

APPENDIX B



**Policy on Use of Electronic
Devices**

Policy H&S 4320

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Policy on the Use of Electronic Devices

Scope

This policy applies to all Canadian Pacific (CP) employees, contractors and other persons authorized to be on CP property in Canada and the U.S.

Purpose

The purpose of this policy is to reduce the risk of injury to employees and the public that may result from inappropriate use of electronic entertainment and communication devices while on duty.

Compliance

Any person who fails to comply with this policy may be subject to investigation and discipline, up to and including suspension or dismissal.

Note: For purposes of investigating accidents, injuries, Cardinal Rule Violations, and suspected violations of this Policy, employees may be asked to provide records showing the date and times of use of personal communication devices in their possession. Failure to provide the requested records will result in the Company drawing an adverse inference (will assume that the employee was using the personal communication device) in violation of this Policy and/or applicable law, regulation or operating rule. For purposes of these investigations, employees who use or carry personal electronic devices during work hours, on Company property and/or in Company vehicles, even when otherwise permitted by this policy, do so with the understanding that they have a reduced expectation of privacy.

Application

A. Use of Personal Entertainment Devices

Use of Personal Entertainment Devices while on duty or on CP property is prohibited, except when used in an office or other similar locations approved by your supervisor or by the person in charge, or when such a device is installed in a company vehicle..

B. Use of Communication Devices

1. When operating a company vehicle

a. Hand Held Communication Devices

Hand held communication devices are prohibited from use while operating a company vehicle while it is in motion on any type of road. The vehicle must be stopped in a safe location before the device can be used.

b. Hands Free Communication Devices

Hands free communication devices are permitted for limited use while operating a *company vehicle* if:

1. It is used solely for company business; and
2. It is safe to do so; and
3. The vehicle being operated is **NOT** on a public roadway in a province, state, or other jurisdiction where such use is in violation of any law or regulation.

Notes: This section on operating a vehicle applies to all employees, contractors and others while on CP property or transporting CP employees.

Vehicle mounted railway radios and GPS units are considered hands free communication devices. However, GPS devices must be programmed only while the vehicle or mobile equipment is completely stopped and in a safe location. Verbal instructions from the device should be used to avoid unnecessary distraction or staring at the screen.

2. Use by Employees Governed By Operating Rules

- a. U.S. *Railroad operating employees* and all other GCOR rules qualified employees must comply with the applicable operating rule and/or Safe Work Procedure when performing any duties governed by those rules.
- b. All Canadian employees performing duties governed by operating rules must comply with CROR General Rule A and applicable System Special Instructions.

3. Use by Employees Not Governed by Operating Rules

- a. When operating, controlling, assisting, or supervising the movement of any *on track equipment* when **NOT** governed by operating rules, the use of company provided communication devices is prohibited except when:
 - all movements of that equipment are stopped; and
 - the employee is not foul of any track; and
 - the employee confirms with all involved employees that such use will not interfere with any safety related duty.
- b. When operating, controlling, assisting, or supervising the movement of off-track *mobile equipment*, the use of company provided communication devices is prohibited except when:
 - the employee is not foul of any track; and
 - the employee confirms with all involved employees that such use will not interfere with any safety related duty.

- c. When performing *physical work*, as defined by this policy or by local supervision, the use of company provided communication devices is prohibited except when:
- all *physical work* activities are stopped; and
 - the employee is not foul of any track; and
 - the employee confirms with all involved employees that such use will not interfere with any safety related duty.

Note: Company provided communication devices do not apply to devices used for, and directly relating to, safe railway operations (e.g. railway radios).

- d. The use of personal communication devices is prohibited at all times except:
- during a recognized break or meal period in a location that is safe to do so;
 - in locations designated by local supervision and/or signage; or
 - for minimal voice communication, unless otherwise prohibited by applicable laws or regulations, local supervision, and/or signage, and only when:
 - all movements of on track or *mobile equipment*, or *physical work* activities are stopped; and
 - the employee is not foul of any track; and
 - the employee confirms with all involved employees that such use will not interfere with any safety related duty; and
 - the device is immediately turned off and returned to storage when call is complete.

