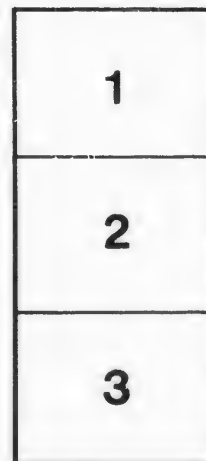
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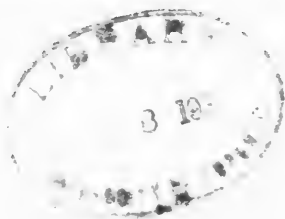
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THE NORTHERN RAILWAY COMPANY
OF CANADA

AND

THE HAMILTON & NORTH WESTERN
RAILWAY COMPANY.

Agreement.



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Northern Railway Company of Ontario and Hamilton and N
Western Railway Company

Agreement made the Sixth day of June, one thousand and eight hundred and seventy-nine between THE NORTHERN RAILWAY COMPANY OF CANADA (hereinafter called the Northern Company) of the one part and THE HAMILTON AND NORTH WESTERN RAILWAY COMPANY (hereinafter called the North Western Company) of the other part.

WHEREBY in pursuance and exercise of the several powers enabling them respectively in this behalf the Northern Company and the North Western Company hereby agree (subject to such confirmation as is by the several statutes in that behalf required to be given) in manner following that is to say :—

1. The working of the Railways of the Northern Company and of the North Western Company and every part of the same respectively including any and every Railway in connection therewith and particularly the Railway of the North Simcoe Railway Company now in lease to the Northern Company by virtue of an indenture of lease dated the fourteenth of January one thousand eight hundred and seventy-eight shall for and during a term consisting of so much of twenty-one years to be computed from the date of this Agreement as shall be unexpired at the date hereinafter fixed for the coming into operation of this Agreement be carried on upon the terms and conditions and according to the tenor of this Agreement under the direction and superintendence of the Joint Executive Committee for the appointment of which provision is hereinafter made and according to such rules regulations and resolutions as shall from time to time be made by the Executive Committee and shall be confirmed by the Boards of Directors of both Companies or not disallowed by the Board of Directors of either Company or in case of disallowance by the Board of Directors of one only of the Companies shall be confirmed on reference to a Referee as hereinafter provided.

2. For the purposes of such working as aforesaid all the locomotives and other rolling stock vessels

equipment and plant and all the stores tools and other moveable property of the Northern Company and of the North Western Company shall throughout the said term be used by both Companies and shall accordingly on the date hereinafter fixed for the coming into operation of this Agreement be placed and throughout the said term shall remain at the disposition of the two Companies and subject to the control of the Executive Committee as herein provided.

3. A full inventory arranged according to convenient classes and divisions and a just appraisal and valuation shall be made of all the locomotives and other rolling stock vessels equipment plant stores tools and other moveable property of each of the Companies which shall on the date hereinafter fixed for the coming into operation of this Agreement be placed as herein provided at the disposition of the two Companies and the several things included in such inventory shall remain the property of the Company to which the same respectively belong on such date as aforesaid but shall be used without restriction for the purposes of the working arranged for by this agreement and such of the same things as are not consumed by use shall so far as occasion arises and the circumstances of the case admit be maintained and kept in repair wear and tear only excepted and such of them as shall be consumed or worn out shall be replaced as soon as occasion arises and the circumstances of the case require by means and out of the gross earnings produced by the said working so that the whole equipment be kept up in an efficient manner and at the end of the said term such if any of the same things as shall exist in specie shall be restored to the Company to which the same belong and a new appraisal and valuation shall be made of the things so restored and a new inventory divided as far as may be into similar classes and divisions and a new appraisal and valuation shall be made of all other moveable property then at the disposition of the two Companies and the things comprised in such new inventory shall be divided in convenient shares as between the different classes and divisions and accord-

ing to the values set upon them in such new appraisement and valuation between the two Companies and so that each of the Companies shall be entitled to such amount in value of the things to be divided as with the value of the things so restored to such Company in specie shall be equal to the value of the things originally placed by such Company at the disposition of the two Companies any deficiency being borne rateably and so that of the surplus if any each of the Companies shall be entitled to the same proportion in aggregate value as it has become entitled to of the net annual earnings produced by the said working on an average extending over the whole term. And for the making of such appraisements and valuations as aforesaid the Board of Directors of each Company shall as soon as conveniently may be after the confirmation of this Agreement as hereinafter provided and again at least three months before the expiration of the said term appoint in writing a valuer and the two valuers so appointed shall on each occasion before they enter upon the appraisement and valuation appoint in writing a third valuer to whom shall be referred for final appraisement and valuation any item or items as to the value of which the two valuers so appointed by the Companies as aforesaid cannot agree. If the Board of Directors of either of the Companies shall not within ten days after notice in writing of the appointment of a valuer by the other Company appoint a valuer on their behalf then the valuer so appointed shall enter upon and make such appraisement and valuation and his valuation shall have the same force and effect as if the two valuers had been appointed.

