AGREEMENT

Between

PACIFIC HARBOR LINE, INC

and

Its Employees Represented By

BROTHERHOOD OF LOCOMOTIVE ENGINEERS and TRAINMEN

Effective October 31, 1995;
as amended May 8, 2005.
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ARTICLE 1

GENERAL PRINCIPLES

A. The parties to this Agreement agree that the fundamental objective of the railroad, its management and employees is to provide service to its customers in the most efficient manner. Accordingly, the parties agree that in interpreting and implementing this Agreement, paramount emphasis shall be placed on interpretations that enhance providing efficient service to customers.

B. This Agreement is intended to be based on cooperation and as such is a fundamental restructuring of the long standing pattern of labor agreements in the railroad industry.

C. In pursuit of the goals stated in sections A and B above, it is the intention of the parties to provide a working environment in which all Employees are given the opportunity and responsibility to understand, obtain experience in and maintain proficiency in all areas of the Company's service to its customers, consistent with their abilities.

D. In the event that any Federal or state legislation, governmental regulations or court decisions cause invalidation of any portion of this Agreement, such term or provision shall be void and of no effect. All other terms and conditions of this Agreement shall remain in full force and effect.

E. These rules will govern the persons employed in the positions described in Article 3 of this Agreement.

F. The right to make and interpret contracts covering rules, rates of pay and working conditions on behalf of employees covered by this Agreement shall be vested in the regularly constituted General Committee of the Union.
G. Where the term Union appears herein, it shall be understood to mean the duly elected Officers or General Committee of the Brotherhood of Locomotive Engineers and Trainmen ("BLET"). Where the term Representative appears, it shall be understood to mean the duly accredited representative of the BLET. Where the term Company appears herein, it shall be understood to mean Pacific Harbor Line, Inc. ("PHL"). Where the term "designated Company Officer" appears, it shall mean the officer of the Company who has been designated, by the Company, to handle such specific matters.

H. The use of such words as "he", "his" and "him", as they appear in this Agreement, are not intended to restrict the application of the Agreement or a particular rule to a particular sex, but are used solely for the purpose of grammatical convenience and clarity.

I. The use of the term "Employee" shall mean all employees working under this Agreement. When a specific job is identified in a rule, the rule will apply to only that job.

J. The provisions herein shall be applied without discrimination based on race, color, creed, religion, national origin, age or sex.

K. This Agreement shall constitute a Labor Agreement between the Company and the Union and shall be uniformly applied to all employees collectively, except where otherwise specifically provided herein.

ARTICLE 2

QUALITY OF WORK LIFE

PHL recognizes the value of improving the quality of its employees' work life by providing
time off, subject to effective manpower utilization. Therefore, committees of management and labor representatives shall meet on any subject matter mutually agreeable to facilitate and maintain a safe, efficient operation consistent with principles as specified in this Agreement. The parties hereto shall meet periodically, not less than once per year, to review jointly this Agreement and the application thereof.

ARTICLE 3

POSITIONS-DEFINITIONS

A. Engineer

(1) An Engineer shall operate locomotive engine(s) and remote control devices used to operate locomotive engine(s) and trains in all types of revenue freight and passenger train operations performed by the Company. All such positions will be filled from the Engineers' roster.

(2) Except in emergency situations, when a certified Engineer is not available, and in work or wreck train service, it is understood that the duties and responsibilities of Engineers will not be assigned to persons not holding seniority on the Engineers' roster. If a new type of locomotive or other mode of power is placed in service by the Company, Engineers will be instructed in the operation of the new type of equipment and will be used to operate it.

(3) Engineers shall also perform other tasks including supervising Assistant Engineers in train operations; coupling and uncoupling cars; inspecting cars and locomotives; throwing switches; locking and unlocking derails; opening and closing gates; coupling and uncoupling air hoses; relieving other employees; servicing and supplying locomotives; training
Assistant Engineers; receiving train orders and/or track warrants; operating company vehicles; performing brake tests; operating movable bridges; assisting other Engineers, receiving, delivering and/or transmitting waybills, car placement information, bills of lading, switch lists and other data; contacting customers and other duties as assigned.

(4) It is understood that, with the exception of duties requiring an FRA certified engineer, any of the above-named duties may be performed by others when necessary or appropriate to the efficient performance of service to the Company's customers.

(5) While on duty, the Engineer shall be in charge of the locomotive consist, and shall be responsible for the safe and efficient operation of the locomotive consist and the cars or train to which coupled. The Engineer will be in charge of the crew's proper performance of its assigned duties. All persons occupying the locomotive consist, except Company officials, shall obey the instructions of the Engineer in connection with the safe and efficient operation of the locomotive consist and cars or train.

B. Assistant Engineer

(1) An Assistant Engineer shall operate locomotives and all types of freight and passenger trains on all rail lines of the Company. Assistant Engineers shall also perform other tasks including coupling and uncoupling cars; inspecting cars and locomotives; throwing switches; locking and unlocking derails; opening and closing gates; coupling and uncoupling air hoses; relieving Engineers; receiving train orders and/or track warrants; operating Company vehicles; performing brake tests; operating movable bridges; assisting other Engineers; delivering and/or transmitting waybills, car placement information, bills of lading, switch lists and other data; training
other Assistant Engineers; contacting customers; and other duties as assigned by the Company that are not otherwise included in the job bulletin, including duties assigned by the Engineer. An Assistant Engineer may be assigned to operate a vehicle to assist Company crews or the crews of foreign railroads operating on Company property.

(2) It is understood that, with the exception of duties requiring an FRA certified engineer, any of the above-named duties may be performed by others when necessary or appropriate to the efficient performance of service to the Company's customers.

(3) It is the intent of the parties that all Assistant Engineers will become certified Engineers; however, certification will not be required in order to be awarded an assignment as Assistant Engineer.

C. **MofW Foreman/Inspector**

   Shall undertake any and all tasks as assigned by the Company associated with the inspection, maintenance and repair of track, roadbed, right of way, crossings, utilities, bridges, buildings, including but not limited to supervising M of W workers, operating Company vehicles, track machinery, and work equipment and perform such administrative duties as preparing and filing inspection reports, maintaining material inventory and records relating thereto, operating movable bridges and other duties as may be assigned. Articles 10 and 11 will not apply in filling this position.

D. **M of W Worker**

   Shall undertake any and all tasks as assigned by the Company associated with the inspection, maintenance and repair of track, roadbed, right of way, crossings, utilities, bridges,
buildings, including without limitation, operating Company vehicles, track machinery and work equipment, and perform such administrative duties as preparing and filing inspection reports, maintaining material inventory and records relating thereto, operating movable bridges and other duties as may be assigned.

E. It is understood that the Company may contract out all or part of the work related to maintenance, inspection, repair and/or upgrading of tracks, roadbed, right of way, crossings, utilities, structures, bridges, signal, culverts, switches, and any related items.

ARTICLE 4

COMPENSATION - RATES OF PAY

A. Engineers and Assistant Engineers

(1) Except as otherwise provided for herein, the daily rate of pay applicable to Engineers or Assistant Engineers shall constitute the minimum and maximum of daily payment, regardless of the hours worked for any single tour of duty.