Note: When not in use, personal communication devices must be turned off with any ear pieces removed and stored out of sight in a location designated by the supervisor, but at a minimum not on the person.

C. Exceptions

A communication device may be used:

- a) At any time to transmit an emergency situation or to advise others of an unsafe condition;
- b) By emergency response personnel when it is safe to do so, but only with the permission of the site supervisor; and after a job briefing has been conducted with other affected employees and contractors.
- c) By CP Police at any time;
- d) Except where otherwise prohibited by law or regulation, by passengers in a company vehicle, on track equipment, or mobile equipment only when they are not assisting the operator and the operator agrees it is safe to do so;
- e) In an office, or similar location approved by your supervisor or the person in charge.

Definitions

Company means Canadian Pacific Railway Company and includes the Soo Line, the Dakota, Minnesota & Eastern, and the Delaware & Hudson Railroad Companies.

Company Vehicle means any owned, leased, rented or private vehicle licensed to operate on public roads when used for company business by any CP employee, contractor or other 3rd party authorized to be on CP property.

Communication Device means any electronic device capable of communicating remotely, through oral communications, text messaging, electronic mail, or electronic transmission of any media. This includes but is not limited to cell phones, walkie-talkies, 2-way radios, PDAs, GPS navigation units, Palm Pilots, Blackberrys, portable computers and similar devices.

Foul of track means placement of an individual in such proximity to railway tracks that the individual could be struck by moving equipment, or in any case within 4 ft. (1.2 metres) of the nearest rail.

Mobile equipment means any self-propelled equipment not operating on-track or licensed to operate on the road, including forklifts, trackmobiles, tractors, cranes, ATVs, Mules, and similar equipment.

On track equipment means any locomotive (with or without cars), occupied rail car, or track unit.

Person means any employee, contractor or other person authorized to be on CP property, operating a CP vehicle, or transporting CP employees in the course of business.

Personal Entertainment Device means any personal radio, TV, DVD player, CD player, game player, computer, I-Pod, MP3 player, or similar electronic video or audio entertainment device which may distract a person from safely performing their work. This definition includes any multi-function devices (such as a cellular telephone, Blackberry, etc.) that are capable of similar entertainment functions.

Physical work, for purposes of this policy, means:

- maintenance or inspection of on or off track equipment;
- maintenance or inspection of track, signals, or structures;
- operating power tools or welders;
- working foul of track; or
- similar work where a distraction can put a person or the public at risk, and includes directing or supervising the safe conduct of such work.

Railroad operating employee means an individual who is:

- engaged in or connected with the movement of a train including a hostler,
- a train employee providing commuter or intercity rail passenger transportation, or
- subject to hours of service governing train service employees.

Roles & Responsibilities

The following roles and responsibilities relating to this policy are outlined below:

All Employees are responsible for:

- Complying with this policy and/or operating rules associated with the use of electronic devices;
- Ensuring that all reasonable effort is taken to work safely;
- Ensuring that at least one person within a work crew has a functional railway provided communication device available for use in an emergency;
- Cautioning other employees observed to be in violation of this policy and/or associated operating rules;
- Promptly reporting any observed violations to their supervisor or RTC;
- Stopping the affected movement or work until the violation is corrected, when it is safe to do so; and
- Reporting incidents and near misses where use of an entertainment or communication device may be a contributing factor.

Supervisors are responsible for:

- Reading, understanding and complying with this policy and associated operating rules;
- Ensuring this policy is communicated and adhered to, within their respective areas of responsibility;
- Ensuring authorized and unauthorized use of electronic devices is discussed in safety meetings and during job briefings;
- Designating appropriate locations for employees to store personal communication devices;
- Designating appropriate locations where personal entertainment and/or communication devices may be safely used by employees
- Communicating this policy and ensuring compliance with contractors, 3rd party operators, and others working within their respective areas of responsibility;
- Conducting observations and proficiency tests to ensure compliance;
- Cautioning, mentoring and/or disciplining employees who fail to comply;
- Investigating incidents, violation reports, and near misses where use of an entertainment or communication device may be causal.

