

ASSET PURCHASE AND SALE AGREEMENT

THIS ASSET PURCHASE AND SALE AGREEMENT (this "Agreement") is entered into as of December 1, 2022, by and between **Mass Coastal Railroad** ("Buyer"), and **Georgia Southwestern Railroad, Inc.** ("GSWR" or "Seller" or "Railroad"). Buyer and Seller may hereinafter be individually referred to as a "Party" or collectively the "Parties".

WHEREAS, Seller desires to sell and Buyer desires to purchase a caboose ("Car" or the "Asset"); and

WHEREAS, it is necessary for Buyer to enter upon Railroad's property located at 621 9th Ave Columbus, GA 31901 (the "Property") solely for the purpose of collecting the Asset and removing the Asset from the Property.

NOW, THEREFORE, in consideration of the premises and the terms and conditions hereinafter set forth and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereto agree as follows:

1. **Sale of Asset.** At the Closing (as defined below), Seller will sell, and Buyer will purchase and accept from Seller, all right, title, and interest in the Asset more specifically described in the Bill of Sale, substantially in the form attached hereto as Exhibit A. If, on or prior to the Closing Date (as defined below), the Asset shall have been lost, stolen, or requisitioned by governmental authority, this Agreement will be terminated as of the date of such event with respect to such Asset, and neither Party will have any further obligations to the other Party with respect to the Asset.
2. **Delivery and Asset Loading.** Upon the Closing, (i) the Asset shall be delivered FOB by Seller to Buyer at the Property. **BUYER AND BUYER'S EMPLOYEES, AGENTS AND CONTRACTORS SHALL FOLLOW ALL OF SELLER'S SAFETY RULES, INCLUDING THE CONTRACTOR SAFETY RULES WHICH ARE INCORPORATED INTO THIS AGREEMENT BY REFERENCE AND ARE AVAILABLE FOR REVIEW AT GWRR.COM. BUYER HEREBY RELEASES SELLER, ITS PARENTS, AFFILIATES AND SUBSIDIARIES AND THE OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS AND EMPLOYEES OF EACH (COLLECTIVELY "SELLER INDEMNITEES") FROM AND SHALL INDEMNIFY, DEFEND AND SAVE HARMLESS SELLER INDEMNITEES AGAINST ANY AND ALL LIABILITY FOR INJURY TO, OR DEATH OF, BUYER'S EMPLOYEES, AGENTS, CONTRACTORS AND INVITEES, WHILE SUCH INDIVIDUALS ARE ON OR ABOUT SELLER'S PROPERTY PURSUANT TO THIS AGREEMENT WHETHER OR NOT CAUSED IN WHOLE OR IN PART BY SELLER INDEMNITEES. THE INDEMNITIES IN THIS AGREEMENT ARE SPECIFICALLY INTENDED TO INCLUDE INDEMNITY OF SELLER INDEMNITEES FOR ITS OWN ORDINARY NEGLIGENCE, EVEN IF THE INJURY OR DAMAGE IS CAUSED ENTIRELY BY SELLER INDEMNITEE'S ORDINARY NEGLIGENCE AND THERE IS NO NEGLIGENCE ON THE PART OF BUYER.**
3. **Purchase Price.** The purchase price to be paid by Buyer for the Asset shall be **Thirty Thousand and 00/100 (\$30,000.00)** (the "Purchase Price") subject to adjustment as provided

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herein. Buyer shall make all payments of the Purchase Price in cash, by Federal wire transfer of immediately available funds to:

Receiving Bank: Routing # 086500634
Central Bank
238 Madison Jefferson City, MO, USA

Beneficiary: Acct# 124124603
Missouri Rail Group L.L.C d/b/a Ozark Mountain Railcar
315 Mincy Lane, Kirbyville, MO 65679

4. **Closing.** The “Closing” is defined as the time when the delivery of the Bill of Sale duly executed by Seller has been delivered to Buyer and the payment of the Purchase Price by Buyer has been received by Seller. The date on which the Closing actually occurs will be defined as the “Closing Date”, and will be at the office of Seller or such other location as the Parties may mutually agree and may occur by fax, electronic mail or overnight courier.

5. **Title and Risk of Loss.** Title to, and risk of loss for, the Asset shall pass to Buyer effective upon the Closing.