<table>
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<tr>
<th>POSITION</th>
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<tr>
<td>Engineer</td>
<td>$180</td>
</tr>
<tr>
<td>Asst. Engineer (Certified)</td>
<td>$180</td>
</tr>
<tr>
<td>Asst. Engineer (Uncertified)</td>
<td>$154</td>
</tr>
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</table>

(2) The rates of pay set out in (1) above apply to a regular scheduled work day or a work week of up to six starts for an extra board employee. Engineers and Assistant Engineers who work on a scheduled rest day and who work each scheduled work day during
the work week (Sunday through Saturday) will be paid the rates shown below for the additional start. Six day jobs will be paid in accordance with paragraph (1) above on the 6th scheduled work day if the job works. Pay for time not worked during the week (e.g. vacation pay, holiday pay, jury duty, personal leave days, and bereavement leave, etc.) will not count as service performed for purposes of applying these rates.

<table>
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<tr>
<th>POSITION</th>
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<tbody>
<tr>
<td>Engineer</td>
<td>$220</td>
</tr>
<tr>
<td>Asst. Engineer (Certified)</td>
<td>$220</td>
</tr>
<tr>
<td>Asst. Engineer (Uncertified)</td>
<td>$204.50</td>
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(3) Extended Hours. Engineers and Assistant Engineers who work or are available each assigned day during a work week (Sunday through Saturday) will be paid 1/10th of the applicable daily rate on a minute basis for each hour worked in excess of 10 hours per shift. Vacation and personal leave days that are approved at least 48 hours in advance and holidays will be counted in the calculation of days worked.

(4) Where an hourly rate is required for the application of an article of this Agreement, the current, applicable daily rate of pay will be divided by 10.

(5) The rates of pay shown above will be modified as follows:

a. January 1, 2006  1.5 percent
b. January 1, 2007  1.5 percent
c. January 1, 2008  1.5 percent
d. January 1, 2009  1.5 percent
B. **M of W Foreman/Inspector and M of W Workers**

1. M of W Foremen will be paid a weekly rate of $694.00.
2. M of W Workers will be paid a weekly rate of $588.40.
3. These weekly rates are based on a 5-day work week, which shall, to the extent possible consistent with the needs of the service, be shifts of not less than six or more than 10 hours per day.
4. M of W Foremen and M of W Workers will be paid the overtime rate after having performed 40 hours of compensated service in a work week.
5. The overtime rate per hour will be 1.5 times the weekly rate, divided by 40.
6. The rates of pay shown above will be modified as follows:

   - January 1, 2006  3 percent increase
   - January 1, 2007  3 percent increase
   - January 1, 2008  1.5 percent increase
   - January 1, 2009  1.5 percent increase

**ARTICLE 5**

**NEW EMPLOYEES**

A. Except where an employee has prior railroad experience doing the work for which he is hired, and the experience terminated no more than 12 months prior to his being hired by the Company, during an employee's probationary period, he shall be paid 80 percent of the Assistant Engineer's basic rate.

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B. The provisions of paragraph A will not apply once an Employee successfully completes the Company’s requirements for becoming a certified Engineer.

C. For a time not to exceed 180 days from the date on which an Employee establishes seniority as an Engineer or Assistant Engineer, in order to ensure that all new Employees are trained and made conversant with the operating territory in the most efficient manner possible, it will not be a violation of this Agreement if the provisions of Article 9, 10, 11 and 12 are modified at management’s sole discretion, to require such new Employees to be assigned to certain positions and/or crews.

ARTICLE 6

PROBATIONARY PERIOD

A. Applications for employment may be rejected and Employees terminated at any time, for any reason, within 180 days after a seniority date is established, without application of other provisions of this Agreement. For Employees who perform no service for 10 or more days, the same number of days will be added to extend the 180-day probationary period.

B. After the 180-day period, an Employee will not be terminated or disciplined by the Company for furnishing incorrect information in connection with an application for employment or for withholding therefrom unless the information involved was of such a nature that the Employee would not have been hired if the Company had had timely knowledge of it.
ARTICLE 7

TRAINING NEW EMPLOYEES

A. Employees may volunteer to be Instructors to assist the company with training student assistant engineers. The Company may select those it deems qualified to be Instructors from the pool of volunteers and may add, subtract or change the individuals selected from time to time. Instructors, when instructing student assistant engineers will work as assigned by the Company. Instructors, when instructing, will earn a payment of $20 in addition to the basic daily rate for each shift worked as an Instructor.

B. An assistant engineer temporarily working with a student because of a vacancy of an Instructor on a job with student(s) assigned will earn a payment of $10 in addition to the basic daily rate.

C. A student is defined as an Employee not yet promoted to assistant engineer.

D. All engineers who train student engineers for certification purposes will be paid $20 in addition to their regular basic day, while training.

E. Nothing in this Article may be construed to restrict the Company from using persons other than Employees as Instructors or engineer trainers.
ARTICLE 8

SENIORITY

A. The seniority of Employees shall date from the time they begin their first tour of duty.

B. At any time that more than one person becomes qualified on the same date, the order of making job preference selections shall be based on a random draw of the names of those persons by a designated Company Officer.

C. Seniority rosters shall be posted on the bulletin board in January of each year. Union representatives shall be furnished a copy.

NOTE: A time limit of sixty (60) days from date of posting is hereby fixed to appeal changes to the rosters made from the rosters of the prior year. If sixty (60) days has elapsed without any protest having been filed in such case, roster protests cannot be made by the Union, the Employee(s) or the Company.

D. Employees leaving the service of the Company shall, upon request, be given a service letter signed by the designated Company Officer showing the time of service and the capacity in which employed.

E. When a vacancy as Engineer or Assistant Engineer exists, certified Employees working in other positions may be required to fill the vacancy.
F. The Company's entire railroad system at the Ports of Long Beach and Los Angeles shall constitute a single seniority district over which Employees may exercise their seniority to positions, subject to the provisions contained herein.

ARTICLE 9

CREW REQUIREMENTS

A. The crew of all engine crew assignments shall consist of not less than one (1) Engineer and one (1) Assistant Engineer. In cases where remote control technology is used, the crew shall consist of not less than one Engineer.

B. The provisions hereof are minimum requirements, and are not intended to preclude the Company from using additional personnel as it may in its sole discretion deem necessary.

ARTICLE 10

JOB PREFERENCE SYSTEM

A. All jobs on PHL will be advertised by Bulletins posted on bulletin boards where Employees go on and off duty. Bulletins shall include the following information:

   Assignment or job number
   Starting time
   Days off
   Days of assignment
   Closing time of Bulletin
Officer and Location where bids are to be received

Date assignment to take effect

B. The Company may bulletin Engineer or Assistant Engineer jobs to work 5 days per week or 6 days per week. Jobs bulletined as 6-day jobs will work the 6th day at the Company's discretion. Incumbents of the 6-day jobs will be notified prior to the ending time of the assignment on the 5th day if the job will not work on the 6th day.