Safety, Environment & Regulatory (SER) is responsible for:

- Maintaining an effective policy and operating rules governing the safe use of entertainment and communication devices on the railway;
- Providing technical expertise, interpretations, and job aids required to support this policy;
- Monitoring related proficiency and incident performance;
- Periodically auditing the effectiveness of this policy

Senior Management is responsible for:

- Ensuring the policy on use of electronic devices is communicated and adhered to, within their respective areas;
- Periodically reviewing policy effectiveness;

Workplace Health and Safety Committees (WHSC) are responsible for:

- Reviewing related safety hazard reports;
- Assisting with related incident investigations;
- Recommending appropriate corrective actions to management;
- Ensuring approved corrective actions are implemented and effective;
- Monitoring local performance through peer observations.

Administration

Policy Name: Policy on Use of Electronic Devices	Policy Number: H&S 4320
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Appendix A Related Documents & Resources

GCOR rules, Safe Work Procedures, interpretation & Q&A

CROR rules, interpretation & Q&A

Policy 6302 - Business Travel – Private Automobile

Policy 6304 - Business Travel – Car Rentals

Vehicle Fleet Policy & Procedures - COR 4135

Policy H&S 4310, Handling Safety Related Documentation

**Signage - Use of Personal Communication Devices
Prohibited or Permitted**

Minimum Safety Requirements for Contractors

Appendix B Policy - Questions and Answers

- Q1. Are there restrictions on my use of these devices if I am a passenger in a company vehicle?
A1. They may be used provided you are not assisting the operator and he/she agrees it is safe to do so.
- Q2. I operate a hi-rail truck. How am I to properly conduct my business if I cannot use my radio or cell phone, on either the road or track?
A2. You may use a company provided radio for business purposes at any time it is safe to do so. Prior to using a company cell phone the movement must be stopped and the call made in accordance with this policy. For more specificity, when operating on-track, the Canadian or U.S. operating rules are applicable. When on the road, the restrictions in this Policy and state or provincial highway vehicle laws apply.
- Note:** An employee is not considered to be foul of track when occupying on-track equipment that is operating under valid track authority.
- Q3. Can I use my personal cell phone if I am a conductor on a train?
A3. You are prohibited from using a personal cell phone while on duty except under the very limited circumstances identified in the Canadian or US operating rules
- Q4. Are company radios considered communication devices?
A4. The policy does not apply to railway radios used for company business.
- Q5. My duties involve providing look out or flagging protection. Am I affected by this policy?
A5. In order to perform these tasks, you would be qualified in the operating rules and are engaged in physical work as defined by this policy so you are therefore bound by the requirements contained in the Canadian or US operating rules.
- Q6. Are company provided devices such as the Automated Inventory Reporting (AIR), RCL beltpack units, ES hand held GPS units, track inspection computers (ETI), and similar equipment considered communication devices covered by this policy?
A6. Railway radios, RCL units, remote switch controllers and the like are required to operate a safe railway and are exempt from the policy. AIR, ETI, and similar devices that are used as recording and tracking devices not directly related to railway operations are considered communication devices covered by the policy and the operating rules.
- Note -** Hand held GPS units when used on the ground by ES employees to locate track defects are exempt. However, use of hand held GPS units are still prohibited when operating a vehicle.
- Q7. Can you describe acceptable hands free devices?
A7. Phones that have speaker phone capability, headset/microphone attachments, blue-tooth enabled phones, and On-Star type devices are the most common. Built in or dash mounted GPS devices are also considered to be hands free devices.
- Note –** Hands free devices are still a distraction while driving, due to both dialling and the communication concentration required. Caution must always be exercised with any device. It is recommended that speed dialling features be used when possible, and/or scheduled calls be initiated by the other party.
- Q8. Are GPS devices considered communication devices, in a vehicle or on the track?

A8. See the answer and Note in question 6. Except in this situation, GPS devices are treated the same as cell phones and other communication devices. The use of hand held GPS devices are prohibited while operating vehicles. This would include cell phones or Blackberry devices with GPS capability. Portable GPS devices that are mounted in safe location within a vehicle and function in the same manner as an installed unit are acceptable, with the same restrictions.