4. In order to render more effectual and profitable the working of the Railways under this agreement as well the Railways of or connected with the Companies respectively as also all stations sidings buildings works warehouses elevators stationary engines fixed machinery and equipment with the appliances and conveniences belonging thereto respectively and any other real or immoveable property of either of the Companies including lands leased to or held by either of the Companies shall so far as may be necessary or desirable for

the working of the Railways during the said term or the then remainder thereof be placed at the disposition of the two Companies and subject as herein provided to the control of the Executive Committee who shall provide out of the gross earnings produced by the working arranged for by this Agreement for all out-goings in respect thereof and shall receive and treat as gross earnings all income arising therefrom. Provided always that if and whenever any question shall arise whether any of the aforesaid particulars ought to be subject to the operation of this clause the question shall be referred to the Board of Directors of the Company to which the same belong whose decision shall be accepted subject only to a reference to the Referee hereinafter provided for if required by the Board of Directors of the other Company : and provided also that none of the aforesaid particulars shall be sold or disposed of as not being necessary or desirable for the working of the Railways except in accordance with the decision of the Executive Committee or in the event of their disagreeing then of the Referee. Provided also that unless and until the elevator at Hamilton becomes the property of the North Western Company or arrangements are made by the North Western Company at their own separate expense for its use by the Executive Committee the Executive Committee shall not be bound to work or use the same or pay any outgoing or incur any liability in respect thereof but so soon as such elevator becomes the property of the North Western Company or as such arrangements as aforesaid are made with respect thereto the said elevator shall be subject to the provisions relating to other like property of the same Company. Provided also that if any lands of either of the Companies be sold the net proceeds of such sale shall not be treated as part of the said gross earnings but shall be paid to and received or retained by the Company to which such land belongs.

5. Out of the gross earnings to be produced by the working of the Railways and from all other the property moveable or immoveable placed at the disposition of the two Companies shall be paid all working expenses as hereinafter defined and the net surplus after

providing for such payment hereinafter called net earnings from time to time shall be divided between the Companies in manner hereinafter provided.

6. Under the expression working expenses shall be included the following expenses and charges that is to say—

- (a) All expenses of the maintenance of the Railways stations sidings buildings works warehouses elevators appliances conveniences real and immoveable property the subject of the management and working arranged for by this Agreement and of the rolling and other stock machinery equipment plant and moveable property used in the working of the Railways or any of them.
- (b) All rents or annual sums payable in respect of any Railways warehouses wharves or other property including land leased to or held by either of the Companies which under the provisions of this Agreement shall be subjected to the control of the Executive Committee and including such rent or annual sum as may from time to time be payable under any lease or Agreement to or with the Northern Company of or in respect to the said Railway of the North Simcoe Railway Company not exceeding eighteen thousand dollars per annum but exclusive of any rent royalty or other payments in respect of the user of the Hamilton Elevator unless and until the same shall be subject to the provisions relating to other like property of the North Western Company.
- (c) All expenses of and incident to the working of the railways and the traffic thereon including stores or consumable articles.
- (d) All rates taxes insurance and compensation for accidents losses and damages.

- (e) All salaries wages commissions and compensations of persons employed in or about or for the working of the Railways and traffic including the expenses of the Executive Committee and of their Chairman and Secretary and of the Auditors and of the Joint London Committee (if any) and of the London Agent to be appointed as hereinafter provided and all legal parliamentary and all other incidental working expenses whatsoever and including also an allowance of two thousand five hundred dollars per annum towards the payment of the separate secretarial and establishment expenses and Directors' fees of the North Western and Northern Companies respectively (but without prejudice to the amount which either of the said Companies may expend on this account) and all other sums whatsoever which are by any clause of this Agreement expressly authorized to be paid out of gross earnings.