6. **Inspection.** Buyer acknowledges that it has previously inspected the Asset and is satisfied with the condition of the Asset. Buyer agrees it is hereby purchasing the Asset “AS IS” and “WHERE IS” and “WITH ALL FAULTS” and Seller makes no warranty regarding the Asset except as set forth in the Bill of Sale. **SELLER DOES NOT MAKE AND WILL NOT BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, NOW OR HEREAFTER, AS TO THE VALUE, CONDITION, DESIGN, OPERATION, MERCHANTABILITY, FITNESS FOR USE OR FOR A PARTICULAR PURPOSE, MAINTENANCE OR MARKETABILITY OF THE ASSET OR THE QUALITY OF THE MATERIALS OR WORKMANSHIP IN, OR THE ABSENCE OF ANY DEFECT IN, THE ASSET, OR ANY WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.**

7. **Indemnification and Release.** **BUYER HEREBY FULLY ASSUMES AND BECOMES LIABLE FOR, AND SELLER INDEMNITEES ARE HEREBY RELEASED FROM, ANY AND ALL LIABILITIES RELATING TO OR CONNECTED WITH THE ASSET ARISING ON AND AFTER THE CLOSING DATE, AND BUYER WILL DEFEND, INDEMNIFY AND HOLD HARMLESS SELLER INDEMNITEES FROM SUCH LIABILITIES REGARDLESS OF WHETHER OR NOT CAUSED IN WHOLE OR IN PART BY A SELLER INDEMNITEE. BUYER HEREBY FOREVER RELEASES SELLER INDEMNITEES AND SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS SELLER INDEMNITEES FROM AND AGAINST ANY AND ALL LOSS, LAWSUIT, LIABILITY, DAMAGES, AND COSTS, INCLUDING WITHOUT LIMITATION ALL PENALTIES, DEMANDS, JUDGMENTS, ASSESSMENTS, CHARGES, DAMAGES, CLAIMS, AND ATTORNEYS’ FEES (COLLECTIVELY, “LOSSES”), WHICH BUYER OR SELLER INDEMNITEES MAY DIRECTLY OR INDIRECTLY INCUR, SUSTAIN, SUFFER, OR BE SUBJECTED TO BY REASON OF,**

WITHOUT LIMITATION, BUYER'S PURCHASE, USE, OPERATION, HANDLING, AND MAINTENANCE OF THE ASSET, WHETHER SUCH LOSSES ARE SUSTAINED BY BUYER DIRECTLY OR BY ITS AGENTS, EMPLOYEES, CONTRACTORS, LICENSEES, INVITEES, OR OTHER PERSONS OR ENTITIES CLAIMING BY OR THROUGH THE BUYER REGARDLESS OF WHETHER OR NOT THE LOSSES ARE CAUSED IN WHOLE OR IN PART BY A SELLER INDEMNITEE.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IN NO EVENT SHALL SELLER INDEMNITEES BE LIABLE UNDER THIS AGREEMENT TO THE BUYER OR ANY THIRD PARTY FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES.

8. Sales and Other Taxes.

a) Buyer shall pay or cause to be paid all sales or use tax liabilities, if any, resulting from the sale of the Asset to Buyer, and **BUYER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS SELLER THEREFROM.**

b) Seller shall be liable for all federal, state, local, and foreign income, capital gains, franchise, transfer, documentary stamp, sales, use, registration, and other taxes, penalties, assessments, or charges imposed by applicable law (collectively, "Taxes") upon or with respect to the Asset for the period prior to the Closing Date.

c) Buyer shall be liable for all federal, state, local, and foreign Taxes with respect to the Asset for the period on and after the Closing Date.

9. No Liens. Buyer shall not cause nor permit the filing of any liens against Seller's property. Buyer waives its right and the rights of its contractors to file any mechanics' or materialmen's liens. **BUYER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS SELLER INDEMNITEES FROM ANY AND ALL LIABILITY, CLAIMS, DEMANDS, COSTS OR EXPENSES OF WHATSOEVER NATURE IN ANY WAY CONNECTED WITH OR RELATED TO A LIEN, OR CLAIM OF LIEN, ARISING OUT OF THE WORK ASSOCIATED WITH THE SALE OF THE ASSET.**

10. Broker's Commissions. Each Party represents and warrants that it has not entered into any agreement with any broker, finder or other person or entity relating to the arranging for the sale or purchase of the Asset and that no commission is due and payable by Seller or Buyer (as the case may be) with respect to the transactions contemplated by this Agreement, except as may be owed to OMR (as defined below) whose commission shall be payable out of the Purchase Price. To the extent permitted under applicable law, Buyer and Seller will indemnify, defend and hold the other Party harmless from and against any claims for commissions arising out of the acts of such Party and for expenses (including reasonable attorneys' fees) and costs relating to such claims as a result of a breach of the representation contained in this Section 10.