C. Starting times may be adjusted by the Company by up to 2 hours without rebulletining, subject to notice to Employees at least 2 hours prior to the commencement of the assignment.

D. Employees may bid any job for which they are qualified. Jobs will be awarded to the senior qualified Employee submitting a preference for the assignment.

E. Persons who are awarded bulletined vacancies will be notified by the posting of an “Assignment of Job Bulletin.”

F. Each Engineer and Assistant Engineer may exercise their seniority to a position held by a junior Employee, at their own discretion, twice in each calendar year. Bumps may not be carried over to the following year.

G. Except in situations that the Company determines are emergencies, the starting time and rest days assigned shall not be changed without at least twenty-four (24) hour's advance notice to the Employees holding positions thereon. Subject to Article 10.C., a change of the starting time or rest days shall constitute a change in the conditions of an assignment, and Employees holding positions thereon shall be permitted to exercise their seniority on other assignments consistent with
the provisions herein.

ARTICLE 11

DISPLACEMENTS

A. Employees who are displaced from a permanent assignment will be allowed 24 hours to exercise their seniority by making written application with the designated Company Officer. However, if an Employee has failed to bid onto an open, bulletined vacancy, after being given advance notice of the abolishment of his position, he may not subsequently bump onto one of those positions until it has once again been bulletined.

B. Employees displacing onto jobs with scheduled starting times shall notify the designated Company Officer of intended displacement prior to completion of the job's tour on the day prior to mark up.

C. When an Employee displaces another Employee in accordance with this rule and does not immediately go to work on the assignment, the Employee occupying the assignment may remain on the job or assignment until the new assignee reports available for the position.

D. Employees awarded jobs by bulletin will be required to report for the new job at the next starting time of the assignment after being notified. This period may be extended upon request, consistent with the needs of the parties.

E. Employees who do not have access to bulletin(s) due to vacation, lay off, sickness, or authorized leave shall be allowed to submit a timely bid upon return from leave for any position bulletined during the period of their absence. Such selection and bid must be made before
performing any service. Employees shall be considered as having access to a bulletin if the Employee went on duty or off duty at a location where bulletins are posted during the bulletin period.

F. Changes in this Article may be made with the concurrence of the Local Chairman and the designated Company Officer.

ARTICLE 12

FILLING OF PERMANENT & TEMPORARY VACANCIES

A. Permanent Vacancies. (1) Permanent vacancies shall be defined as: any newly established assignment, or any job that becomes vacant due to retirement, death, dismissal, reassignment, injury or an Employee assuming another permanent vacancy, or other vacancies known to be in excess of seven (7) days, excluding vacation time.

(2) Permanent vacancies shall be advertised by bulletin for four (4) calendar days on Company bulletin boards, as provided in Article 10 of this Agreement.

(3) When no bids are filed for an Engineer's permanent vacancy, such vacancy shall be filled by the junior qualified Employee not working as an Engineer.

(4) When no bids are filed for a permanent vacancy of Assistant Engineer and no qualified Engineer is available, the vacancy shall be filled by the junior qualified Employee working another position with the Company.

B. Temporary Vacancies. (1) Temporary vacancies are those occurring due to: illness, injury, vacation time of any length or other reasons, the term of which is not expected to
exceed seven (7) calendar days or is unknown to the Carrier.

(2) Temporary Engineer vacancies, if they must be filled, shall be filled by a rested Engineer on an extra board established under Article 13. If none, then by the Assistant Engineer on the job, if certified. If the Assistant Engineer is not certified, then the job may be filled by the junior qualified Engineer working as Assistant Engineer.

(3) Temporary vacancies of Assistant Engineers, if they must be filled, shall be filled from the extra board. If there is none, they shall be filled by the junior, qualified Employee working another position with the Company under this Agreement.

(4) Temporary MofW Inspector/Foreman vacancies may be filled at the Company's option by (i) the senior qualified MofW worker or (ii) be left vacant. Temporary vacancies of MofW workers may at the Company's option be left vacant.

(5) It is understood that the temporary Employee will be relieved when the regularly assigned Employee marks up and is available for service.

ARTICLE 13

EXTRA BOARD

A. The Company may establish, increase, decrease or abolish an extra board for Engineers, as it from time to time deems appropriate.

B. The extra board shall operate on a first-in, first-out basis.

C. Extra Employees shall be called for service between 2.0 and 2.5 hours before the time required to report for duty.
D. Employees on an extra board will be compensated a minimum pay of 10 times their basic daily rate per 14-day pay period, provided he was available for service throughout the pay period. For each call missed by an extra board Employee in a pay period, the minimum payment shall be reduced by one tenth (1/10). Extra board Employees will be paid the rates shown in Article 4, for the service performed.

E. Extra Employees may elect to have two (2) designated days off per pay period. Employees so electing must notify the designated Company Officer five (5) days prior to the start of the calendar month to which the election applies. If requests for days off conflict, seniority shall control. All other days will be considered assigned days for purposes of the calculation of extended hours.

F. If an Employee is placed on an extra board at some point during a calendar month, he shall not be eligible for designated days off until the following calendar month.

G. Extra Employees who are called for service and are unavailable shall be placed last out on the board to which assigned.

ARTICLE 14

REDUCING FORCES

A. When forces are reduced, Employees shall be furloughed in reverse order of seniority.

B. When an Employee is furloughed, it shall be his responsibility to file his telephone number and current mailing address with the appropriate Company Officer and Union, and to
immediately apprise the Company of any changes in either his phone number or mailing address.

C. When forces are restored, Employees shall be returned to service in seniority order, subject to being qualified for the job needed. Recall letters shall be sent to the last known address by U.S. Postal Service, Certified Mail, Return Receipt Requested. An Employee recalled to service shall be expected to contact the Company within three days of receipt of their letter to schedule a date of return, which shall be within 30 days of receipt of their letter. Failing to contact the Company after receipt of the recall letter or return to duty when scheduled shall automatically terminate all seniority rights and end the employment relationship. An Employee so terminated may make an appeal under Article 20.D, setting forth all of the facts and supporting evidence for why he should be reinstated.

ARTICLE 15

ABOLISHMENT AND ANNULMENT OF ASSIGNMENTS

When assignments are to be abolished or annulled on days other than the holidays named in Article 25, assigned Employees shall be notified no later than the end of the job's preceding tour of duty, except in emergency conditions such as, but not limited to, derailment, movable bridge failure, strikes, fire, or Act of Providence (flood, storm, etc.).
ARTICLE 16

CALLING

A. Employees in all classes of service not having a specified on-duty time will be called between 2 to 2.5 hours in advance of the on-duty time.

B. Employees will be responsible for maintaining a telephone and for providing the Company with up to two telephone numbers where they can be called for service.

C. In case of emergency or unforeseen circumstances, if an extra Employee is needed on shorter notice and the first out Employee informs the Company that he cannot respond within the required time, then the next employee who stands to be called may be called without penalty. Those employees unable to accept a short call shall not lose their position on the list.