7. The net earnings in each year of the said term shall from time to time be divided between the Companies in manner following that is to say—

Up to the sum of eighty thousand pounds sterling in each year the same shall be appropriated and paid as to sixty-six and a quarter per cent. thereof to the Northern Company and as to thirty-three and three-fourths per cent. thereof to the North Western Company.

After eighty thousand pounds shall have been so appropriated in any one year any additional net earnings of the year shall as to the next ten thousand pounds (between the sums of eighty thousand pounds and ninety thousand pounds) be appropriated and paid to the Northern Company and as to the next ten thousand pounds (between the sums of ninety thousand pounds and one hundred thousand pounds) be appropriated and paid as to seventy per cent. thereof to the Northern Company and as to thirty per cent. to the North Western Company and any excess of net earnings over one

hundred thousand pounds in any year shall be appropriated and paid to the Northern Company and to the North Western Company in equal shares.

Each Company shall apply its proportion of net earnings as and when from time to time received in the first place in payment of the interest due upon its bonds according to the priorities of such bonds.

8. For the better carrying into effect of this Agreement and arrangement there shall be appointed a Joint Committee herein called and referred to as the Executive Committee with such powers and functions as are hereby conferred upon them.

9. The Executive Committee shall consist of eight appointed members with the addition as chairman of the Managing Director or General Manager of the Northern Company if not one of the appointed members. Four of the appointed members shall be directors of the Northern Company to be appointed annually by the Directors of the Northern Company within fourteen days after the Annual General Meeting of that Company and the remaining four shall be directors of the North Western Company to be appointed annually by the directors of the North Western Company within fourteen days after the Annual General Meeting of that Company and the eight members so appointed shall enter into office immediately upon their appointment. The first members of such Committee shall be appointed by the Directors of the said respective Companies within fourteen days after the confirmation of this agreement and the members appointed by the Directors of either Company shall from time to time continue in office until the appointment of their successors.

10. In the event of the death or resignation of any of the eight appointed Members of the Executive Committee or of his ceasing to be a Director of the Company by whose Directors he was appointed the remaining Members of the Executive Committee Directors of the same Company shall appoint another Director of the same

Company to fill during the remainder of the current year the vacancy so occasioned but the proceedings of the Executive Committee shall not be stayed or invalidated by reason of the happening or continuing of any vacancy so long as a quorum of members remains.

11. The Managing Director or General Manager for the time being of the Northern Company whether he be an appointed member or not shall be ex-officio chairman and shall if present preside at all meetings of the Executive Committee but shall not unless he be an appointed member have any casting or other vote on any question submitted to the Executive Committee and if he be an appointed member shall vote only as the other members vote and shall not have a casting vote. In the event of the absence of the ex-officio Chairman from any meeting of the Committee the members present thereat shall appoint one of their number to act as Chairman pro tem. who shall vote only as the other members vote and shall not have a casting vote.

12. Each of the eight appointed members of the Executive Committee may by writing under his hand appoint any other appointed member of the committee being a Director of the same Company to be his proxy to vote for him in his absence at the meetings of the committee.

13. The Executive Committee for the time being shall have power to make bye-laws not inconsistent with the provisions of this Agreement for the regulation of their meetings and business including the appointment of sub-committees the fixing the quorum necessary for the transaction of business the mode of giving notices and all other matters which may be necessary or expedient for the due and convenient conduct of their business but all such bye-laws shall before becoming operative require to be confirmed by the Boards of Directors of the Companies respectively or in case of difference between the Boards by the Referee as herein provided with reference to rules regulations or resolutions of the Executive Committee.

14. Until by the bye-laws of the Committee otherwise prescribed the quorum for a meeting of the committee shall be five members of the committee exclusive of the Chairman present personally or by proxy.

15. Meetings of the Executive Committee shall be held unless and until otherwise prescribed by the bye-laws of the committee at Toronto twice in each month and may also be held at the call of the Chairman at the offices of the North Western Company at Hamilton or at such other place as the Chairman shall find expedient and may appoint.

16. Notice of each meeting may be given to each member of the Executive Committee by letter sent by post to an address to be given by him for the purpose and until the Executive Committee shall otherwise prescribe two days shall elapse between the posting of the notices and the day appointed for the meeting.

17. The Secretary for the time being of the Northern Company shall be and act as Secretary of the Executive Committee and the Managing Director or General Manager for the time being of the Northern Company shall be and act as General Manager of the Railways and properties submitted to the control or placed at the disposition of the two Companies as aforesaid.