11. Entire Agreement; Amendment. This Agreement together with all schedules, exhibits and

other documents expressly incorporated by reference constitute the entire agreement and understanding of the Parties with respect to the sale of the Asset and supersedes all other oral or written agreements and understandings with respect thereto. This Agreement may not be amended, modified, or changed except by instruments in writing signed by all the Parties.

12. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Georgia, without reference to its conflict of law provisions. The Parties agree to submit to the jurisdiction of the federal and state courts located in the State of Georgia for purposes of enforcement of the terms and provisions of this Agreement.

13. **Severability.** If any term, provision, or covenant in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining terms, provisions, and covenants shall continue in full force and effect without being impaired or invalidated.

14. **Counterparts.** This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

15. **Assignment.** Neither Party may assign any of its rights or obligations under this Agreement without the prior written consent of the other Party.

16. **Ozark Mountain Railcar's Liability.** It is specifically understood and agreed to by both Parties that Missouri Railroad Group, L.L.C., d/b/a Ozark Mountain Railcar ("OMR"), has made no representations whatsoever based on its knowledge of the Asset and has made no investigation to verify any representations made by either Buyer or Seller. Further, it is agreed by both Buyer and Seller to waive any and all claims they may have against OMR as a result of this Agreement.

17. **Notices.** Any notices given or required to be given hereunder shall be sufficient if transmitted and received by telecopy, sent by overnight air courier, or deposited in the United States mail, postage prepaid, certified, return receipt requested, to the addresses set forth below or at such other address as the Parties shall have specified in writing:

If to Seller:

Georgia Southwestern Railroad, Inc.
c/o Genesee & Wyoming Railroad
78 Pulpwood Road
Dawson, GA 39842

If to Buyer:

Mass Coastal Railroad
12 Harding Street, Unit 201
Lakeville, MA 02347

[Signatures on following page]



IN WITNESS WHEREOF, the Parties have caused duly authorized representatives to execute this Agreement as of the date first written above.

Buyer:

Seller:

Mass Coastal Railroad

DocuSigned by:

By: Chris Podgurski
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Printed Name: Chris Podgurski

Title: PRESIDENT

Georgia Southwestern Railroad, Inc.

By: James E. Jew

Printed Name: JAMES E. JEW

Title: PRESIDENT

EXHIBIT A

FORM OF BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, Georgia Southwestern Railroad, Inc. (“Seller”) for and in consideration of the purchase price of **Thirty Thousand and 00/100 (\$30,000.00)** and other good and valuable consideration received from the **Mass Coastal Railroad** (“Buyer”), the receipt and sufficiency of which is hereby acknowledged by Seller, pursuant to the Asset Purchase and Sale Agreement dated as December 1, 2022, between Seller and Buyer (the “Agreement”), has bargained, sold, transferred, assigned, set over and conveyed, and by these presents does hereby bargain, sell, transfer, assign, set over and convey unto Buyer, its successors and assigns forever the Asset described on Annex A to this Bill of Sale (the “Asset”).

Seller represents and warrants to Buyer, its successors and assigns, that Seller has good and marketable title to the Asset and the lawful right to dispose of such title, and Seller further warrants that the Asset are free and clear of all liens, charges, security interests or other encumbrances created by or through Seller.

EXCEPT AS PROVIDED IN THE FOREGOING PARAGRAPH, THE ASSET ARE TRANSFERRED “AS IS”, “WHERE IS” AND “WITH ALL FAULTS” AND SELLER DOES NOT MAKE AND WILL NOT BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, NOW OR HEREAFTER, AS TO THE VALUE, CONDITION, DESIGN, OPERATION, MERCHANTABILITY, FITNESS FOR USE OR FOR A PARTICULAR PURPOSE, MAINTENANCE OR MARKETABILITY OF THE ASSET OR THE QUALITY OF THE MATERIALS OR WORKMANSHIP IN, OR THE ABSENCE OF ANY DEFECT IN, THE ASSET, OR ANY WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.

IN WITNESS WHEREOF, the Parties have caused duly authorized representatives to execute this Agreement as of the date first written above.

Buyer:

Seller:

Mass Coastal Railroad

Georgia Southwestern Railroad, Inc.

By: Chris Podgurski
DocuSigned by:
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By: James E. Iwan

Printed Name: Chris Podgurski

Printed Name: JAMES E. IWAN

Title: PRESIDENT

Title: President

ANNEX A

to Bill of Sale

<u>Item Description</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Total Price</u>
Bay Line Caboose #10	1	\$30,000.00	\$30,000.00

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