Note 1 – There are recent studies that indicate use of some types of GPS devices can be more of a distraction than cell phones since they also can take the drivers vision off the road. Extreme caution should be exercised when using any GPS device.

Note 2 – Programming or adjusting any GPS navigation device is prohibited while operating a moving vehicle.

Note 3 – CP currently does not authorize the local purchase or modification of company vehicles to provide for GPS devices.

Q9. Does “installed in a company vehicle” include when a Personal Entertainment Device such as an i-pod that is connected to a vehicle’s power and sound system for purposes of playing music while driving?

A9. These types of device connections are permitted as long as they are playing through the vehicle's sound system and not through personal headsets or ear buds.

Q10. Explain what is meant by a designated location for storing personal cell phones?

A10. Specific acceptable locations are to be designated by the employees' supervisor. For example, employees working in fixed facilities, such as Intermodal or Mechanical, an appropriate and secure location would be the employee's locker. For MOW employees working on track or traveling on the road it may be best kept secure in a truck storage box, glove compartment, lunch box or grip. Train crews and other rules qualified personnel are governed by the revised operating rules. The intent of this policy and rule change is that these personal communication devices are not to be readily accessible while working.

Q11. Can I use my personal cell phone to take calls related to company business or I am I restricted to use of only company provided devices?

A11. There is no distinction made on how a cell phone is used, only whether it is personal or company provided. Any use must be in accordance with the requirements contained in the Canadian or US operating rules or the applicable Core Safety Rules (contained within the Functional Safety Rules and Recommended Practices Manuals) if your are not performing a duty that requires you to be operating rules qualified.

Q12. As a result of this policy, will the company replace my existing company cell phone with one that is hands free?

A12. That depends on the work conducted by each employee and on their manager's expectations. The decision has to be made by your manager whose cost centre will be charged for the cost to upgrade, acquire hands free equipments, or replace your phone.

Q13. I am a conductor who spends considerable time away from my family. Can I leave my personal cellular telephone on to receive incoming calls while on duty?

A13. No, in accordance with the Canadian or US operating rules restrictions, personal cellular phones and other electronic devices must be turned off with any ear pieces removed, stored out of sight in a location not on your person except as otherwise provided for. In the event of an emergency, your family can ensure you are notified through the RTC through use of the 24 hour Emergency Phone Number for the applicable Network Management Centre or Operations Centre as indicated in the Time Table.

- Q14. Can I use the car radio while driving?
A14. Yes - Car radios, CD players and similar devices that are permanently installed in a vehicle are not considered personal entertainment devices.
- Q15. May an employee in the field use an i-Pod or other device to listen to music while waiting for a work assignment or waiting for a train meet?
A15. No, these rules read in part, "The use of personal entertainment devices is prohibited".
- Q16. Can I listen to an i-Pod or radio, or watch a DVD player while I am on lunch break?
A16. A designated lunch room area where no work is being performed should be considered similar to an office environment, and these devices can be used with the supervisor's approval.
- Q17. Can Safety Advisors, H&S Safety Reps. or managers use iPods, laptops or Blackberry devices for presenting safety related information?
A17. Yes, as long as they comply with all related provisions of this policy.
- Q18. What prompted these restrictions?
A18. On-track restrictions were prompted by the fatal Metrolink train collision in California in 2008, which also resulted in FRA regulations mandating restrictions within the GCOR operating rules. On-roadway and other restrictions were prompted by an unacceptable number of industry vehicle collisions and injuries related to the use of electronic devices. In 2009, MVA reduction targets became a major corporate safety initiative, along with continued reductions in work related injuries
- Note:** U.S. Railway Operating Employees may also be subject to FRA imposed penalties for operating rule violations.
- Q19. If I operate a track unit or assist in the operation of mobile equipment can I use my personal cell phone to call a family member if required?
A19. Only during a recognized break or meal period, and only in a designated safe location, and only for minimal voice communication when the track unit and all related work activities are stopped, and only when the employee is not foul of any track and a job briefing with all involved employees confirms such use will not interfere with any safety related duty, and device is immediately turned off and returned to storage when call is complete.
- Q20. If I am working as a ground person assisting in the operation of a mobile crane can I use a company provided cell phone to make a call?
A20. Yes, but only for minimal voice communication when all work activities are stopped, you are not foul of the track, and it is confirmed through a job briefing with all involved that its use will not interfere with any safety related duty and all physical work activities are suspended until advised otherwise and device is immediately turned off and returned to storage when call is complete.
- Q21. If I am a passenger in a Track Unit may I use a communication device?
A21. It could still pose a distraction to the operator. You must confirm with the operator that it is safe and he/she agrees to its use.
- Q22. Can exemptions for certain situations be made if a risk assessment has been conducted and not significant risks identified?
A22. A risk assessment may be used to identify a need or an opportunity to amend a corporate policy but that change must be reviewed and approved by the Health, Safety, Security and Environmental Committee. Local risk assessments cannot take precedence over corporate policy. Note that this policy already provides for some limited exceptions.