ARTICLE 17

CALLED AND NOT USED

A. Employees who are called for service and report for duty and are then released prior to performing service will be paid four (4) hours at the applicable rate of the assignment for which called. Such Employees will retain their first-out position on the extra board.

B. Employees called for service may be used to perform work other than the assignment for which they were originally called.

C. Employees called for service and later notified before leaving their residence that the call is canceled, will be allowed two (2) hours' pay and remain first out.
ARTICLE 18

ENGINES AND CABOOSES

A. This Agreement shall not require the use of cabooses on trains. Engines and cabooses (where used) shall be equipped with sanitary drinking water and ice. Engines shall be equipped with adequate, comfortable and individual seating that is equipped with arm rests.

B. Engines and cabooses (where used) shall be cleaned and supplied. Employees occupying engines and cabooses shall be required to maintain good housekeeping, while in their use.

C. It shall not constitute a violation of this Agreement for Employees to be required to clean or supply the engine/caboose used for their assignment.

ARTICLE 19

CLAIMS OR GRIEVANCES

A. All claims or grievances must be presented in writing by or on behalf of the employee involved to the officer of the Company authorized to receive the same, within sixty (60) days from the date of occurrence on which the claim or grievance is based, setting forth the facts and rules upon which the claim is based. If the claim or grievance is disallowed, the Company shall within thirty (30) days from the date same is received, notify the party submitting the claim of the reasons for such disallowance. If the claim is paid, withdrawn or compromised at this level, it will be considered without precedent or prejudice to the position of either party in the handling of future claims of a similar nature.

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B. If a disallowed claim or grievance is to be appealed, such appeal shall be made to the next highest Company officer designated to handle claims or grievances (the "Appeal Officer") within thirty (30) days from receipt of notice of disallowance from the first officer of the Company. The Appeal Officer will discuss the claim or grievance with the party who filed the appeal within 30 days of receipt of the appeal, or at such other time as mutually agreed. If the parties are unable to resolve the dispute in conference, the Appeal Officer or his designee shall, within sixty (60) days from the date of the conference, notify the party who filed the appeal, in writing, of the reasons for such disallowance of the appeal. Upon failure to comply with these provisions by the Union, the matter shall be considered closed. Upon failure to comply with these provisions by the Company, the claim shall be paid. In any case, neither of the foregoing shall be considered a precedent or waiver of the contentions of the Union or the Company as to similar claims or grievances.

C. If a claim is denied under paragraph B, the decision is binding unless within six (6) months after the date of the Appeal Officer's written decision, the Union or the employee has progressed the dispute to arbitration by a tribunal having jurisdiction to dispose of such claims.

D. This rule recognizes the right of representatives of the Union, to file, amend and progress claims and grievances for and on behalf of the employees they represent.

E. Time limits as defined under this Agreement may be extended at any level by mutual consent of the parties.
ARTICLE 20

DISCIPLINE

A. Fact Finding. Subject to the following, Employees in service more than 180 days shall not be disciplined without just cause and without a fair and impartial fact finding session. The Employee will be notified in writing of the charge against him within ten (10) calendar days of the occurrence on which discipline is to be based or knowledge of the incident is received by the Company Officer authorized to take action under this Article. The fact finding session will be conducted by a Company Officer (the “Discipline Officer”) with the Employee and his duly accredited Union representative, if desired, in attendance. Each of the parties may have witnesses present at the fact finding session. Employees required by the Company to attend the fact finding session during regular assigned hours will be made whole for time lost. Employees required by the Company to attend fact finding sessions commencing outside their assigned hours will be paid on a minute basis at the straight time rate of their regular assignment. If discipline is assessed a written, complete and accurate transcript of the proceedings shall be prepared and provided by the Company to the duly accredited Union representative and principal(s).

B. Waiver of Fact Finding. When the Discipline Officer deems it appropriate, in situations such as, but without limitation, where the severity of the offense or the Employee’s record of discipline do not warrant discipline of dismissal, the Discipline Officer may offer the Employee under charge the opportunity to waive his right to a fact finding session and accept discipline of a specified amount. Offers made under this section may not be referred to during
the subsequent handling of this or any other matter. Discipline assessed as a result of a waiver of a fact finding session may not be appealed by the Employee or the Union. Discipline assessed under this paragraph B will remain on the Employee’s personal record for a period of two years, after which it will be removed, providing that no incidents of a similar nature have occurred during that two-year period.

C. **Holding Employees Out of Service.** In cases management determines to be serious (such as, but not limited to, theft, altercation, Rule “G” violations, insubordination, major accidents, serious misconduct, etc.) and when required by application of federal regulations governing the conduct of railroad operations, Employees may be withheld from service. It is understood that any Employee held out of service under this Article 20 who, as a result of the fact finding proceeding, is found not to have committed the offenses charged will be reinstated immediately and paid for time lost.

D. **Appeals.**

(1) If the Union desires to appeal the discipline assessed as a result of the fact finding, a written appeal will be made to the designated Company Officer (the “Appeal Officer”) within sixty (60) calendar days from the latter of (i) the date the discipline was assessed or (ii) the date the transcript was received by the Union. The Union’s appeal must set forth the basis for the appeal and, if desired, request a conference to discuss the matter.

(2) If a conference is requested, the Appeal Officer or his designated representative and the Union representative who submitted the appeal or his designee will discuss the case in conference within 60 days after the appeal is received by the Company.
(3) Decision of the Appeal Officer shall be made within 60 days after the date of receipt of the appeal or the date on which the conference is held, whichever is later.

(4) If the Appeal Officer determines that an Employee has been unjustly disciplined or dismissed, such discipline shall be set aside and removed from the Employee's record. The employee shall be reinstated with his seniority rights unimpaired, and shall be compensated for wage loss, if any, suffered by him, resulting from such discipline or suspension, less any amount earned during the period of discipline.

(5) If the issue is not resolved in conference, the Appeal Officer's decision will be final and binding unless within six (6) months after the date of the Appeal Officer's written decision, either party has progressed the dispute to arbitration by a tribunal having jurisdiction to dispose of such claims.

(6) If the Employee elects not to progress the dispute to arbitration, the discipline assessed as a result of the fact finding (if less than dismissal and for offenses less than those serious offenses, as discussed in paragraph C, above) will be removed from his personnel record after four years from the date on which it was assessed, providing that during that four-year period the Employee is not involved in occurrences of a similar nature.

E. Educational Program. (1) In a joint effort by the Company and the Union to promote safety and efficiency and to ensure that all Employees are well schooled on matters pertaining to compliance with safety and operating rules, the Company has adopted a voluntary educational program which, when appropriate, will serve as an alternative or addition to discipline (the "Education Program").
(2) The use of the Educational Program as an alternative or addition to
discipline shall be at the discretion of the designated Company Officer.

(3) The offer of education may be made in those instances involving an
operating rule(s) infraction, where the incident indicates that the employee(s) will benefit from
classroom instruction and/or on-the-job training.