18. Minutes of all proceedings of the Executive Committee shall be kept and copies of all such minutes shall forthwith be given and forwarded to the Northern Company and to the North Western Company for the use of the Companies respectively.

19. The Executive Committee shall have and exercise all powers and functions which shall be required for enabling them effectually to work in accordance with rules regulations and resolutions to be from time to time made by them the Railways and properties submitted under the provisions of this Agreement to their control and for the purposes aforesaid shall be entitled and are hereby authorised to act as Agents for and in the name

of the Companies respectively and may as occasion requires or as may be expedient treat the said Railways and properties as being worked or used by either or both of the said Companies.

Provided always that no rule regulation or resolution of the Executive Committee shall be deemed to be of any validity or shall be acted upon unless and until the same shall be confirmed by the Board of Directors of each of the Companies or unless and until with reference to each of the Companies a copy of the Minute of such rule regulation or resolution shall have been given or forwarded as hereinbefore directed and seven days shall have elapsed from the day on which the same was so given or forwarded without such rule regulation or resolution being disallowed by the Board of Directors of such Company in which case the rule regulation or resolution shall be deemed to have been confirmed by such Board of Directors or unless and until in case of disallowance by the Board of Directors of one only of the Companies the rule regulation or resolution disallowed shall have been referred to and confirmed by the Referee hereinafter provided for. Provided also that every rule regulation or resolution of the Executive Committee with reference to the working of the said Railways and properties which shall not be disallowed by the Board of Directors of either Company or which in case of disallowance by the Board of Directors of one only of the Companies shall be confirmed by the Referee shall have the full force and effect of a rule regulation or resolution of the Board of Directors of each of the Companies. Provided also that in fixing the rates and tolls to be charged for traffic the Executive Committee shall so adjust the same that the rates and tolls to be charged to and from points common to and now actually occupied by the lines of both Companies and the Cities of Hamilton and Toronto shall be the same without prejudice or preference to either City and so that the rates and tolls to be charged between the Cities of Hamilton and Toronto respectively and all points beyond Collingwood reached by water carriage therefrom and all through rates or

tolls quoted or charged through the Cities of Hamilton and Toronto to or from the points last aforesaid shall as to the parts thereof charged for transport over the said Railways whatever the route may be and exclusive of terminal or transfer charges if any at Hamilton or Toronto be the same without prejudice or preference to either City.

Provided also that all engagements and liabilities entered into or incurred by the Executive Committee in the performance of the powers and functions hereby entrusted to them or by reason of the working shall as between the Northern Company and the North Western Company and without prejudice to their being provided for out of the gross earnings be deemed and taken to be joint engagements and liabilities of both Companies for the performance and satisfaction of which both Companies shall be equally answerable but save as aforesaid nothing in this Agreement shall extend to make either of the Companies responsible or liable for any of the present or future debts or liabilities of the other of them provided however that the Executive Committee shall in the exercise of their powers have regard to all existing contracts and agreements made by either Company for services supplies or other matters coming under the head of working expenses and shall not cause or do anything inconsistent therewith.

20. The Executive Committee shall direct and control all receipts and disbursements in respect of the working arranged for by this Agreement and shall cause proper books of account to be kept of all such receipts and disbursements and of all other matters of account connected with the said working and shall as soon as practicable after the expiration of each successive period of six months from the date fixed for the coming into operation of this Agreement state in writing a just and true account or statement of their receipts and disbursements credits and liabilities in respect of the previous six months' working and copies thereof shall be forthwith given or forwarded to the Northern Company and to the North Western Company for the use of the Companies respectively.

21. The Directors of the Northern Company shall within fourteen days after the confirmation of this Agreement and thereafter in the event of the office being vacant from time to time appoint one auditor and the Directors of the North Western Company shall within the like time and in the like event appoint another auditor of the accounts of the Executive Committee and within fourteen days after the appointment of the auditor who shall be secondly appointed after the date fixed for the coming into operation of this agreement and within fourteen days after every succeeding appointment the two auditors for the time being shall appoint a third auditor who is to act as umpire between such auditors in the event of disagreement between them and if within such respective periods of fourteen days a third auditor be not appointed as aforesaid the Executive Committee shall appoint such third auditor and the said auditors shall at all reasonable times and under such reasonable regulations as the Executive Committee shall from time to time prescribe have free access to all books and accounts of the Executive Committee with power to take extracts therefrom and copies thereof for the use of the Companies respectively. In the event of one auditor only being appointed in accordance with the foregoing provisions the Directors of the Company who appointed such auditor may require the other Company by notice in writing to appoint another auditor on their behalf and if they shall fail to make such appointment then at or after the expiration of ten days from the service of such notice the one auditor so appointed shall act for both Companies provided always that the Directors of the Company in default may afterwards appoint an auditor on their behalf but to act only in regard to the audit of accounts subsequent to such appointment.