- Q23. Who decides when “it is safe to do so” under the exceptions clauses, the employee or supervisor?
- A23. Everyone at CP has responsibility for their own personal safety, that of their fellow employees, and the public. What is reasonably practicable in any given situation is a decision that the affected employee or operator must make. However, this decision will always be subject to review in the investigation process if there is a resulting safety failure. Instructions on permitted usage provided by a supervisor should be followed unless it is clearly in violation of this policy or operating rules, or it would otherwise create an unsafe condition.

Note 1 – Legal interpretation of “reasonably practicable” in the Canada Labour Code suggests that the risk of an accident or injury must be weighed against the effort, time, and cost of eliminating or avoiding the risk.

Note 2 – ISROP guidance suggests that “reasonable” would be when another experienced operator who recognizes the risks under the same conditions would likely make the same decision.

Note 3 – Examples of what should NOT be considered “reasonable” would be talking on a cell phone while driving in high speed, high density traffic (Calgary Deerfoot, Toronto 401, Minneapolis I-94); driving in snowy, icy conditions, driving in poor visibility conditions; or any other time when increased driver attention and improved response times are required.

Note 4 – When “safe to do so” calls should be kept short with the other participant knowing your circumstances. Conference calls and other scheduled calls while driving should be avoided under all circumstances.

Q24. Do the vehicle restrictions apply while I am commuting to or from work in a company provided vehicle?

A24. Yes, these restrictions apply anytime a company vehicle is being operated for any business related reason.

Q25. Can a supervisor or manager call an engineer’s or track unit operator’s personal cellular telephone while in motion to check if the cellular telephone is off for a proficiency test?

A25. No, it is not permissible for a supervisor or manager to call the personal cellular telephone of the person controlling the movement or track unit while it is in motion for a proficiency test.

Q26. If my train or track unit is in motion and the RTC tells me by radio to call the office by cell phone, is it permitted?

A26. No, that is not permitted in accordance with the operating rules. The railway radio is the primary communication tool that should be used.

Q27. What if my supervisor tells me to make a call by cell phone while I am operating a vehicle?

A27. This is not permitted unless you have a hands free device, or you have complied with all of the Exceptions provided in the Policy, or you have first pulled over safely and parked. In any case your supervisor should not be asking you to schedule a call while it is known you will be driving.

Q28. I am responding to and working at a derailment site and my cell phone is the only immediate method of communications. May I use it or am I in violation of the policy?

A28. Per the Exceptions in the policy, you may use a cell phone in emergency response situations with permission of the site supervisor. If there is no designated supervisor on site as yet and when it is safe to do so, advise your supervisor and/or RTC that you are using the cell phone so they can remain in contact, and conduct a job briefing with any other employees or contractors working in proximity.

- Q29. I have a need to take pictures of an incident or hazardous condition. Can I use the camera on my cell phone?
- A29. Employees governed by operating rules are prohibited from using personal cell phones or similar devices for taking pictures while on duty.

For all other employees when possible or planned, you should use a conventional camera, while following the same cell phone camera steps as below for ensuring safety.

If you must use your cell phone camera, you must in all cases still comply with the requirements in the policy by stopping the movement or work, staying clear of track, and by conducting a job briefing with all involved employees. Subsequent to taking those pictures, you must turn the phone off and return it to its storage location.