(4) An Employee who is found responsible for violating an operating rule(s)
by evidence developed under paragraph B. of this Article may be required by the Discipline
Officer to participate in the Education Program. Participation will be without compensation and
either in lieu of or in conjunction with discipline.

(5) The Education Program, which may consist of classroom instruction or
on-the-job training, and/or conducting educational training for other Employees, will concentrate
on the rules involved in the violation.

(6) Upon completion of the Education Program, the Employee may be
required to take and pass a written examination to demonstrate his proficiency with the rules that
have been the subject of his training. Should an Employee fail the examination, he may be
required to repeat the class. A second failure will subject the Employee to the usual disciplinary
procedures.

(7) Employees, other than the Employee found responsible, participating as
instructors shall be paid for all time lost and for all expenses incurred while participating in the
Education Program. They will not be considered as Company Officers nor as non-agreement
personnel while serving as instructors.
The Company shall train the instructors and shall assist in developing the program. The Company shall also provide the classroom and office space and equipment necessary to properly administer the program.

F. The time limits contained in this Article may be extended by mutual agreement. Nothing in this Article precludes the Union from bringing forth an Employee’s claim for reinstatement on a leniency basis without regard to any time limits.

G. The Company shall not use fines as means of assessing discipline.

H. Both the Company and the Union will keep each other advised of the name, address and phone numbers of the parties authorized to handle matters under this Article.

ARTICLE 21

VACATION

The Company encourages Employees to take vacations on an annual basis.

A. Regular, full-time Employees are eligible for vacation days with pay. Employees begin earning vacation from their starting date based on months in which the Employee performed compensated service. Compensated service means a full shift spent at work or a day for which compensation was received. Employees who do not perform compensated service in any calendar month will not accrue vacation pay during such calendar month.
B. Employees will earn vacation on the following schedule:

<table>
<thead>
<tr>
<th>Full Years of Employment</th>
<th>Vacation Days</th>
<th>Earned Per Month</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Year</td>
<td>5 days</td>
<td>0.5</td>
</tr>
<tr>
<td>Second, Third and Fourth Years</td>
<td>10 days</td>
<td>1</td>
</tr>
<tr>
<td>Fifth through Ninth Years</td>
<td>15 days</td>
<td>1.5</td>
</tr>
<tr>
<td>Tenth through Nineteenth Years</td>
<td>20 days</td>
<td>2.0</td>
</tr>
<tr>
<td>Twenty Years and After</td>
<td>25 days</td>
<td>2.5</td>
</tr>
</tbody>
</table>

C. In addition Employees who complete 260 days of service in a calendar year, including vacation and personal leave days and who do not have an unexcused absence or an injury in that calendar year, shall receive 3 additional days of vacation in the following year. If an Employee is called for jury duty during the fourth quarter of a calendar year, and if due to that jury duty service the Employee is prevented from performing 260 days of service, then such jury duty service shall count toward the 260 days.

D. Employees are encouraged to use all earned vacation pay during the calendar year it is accrued; however, in the event an Employee is unable to take all of his vacation in a year at the request of the Company, he will be compensated for the remaining days at this basic daily rate of pay. The maximum benefits an Employee may have at any time shall equal the maximum annual vacation days provided above, at the Employee's current annual vacation accrual rate. If an Employee's earned but unused vacation reaches the maximum, the Employee will not earn any additional vacation pay. Vacation pay will be based on the Employee's regular base rate at the time of
vacation, exclusive of special forms of compensation such as gain sharing, profit sharing, or
bonuses, except as provided in Article 37C.

E. All vacation time, with the exception of the three days earned under Article 21 C, must be
taken in blocks of one week. In the first calendar year of employment, vacation time may
not be taken before it has been earned. Thereafter, the Company may decide to advance unearned
vacation time if it is feasible to do so, up to a maximum of five vacation days. However, if at the
time of any termination of employment an Employee has taken more vacation than has been earned,
the difference between vacation earned and taken shall be deducted from the last paycheck.
Employees who are advanced vacation will be required to sign a written authorization allowing the
Company to deduct any unearned advance vacation days from the last paycheck as of any
termination of employment.

F. No vacation may be taken during an Employee's probationary period.

G. When a paid holiday falls within a vacation period, the Employee will receive
holiday pay and vacation pay, but an additional day off will not be given.

H. Scheduling - Employees must request vacation in writing by December 1 of each
year for the following year. When scheduling vacations, due regard, consistent with the
requirements of the service, shall be given to the preference of the Employees, in seniority order, if
filed by December 1. In considering requests for vacation made after December 1, if two or more
Employees in the same department desire vacation during the same period and Company
requirements preclude permitting vacations for all who request them for the same or similar periods,
preference will generally be given to the Employee making the request first. Representatives of the
Company and the Union will cooperate in arranging and administering vacations.

I. Vacation Paid/Earned at Termination – Subject to paragraph D above, Employees will be paid for all earned but unused vacation pay at the time of termination. If at time of termination an Employee has taken more vacation than has been earned, the difference between vacation earned and taken will be deducted from the final paycheck as provided above.

ARTICLE 22

NEUTRAL MEDICAL AUTHORITY

A. When an Employee has his services restricted or is withheld from service as a result of an examination by the Company's physician, the General Chairman may make a written request, within fifteen (15) days of the date withheld or restricted, to the designated Company Officer for a neutral medical authority to review the case. The request must be accompanied by an opinion from a competent physician which differs materially from the Company's physician's opinion as to the Employee's condition and fitness to resume service in his regular employment. In case the Employee is unable to obtain a differing opinion due to causes beyond his control, such as, but not limited to, absence of his personal physician, it may be submitted within thirty (30) days of the date withheld, provided he submits his written request within the fifteen (15) day period prescribed above and indicates the reasons for his inability to concurrently present the dissenting opinion.

B. Within fifteen (15) days of the receipt of a request for a neutral medical authority, the Union and the Company shall, by mutual agreement, appoint a neutral medical authority, who shall be expert on and specializing in the disability from which the Employee is alleged to be
suffering. If the Company and the Union are unable to agree on a neutral medical authority that satisfies this section, then the selection shall be made by the Company's physician and the physician offering the differing opinion.

C. The neutral medical authority so selected will review the Employee's case from medical records and opinion furnished by the parties. If the expert considers it necessary, he will make an examination of the Employee.

D. The neutral medical authority shall then make a complete report of his finding in duplicate, one copy to the Company and one copy to the Union, setting forth the Employee's condition and an opinion as to his fitness to continue service in his regular employment, which will be accepted as final. In the event the neutral medical authority concludes that the Employee is fit to continue in service in his regular employment, such neutral medical authority shall also render a further opinion as to whether or not such fitness existed at the time the Employee was withheld from service. If such further conclusion states that the Employee possessed such fitness at the time withheld from service, the Employee will be compensated at the straight time rate of pay for each work day lost during the period so withheld. In the event the neutral medical authority concludes that the Employee is not fit to continue in service in his regular employment, the Union may, upon presentation of an opinion from a competent physician that the Employee's condition has improved, request re-examination by the Company's physician. Such request will not be made for the first ninety (90) days after the neutral medical authority has issued his opinion, nor more often than once in any ninety (90) day period.
E. The Company and the Employee shall each pay one-half of the fees and expenses of the neutral medical authority and any examination expenses which may be incurred, such as hospital, laboratory and x-ray services.