22. The Executive Committee may appoint and may from time to time remove and replace a joint agent to act for both Companies in London England for all matters relating to the business entrusted to the Executive Committee.

23. At the request of the Executive Committee the Directors of the Northern Company and the Directors of the North Western Company respectively may from time to time appoint an equal number of representatives in London England being respectively members of the London Committee of Directors of the Company making the appointment and shall delegate to such representatives such powers and functions as the Executive Committee shall recommend and the representatives so appointed shall act as a joint London Committee corresponding to the Executive Committee.

24. With a view to the settlement of any differences or disputes that may arise between the Companies and to provide a tribunal by which shall be decided any matters referred by the Board of Directors of either of the Companies as herein provided there shall be a Referee as hereinafter provided.

25. Charles John Brydges of the city of Montreal shall be and he is hereby appointed to be the first Referee and shall hold the office of Referee until the thirty-first day of May one thousand eight hundred and eighty and afterwards from year to year until he shall die or resign or become incapable to act or be replaced after notice as hereinafter provided.

26. Any four members of the Executive Committee of whom the Chairman may be one may at any time being not less than three calendar months before the thirty-first day of May in any year give notice in writing of their desire that a new Referee shall be appointed for the next ensuing year and thereupon the Referee in office shall cease to be Referee on the thirty-first day of May next ensuing.

27. The Executive Committee shall in the event of any vacancy occurring in the office of Referee or of any such notice as aforesaid being given of a desire that a new Referee be appointed proceed to appoint by the unanimous vote of all the members voting personally or by proxy (except the Chairman in case he be not an appointed

member) and at a meeting summoned for the purpose after not less than one week's notice to all the members of the Committee a Referee to fill the vacancy or to succeed as Referee for the following year and such Referee shall hold office from year to year until he shall die or resign or become incapable to act or be replaced at the end of any year after notice as hereinbefore provided.

28. In the event of the Members of the Executive Committee voting for the choice of a Referee being unable to agree in their selection the members appointed by the Northern Company shall nominate one Arbitrator and those appointed by the North Western Company shall nominate another and the two Arbitrators so nominated shall nominate a third Arbitrator and if within fourteen days from the nomination of such one of the Arbitrators as shall be secondly or last nominated a third Arbitrator be not nominated as aforesaid either Company may apply to the Chief Justice of the Court of Appeal of Ontario for the appointment by him of a third Arbitrator. And the majority of the said three Arbitrators after consulting with and hearing the third shall appoint a Referee and the Referee so appointed shall hold office subject to the same provisions as are herein contained with reference to a Referee appointed by the Executive Committee.

29. Every difference or dispute arising between the Companies touching the construction of this Agreement or any matter or thing arising out of or connected with the same shall at the request of the Board of Directors of either Company be referred to the Referee for the time being and among other things if any Bye-law of the Executive Committee shall fail to be confirmed or if any rule regulation or resolution of the Executive Committee with reference to the working of the said Railways and properties shall be disallowed by the Board of Directors of one only of the Companies the question whether such bye-law should be confirmed or such rule regulation or resolution shall or shall not be confirmed shall at the request of the Board of Directors of the other Company be referred to such Referee for the time being.

30. The decision of the Referee for the time being on the matter or matters from time to time referred to him shall in all cases be final and conclusive upon the Companies and the Executive Committee.

31. Nothing in this Agreement contained shall limit restrict or prejudicially affect the rights of any holders of Bonds charged upon any separate part of the undertakings intended to be affected by this Agreement.

32. Special Meetings of the Northern Company and of the North Western Company shall be duly convened for the purpose of confirming and ratifying this Agreement and in the event of the same not being confirmed as required by the Statutes in that behalf made and provided the same shall be of no effect and in the event of the same being so duly confirmed this Agreement shall come into operation as from the first day of June one thousand eight hundred and seventy-nine or the first day of the month next ensuing after the month in which the last of such Special Meetings as aforesaid may be held which ever shall last happen.

IN WITNESS whereof the said parties hereto have caused their Corporate Seals to be hereto affixed.