Note: All employees are also governed by Policy H&S 4310, Handling Safety Related Documentation. This policy prohibits disclosure or sharing of, among other things, electronic media such as photos to anyone outside of the company, including posting it on the Internet.

- Q30. If I observe use of a communication device that is creating a potentially unsafe situation but which is not prohibited by the rules or policy, what should I do?
- A30. You should immediately rectify the situation if possible and then report it to your supervisor or WHSC in the same manner as any other hazardous condition so that it can be further assessed and/or corrected.
- Q31. If I observe a violation of the policy but do not act on it by cautioning the person and reporting it, what are the consequences?
- A31. You may also be in violation and subject to discipline.
- Q32. Are managers and supervisors required to comply with this policy to the same extent as other employees?
- A32. Yes, all persons on CP property or conducting work for CP are bound by this policy, including both union and management employees. It also extends to contractors, visitors and other persons authorized to be on CP property. For 3rd parties not familiar with CP policies, the requirements of this policy must be covered in a job briefing.

Note: Whenever supervisors who are monitoring, supervising or otherwise interacting with employees governed by operating rules, those supervisors are also covered by those same rules. At all other times supervisors are governed by the policy

- Q33. What should I do if my personal communication device has an “auto-on” feature?
- A33. You should disable or turn off the “auto on” feature before engaging in situations where personal communication devices are required to be turned off.
- Q34. If I must store my personal phone, how can my family reach me in case of a personal emergency?
- A34. You should always leave your family with an emergency number where you can be reached at work. This might be a local facility phone that is monitored, a supervisor’s company cell phone number, or the NMC emergency number. Supervisors should be posting or communicating appropriate emergency phone numbers, along with locations where personal cell phones can be used and/or stored.
- Q35. I have a company provided cell phone that dial into CP’s radio system and function as a radio (known as 10-4 function). When used in this fashion, is this considered a radio or electronic device per policy?
- A35. It is still a communication device as defined by the policy and use must be in compliance with the policy and the operating rules. How a device is used is not considered in the

definition, similar to cell phone cameras, GPS or other multi-functions available in many phones and other electronic devices.



**CANADIAN PACIFIC RAILWAY
ENGINEERING STANDARDS**

**OPERATIONAL CONSTRAINTS FOR
PROJECTS WITHIN OR FOUL OF THE
RAILWAY RIGHT OF WAY**

NOVEMBER 2018



CANADIAN PACIFIC – ENGINEERING STANDARDS OPERATIONAL CONSTRAINTS

The safe uninterrupted operation of CP's trains shall always be paramount. No project will be considered that has potential to impact CP's ability to serve our customers safely, and on time. Projects must be developed taking impacts to train operations into account. CP will challenge proponents to implement methodologies and designs which minimize disruption to train traffic to the fullest extent possible. In addition, train schedules vary dramatically by season, location, and day. There is no way to empirically predict train schedules in advance, and CP is not able to commit to specific working hours or any guaranteed productive hours per day. Proponents must appreciate the challenges inherent to coexisting with operating train traffic when planning and designing their work.

1. DEFINITIONS:

- a. Railway – Refers to Canadian Pacific
- b. Proponent – Refers to the Road Authority or Agency sponsoring the work
- c. Contractor – Refers to all resources retained by the proponent to undertake work on their behalf, either directly or indirectly.
- d. Flagman – Refers to the CP employee designated by the Railway to provide track protection during the work.