F. Under this Article, a medical opinion rendered regarding a patient's ability to work requires complete knowledge of the Employee's medical history, work history and physical findings. In sum, it is the information leading to diagnosis, treatment and prognosis. This knowledge must be combined with a familiarity with the nature of the job that an individual is to perform. All of the above, taken together, constitutes an informed, competent medical opinion as to the capability of an individual to perform his duties.

ARTICLE 23

LUNCH PERIODS

A. After being on duty between four (4) and seven and one half (7 1/2) hours, Employees may take thirty (30) minutes in which to take their lunch, with no deduction in pay and with a minimum disruption to the service.

B. Train crews who are denied the opportunity to take a meal during the period specified above by a PHL official, after having made a request to eat prior to four hours on duty, will be paid an additional 30 minutes pay (their basic daily rate of pay divided by 20).
ARTICLE 24

DAYS OFF

A. Regularly assigned Employees shall have regularly assigned days off. Days off shall, to the extent practicable, be consecutive and specified in the job description of each assignment.

B. Extra employees, at their option, will be allowed two days off during each two-week period (pay period), as provided in Article 13.

ARTICLE 25

HOLIDAYS

A. (1) PHL will recognize Christmas Day, New Years Day, Independence Day, Thanksgiving Day, and Labor Day as paid holidays. Additional paid holidays recognized in any calendar year may be established by the Company by a bulletin at the beginning of the year. The Company may increase the number of personal leave days and reduce the number of paid holidays, or vice versa, however the sum of the number of holidays and personal leave days shall be not less than 13 per calendar year.

(2) In order to receive holiday pay, Employees must work their last scheduled day before and their first scheduled day after the designated holiday, unless a personal leave day or vacation day is scheduled. Other procedures and conditions for earning and taking personal leave days may be established by the Company from time to time and communicated by bulletin.

(3) Pay on holidays and personal leave days will be based on the Employee’s
regular base rate at the time of the holiday or personal leave day, exclusive of special forms of compensation such as gain sharing, profit sharing, performance incentives or bonuses, except as provided in Article 37C.

(4) Employees on lay off or leave of absence do not receive holiday pay or personal leave days. If a holiday falls within a vacation period, holiday pay and vacation pay – but not an additional day off – will be given.

(5) Personal days are to be scheduled by the Employee with the concurrence of the Employee’s supervisor at least 48 hours in advance except in an emergency. Nothing herein shall preclude the Company at its discretion from granting a personal leave day with less than 48 hours notice. The Company attempts to schedule personal leave days according to Employee preference; however, the Company will take into account business needs and the availability of personnel to meet expected demands. If two or more Employees in the same department desire personal leave days or vacation days during the same period and Company requirements preclude permitting personal leave days or vacation days for all who request them for the same or similar periods, preference will generally be given to the Employee making the request first. In cases of conflict seniority will control. No partial personal leave days are permitted. An Employee may take no more than one personal leave day each 45-day period during their probationary period.

B. Employees who perform service on jobs that work on a recognized holiday shall receive the regular, base rate of pay for the assignment plus performance incentive, if applicable, plus an additional basic day’s pay exclusive of performance incentive.

C. Personal leave days not used during a calendar year will be paid for in January of the
following year at the Employee’s basic rate of pay in the prior year.

ARTICLE 26

JURY DUTY

Employees summoned for jury duty and required to lose time from their assignment as a result thereof, shall be paid for actual time lost with a maximum of one basic day’s pay at the rate of their regularly assigned position for each day lost, less the amount allowed them for jury service, excepting allowances paid by the court for meals, lodging or transportation, subject to the following qualification requirements and limitations:

(1) Employees shall furnish the Company with a statement from the court showing jury allowances paid and the days on which jury duty was performed.

(2) The number of days for which jury duty shall be paid is limited to a maximum of 60 days of compensation in any calendar year.

(3) No jury duty payments shall be allowed for any days for which the Employee is scheduled and receives pay for Vacation Days.

(4) Employees shall not be required to work on their assignments on days in which jury duty
   a. ends within four hours of the start of their assignments; or
   b. is scheduled to begin during the hours of their assignments or within four hours of the beginning or ending of their assignments.
ARTICLE 27

ATTENDING CLASSES

A. Regular Employees who are required to attend rule, rule recertification, medical, or instruction classes outside the hours of their regular assignment shall be paid time consumed, with a minimum of the equivalent of three hours for each attendance, at the applicable rate of the position to which assigned.

B. Extra Employees who are required to attend rule, rule recertification, medical or instructional classes on their own time shall be paid time consumed, with a minimum of three hours for each attendance, at the applicable Engineer rate.

C. Employees who are required to attend rule, rule recertification, medical, or instructional classes, shall, if practicable, be afforded an opportunity to take same without loss of work.

D. Employees (regular or extra) who lose time as a result of being required to attend rule, rule recertification, medical or instruction classes during the hours of their regular assignment shall be paid for all time lost.

E. Employees who fail the first rules test will be given a second chance to pass the test, but the retest will not be compensated under this Article.
ARTICLE 28

ATTENDING COURT

A. Employees attending court, giving depositions, and/or appearing before proper authorities in behalf of or on instructions of the Company, shall be made whole for time lost from their assignments. If required to leave Los Angeles or Orange Counties, Employees shall be allowed actual expenses incurred, with the understanding the Employee shall obtain the approval of a Company Officer prior to using any form of public transportation and shall furnish a written receipt for such expenses before being reimbursed.

B. If expenses or fees are allowed by the court, the Company shall deduct such amount from other payments.

ARTICLE 29

UNION SHOP AGREEMENT

A. Subject to the terms and conditions hereinafter set forth, all Employees of the Company now or hereafter subject to the Agreement between the parties hereto shall, as a condition of their continued employment subject to such Agreement, become members of the Union within 180 calendar days of the date they first perform compensated service under this Agreement, and thereafter shall maintain membership in good standing in the Union while subject to the Agreement between the parties; provided, however, that the foregoing requirement for membership in the Union shall not be applicable to:
(1) Employees to whom membership is not available upon the same terms and conditions as are generally applicable to any other member, or

(2) Employees to whom membership has been denied or terminated for any reason other than the failure of the Employee to tender the periodic dues, initiation fees and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership in the Union, or

B. Employees who retain seniority under this Agreement, and who are assigned or transferred for a period of thirty (30) calendar days or more to employment not covered by such Agreement, or who are on leave of absence starting after the effective date of this Agreement for a period of thirty (30) calendar days or more, shall not be required to maintain membership as provided in paragraph A. of this Article, so long as they remain in such other employment, or on such leave of absence, but they may do so at their option. If and when such Employees return to any service covered by the Agreement, they shall, as a condition of their continued employment subject to such Agreement, comply with the provisions of paragraph A. of this Article within thirty (30) calendar days of such return to service.

C. An Employee whose membership in the Union is terminated while on furlough due to reduction in force, or while off duty on account of sickness or injury for a period of thirty (30) calendar days or more, and who is required to maintain membership under the provisions of paragraph A. of this Article, shall be granted upon his return to service in any of the crafts or classes represented by the Union a period of thirty (30) calendar days within which to comply with paragraph A. of this Article.
D. Every Employee required by the provisions of this Article to become and remain a member of a labor organization shall be considered by the Company to be either a member of the Union as provided for herein or to be a member of any one of the other labor organizations referred to in paragraph A. hereof, unless the Company is advised to the contrary in writing by the Union. The Union shall be responsible for initiating action to enforce the terms of this Article.

E. (1) The Union shall furnish to the Company, in writing, and in duplicate, the name and roster number of each Employee whose seniority and employment the Union requests be terminated by reason of failure to comply with the membership requirements of this Article.

(2) In the event the Company wishes to dispute the correctness of the Union's position, it shall so notify the Union within ten (10) calendar days of receipt of the notice from the latter, stating the reasons therefor. If, (1) no such exception is taken by the Company or (2) the Union does not withdraw its request within ten (10) calendar days from the date of the notice of exception, the Company shall transmit to the Employee at his last known address through registered United States mail with return receipt requested, the original of the Union's request, accompanied by an explanatory letter, a copy of which shall be furnished to the Union.

ARTICLE 30

UNION DUES DEDUCTION

A. Deductions shall be limited to periodic union dues, insurance premiums, initiation fees, and assessments (not including fines and penalties) which are uniformly required as a condition of acquiring and retaining membership.
B. No costs shall be charged against the Union or the affected Employees in connection with the dues deduction provided for under this Article.

C. Appropriate written assignment forms executed by the Employee involved shall be in the hands of the designated Company Officer at least 30 days in advance of the first payroll deduction scheduled for that employee.

D. The dues deduction is subject to appropriate priorities in cases where the Employee's pay check is insufficient to permit deduction of the full amounts specified on the deduction lists; federal, state, and municipal taxes; premiums on any life insurance, hospital-surgical insurance, or group accident or health insurance; other deductions required by law, such as garnishment and attachments; and amounts due the Company by the individual.

E. In the event there is insufficient earnings to permit deduction of the full amount of Union dues, no deduction shall be made.

F. The company shall furnish deductions lists to the Union's designated representative once each month. Such lists shall include the Employee's name, Social Security number or payroll identification number, and the amount of Union dues deducted from the pay of each Employee.

ARTICLE 31

UNION REPRESENTATIVE LAYING OFF

Employees designated by the Union who are engaged in Union business shall be granted the right to lay off as necessary, upon request, subject to 48 hours advance notice. No more than two Employees may lay off under this Article 31 at the same time.
ARTICLE 32

EMPLOYEE INFORMATION

The Company shall annually provide the Union with a list of Employees showing their current status and their home addresses.

ARTICLE 33

COPY OF AGREEMENT

The Company, at its expense, shall furnish each Employee covered by this Agreement one copy of same, in booklet form, including any revisions hereto.

ARTICLE 34

BULLETIN BOARDS

The Company shall provide bulletin boards for the posting of Company information and a separate bulletin board for the posting of Union information and business at all terminals.

ARTICLE 35

HEALTH AND WELFARE

A. The Company shall provide each Employee and his eligible dependents a level of hospital, surgical, medical, and life insurance as provided, under a Group Plan. Each Employee shall enroll himself/herself in the Group Plan. Participation of non-employee dependents is
optional. A Summary of the plan is set out in Exhibit A, hereto. The specific terms of the Plan shall be subject to the plan document. The benefits provided under the Plan shall begin on the effective date of the Group Plan.

B. The Company shall furnish each Employee a booklet outlining the benefits under the Plan at no cost to the Employee.

C. (1) The Company shall remit necessary premiums to the Insurance Carrier as may be required to maintain the Plan, with the exception that each Employee shall be required to make a maximum contribution to the plan for any covered dependents as provided in Exhibit A hereto. In succeeding years the per month charge shall be indexed upward or downward by percentage increase or decreases per dependent participant in the cost of the Plan. In no event shall the Employee contribution for dependents be greater than ten percent from the preceding year.

(2) In case of injury, sickness, death or disability for which an Employee who is eligible for Employee benefits under this Plan and may have the right of recovery against the Company, benefits will be provided under the Plan subject to the provisions set forth herein. The parties hereto do not intend that the benefits provided under the Plan will duplicate, in whole or in part, any amount recovered from the Company for hospital, surgical, medical, disability, death or related expenses or payments of any kind specified in the Plan. The parties intend that benefits provided under the Plan will satisfy any right of recovery against the Company for such benefits to the extent of the benefits so provided. Accordingly, benefits provided under the Plan will be offset against any recovery the Employee may have against the Company for hospital, surgical, medical, disability, death or related expenses or payments of any kind specified in the Plan.
D. Any Employees who are eligible to participate in the Plan coverage for dependent care who certify to the Company and Organization that they have obtained alternative health care coverage for those dependents will be paid an additional $74 per month.

ARTICLE 36

401(K) SAVINGS PLAN

<table>
<thead>
<tr>
<th>Type of Plan</th>
<th>Section 401(k) program</th>
</tr>
</thead>
<tbody>
<tr>
<td>Participation</td>
<td>All employees</td>
</tr>
<tr>
<td>Compensation</td>
<td>All direct compensation</td>
</tr>
<tr>
<td>Employee Contribution</td>
<td>Voluntary, in accordance with the federal regulations governing such plans.</td>
</tr>
<tr>
<td>Employer Contribution</td>
<td>An amount equal to 1 percent of an Employee’s earnings will be contributed to the Employee’s 401(k) account.</td>
</tr>
<tr>
<td>Vesting</td>
<td>100% immediate vesting</td>
</tr>
<tr>
<td>Forfeiture</td>
<td>None</td>
</tr>
<tr>
<td>Enrollment</td>
<td>Within 30 days of enrollment or annually on each January 1. Changes allowed each January 1 or July 1. Suspension of contributions permitted with two weeks notice and can re-enter next January 1 or July 1.</td>
</tr>
<tr>
<td>Plan Year</td>
<td>Calendar year.</td>
</tr>
<tr>
<td>Account Valuation</td>
<td>Participants will receive yearly statement of contributions and investment earnings.</td>
</tr>
</tbody>
</table>
ARTICLE 37

PERFORMANCE INCENTIVE PLAN

A. Certified Engineers

Each shift worked by an eligible certified engineer as either an engineer or assistant engineer, the Company shall pay an additional $20 per shift as a performance incentive payment.

B. Other Employees

Eligible non-certified assistant engineers will earn a performance incentive bonus of $10 dollars per shift. Eligible maintenance of way workers will earn a performance incentive bonus of $10 dollars per shift. Maintenance of way workers and foremen who perform work during any calendar day shall be entitled to receive a maximum of one bonus payment for that calendar day.

C. Eligibility

To be eligible to earn the incentive payment the Employee must have completed the probationary period in Article 6. Employees who (i) cause or contribute to a human factor incident resulting in either track, equipment or property damage or injury to people; (ii) receive formal discipline in accordance with Article 20 of this agreement or 49 CFR Part 240 or 219; (iii) sustain an injury; and/or (iv) have an unexcused absence will not be eligible to earn performance incentive payments for a period of ninety (90) calendar days from the date of the occurrence. Employees who miss a call will not be eligible for the performance incentives for a period of 30 days (collectively, “Disqualifying Events”). In the event that a second or subsequent disqualifying event takes place while an Employee is already disqualified, then any additional 90 or 30-day period of ineligibility will not commence until the conclusion of the previous disqualification period. When
compensation is received by an Employee for vacation days, holidays, personal leave days and up to five days of jury duty, the Employee will be considered as having worked for the purposes of this Article. Incentive payments earned during each pay period will be paid on the regular payday for that pay period.

D. Restoration of lost performance incentive payments.

(1) An Employee who becomes ineligible to earn the performance incentive payments due to a Disqualifying Event and who works a 12-month period from the date of that event without another Disqualifying event will be paid for all performance incentive lost as a result of the original Disqualifying Event. For example, if an Employee has a Disqualifying event on January 15, 2006 and does not have another Disqualifying Event before January 15, 2007, they will be paid the actual amount of performance incentive that was not paid during the 90-day or 30-day period following the January 15, 2006 Disqualifying Event. If the Employee does have a second Disqualifying event during the 12-month period, they will lose the opportunity to have the lost performance incentive payment restored. The date of the second Disqualifying Event will start a new 12-month period to recoup the performance incentive lost as a result of the second Disqualifying Event.

(2) When an Employee is off on an unpaid leave, the 12-month period will be extended by the amount of leave time. An Employee who resigns or is terminated from service during the 12-month period will no longer be eligible to
recoup any performance incentive.

ARTICLE 38

PROFIT PARTICIPATION PLAN

A. PHL will establish a Profit Participation Plan whereby a portion of the PHL’s profits will be paid to eligible employees. The purpose of the program is to motivate all employees to become profit-oriented in their activities, to share with employees the risks and rewards of the business and to provide additional compensation to supplement 401k savings and railroad retirement plans.

B. The key elements of the plan are as follows:

(1) Determination of Profit Pool:

The fund from which payments will be made will be an amount based on Thirty (30%) percent of net income in excess of $1,245,000 per annum for the prior calendar year (Profit Pool). The Profit Pool determination shall be made by the end of the month of April of the year following the year for which the Profit Participation is being calculated.

(2) Definition of Net Income

Annual net income will be calculated before profit participation but after income taxes.

(3) Allocation of Profit Pool Among Eligible Employees:

Fifty percent of the Profit Pool will be allocated per capita to eligible employees and 50 percent of the Profit Pool will be allocated pro rata to eligible employees based on compensation.
(4) Eligible Employees:

Any employee of PHL who has worked over 125 days in the calendar year and, except in case of voluntary retirement, is working for the Company or on an approved leave of absence at time of payment of each installment as described in item (6) below. The President shall not be considered an eligible employee for this program. Retirement shall be defined as leaving the service of the Company after reaching the age necessary to receive retirement benefits for the U.S. Railroad Retirement Board or Social Security Administration.

(5) Compensation:

For purposes of pro rata distribution, “compensation” will mean all base pay, including overtime and performance incentive payments, but excluding bonuses or prior year profit sharing payments.

(6) When Paid:

In two installments as follows:

1) First installment shall be paid in advance of the end of the year on the last regular payday before December 25. The first installment shall be an amount equal to thirty-three percent (33%) of each individual’s share of the estimated Profit Pool based on management’s projection of the after tax net income for the current calendar year.

2) The second installment shall be paid on the regular payday for that pay period in which the date April 30 falls. The second installment shall be an amount which equals the difference between the amount of the first installment and each individual’s full share of the actual Profit Pool calculation based on the audited after tax net income for the prior calendar year.
Example:

Company has net income of $1,265,000 and three eligible employees. The compensation of employees A and B is $30,000 each and the compensation of employee C is $40,000.

Calculation Profit Pool:

$1,265,000 less $1,245,000 = $20,000 x 30% = $6,000

Allocation of Profits:

Per Capita Calculation:

$6,000 x 50% - $3,000 [per capita pool]  
$3,000 ÷ 3 = $1,000 per employee

Pro Rata Calculation:

$6,000 x 50% = $3,000 [pro rata pool]  
Employee A $30,000 - 30% x $3,000 = $900  
Employee B $30,000 - 30% x $3,000 = $900  
Employee C $40,000 - 40% x $3,000 = $1,200

TOTAL 100% $3,000

Total [Per Capita plus Pro Rata]

Employee A $1,900  
Employee B $1,900  
Employee C $2,200

TOTAL $6,000
ARTICLE 39

LOS ANGELES LIVING WAGE ORDINANCE

The parties hereto agree provisions of this agreement shall suppress, supercede and preempt the provisions of the City of Los Angles Living Wage Ordinance as presently enacted and as may be amended in the future.

ARTICLE 40

EFFECTIVE DATE AND MORATORIUM

A. This Agreement is intended to be, and is the full agreement of the parties and supersedes any prior agreements and understandings not expressly incorporated herein.

B. The parties to this Agreement shall not serve nor progress, prior to May 1, 2009, any notice or proposal for changing any provision herein, not to become effective prior to July 1, 2009. This provision will not bar the parties from making such changes by mutual agreement at any time.

FOR THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN

[Signature]

Patrick J. Williams
General Chairman

Stephen D. Speagle
Vice President

Date

FOR PACIFIC HARBOR LINES, INC.

[Signature]

Andrew Fox, President
EXHIBIT A

MEDICAL LIFE AND AD&D

INSURANCE PLAN

Summary

Subject to Plan Documents

MEDICAL BENEFITS

Type of Plan: Comprehensive Medical

Hospital Room & Board: Major medical paid at 100% after deductible and coinsurance.

Annual Deductible: Individual $200.00/family aggregate $400.00.

Coinsurance: 80%, 100% after $2,000 ($4,000 for family) of covered expenses (excluding deductible) for balance of year.

Outpatient Mental: 75% of first 40 visits, 60% of subsequent visits.

Outpatient-Alcoholism, Substance Abuse Treatment: Maximum of 30 visits per calendar year.

Life Maximum: $1,000,000.00

Employee Contributions: Flexible, based on Plan Documents

Cost Containment Features: Preadmission testing, ambulatory surgical center, home health care, hospice care expenses, outpatient surgery and second surgical opinion paid at 100%. Hospital admissions and surgical procedures require mandatory preauthorizations.

Life Insurance and Accidental Death & Dismemberment (AD&D) Insurance: All eligible employees are covered for two times annual salary rounded to the next higher $1,000, if not already an even multiple of $1,000, up to a maximum benefit of $100,000.00. The AD&D benefit is the same as the life insurance benefit.