2. SAFETY STANDARDS & AGREEMENTS

a. AGREEMENTS

- i. No work may be undertaken on CP property without the applicable agreement(s) in place. In general terms, agreements are required to define liability, insurance, scope, schedule and budget of any work to be done. In some instances, right of entry permits or access licenses may be issued to support preliminary investigation work which is required in advance of the project being fully defined.
- ii. Proponents are encouraged to get the applicable agreements reviewed and approved at least a year prior to the work being undertaken. In addition, sufficient time for negotiation, and detailed scope definition should be built into the proponents schedule.

b. PROJECT & CONSTRUCTION RISK ASSESMENTS

- i. A risk assessment is required for any work which creates an Operational Change. Operational changes include relocation of tracks and signals, construction of new structures, and changes to the way trains interface with facilities.
- ii. A level one (Desktop) risk assessment is required for every project. Depending on the results of the Level one risk assessment, a Level two may then be required.
 1. Risk Assessments are to be completed by the proponent, with appropriate subject matter experts, and submitted to CP for review during the design phase of the project.
 2. Risk Assessments must be executed and compiled by competent and experienced experts in the field. All costs related to the administration of Risk Assessments, and preparation of the required submissions shall be at the proponents sole expense.



CANADIAN PACIFIC – ENGINEERING STANDARDS OPERATIONAL CONSTRAINTS

3. For complex projects, CP staff may need to participate in the Risk assessment to ensure that all operational issues are addressed.

c. CONTRACTOR SAFETY REQUIREMENTS

i. Minimum Standards for Contractors working on CP Property

1. All work undertaken on CP property must be done in compliance with all of CP's applicable safety rules and requirements, including CP's Minimum Standards for Contractors working on CP Property
2. The minimum safety standards for contractors provides general minimum requirements – However, compliance with all other applicable rules (Track Safety, PPE, etc.) is mandatory.
3. It is the proponents responsibility to ensure they are fully versed in all applicable rules and requirements prior to commencing work, and to validate that full compliance is maintained throughout the entire duration of the work.
4. CP reserves the right to immediately halt any unsafe work, and immediately expel any personnel violating any of CP's safety rules.
5. CP Reserves the right to permanently ban contractors or subcontractors who fail to follow all required safety protocols, from working on CP property.

ii. Access control Matrix – eRailsafe

1. CP eRailsafe certification is required by all contractors engaged directly or indirectly by CP. Other railways eRailsafe certificates are not valid – A CP endorsement is required. For third parties accessing CP's property for their own purposes, eRailsafe is not a requirement.

3. FLAGGING REQUIREMENTS

- a. All work which can potentially affect the track structure or the safe movement of train traffic must have proper flagging protection in place unless other arrangements are made, in writing, in advance.
- b. CP will provide flagging protection, when deemed necessary, at the proponents sole expense, and subject to manpower availability. Requests for long term flagging must be submitted at least one year prior to the planned commencement of the work. Note that all flagging work is subject to CP's collective agreement, and changes to working days and hours can not generally be accommodated once established. For more information, refer to CP Third Party Flagging Guidelines.
- c. The proponent will be required to take steps to secure the work site at all times that a CP flagman is not present. This is particularly applicable to public access points to the ROW. The proponent shall put safeguards in place to guarantee that all site personnel are aware of the requirements to keep clear of the active right of way except when authorized by the flagman.
- d. The direction of the railway flagman must be followed without exception. The flagman has the authority to eject personnel from CP property for failing to follow direction, or for any other safety violation.



CANADIAN PACIFIC – ENGINEERING STANDARDS OPERATIONAL CONSTRAINTS

- e. The provision of a railway Flagman shall not relieve the Contractor from liability for damages to Railway Facilities caused by the Contractor's operations.
- f. The Contractor must provide adequate and properly serviced washroom facilities for the Flagmans use.

4. WORKING TIME AND TRACK BLOCKS

a. WORKING TIME NEAR, OR FOUL OF, TRACKS

- i. The contractor must expect the passage of trains, machinery and inspection vehicles on any track, in any direction at any time.
- ii. Trains operate 24 hours per day, 365 days per year, and schedules are not available in advance.
- iii. Generally, work will only be permitted during natural work windows between trains.
- iv. Train schedules will not generally be altered unless an approved track block (Work block) is in place.
- v. Depending on the corridor, the Contractor should expect significant downtime for train passage.
- vi. Open cuts of main track will not be permitted where alternate technologies exist.
- vii. Projects adjacent to main track shall be phased in such a way as to minimize the duration of work which has the potential to impact train traffic. Generally, work should start closest to the track and then progress away to the extent possible.
- viii. Work adjacent to Spurs & service tracks is generally subject to less train traffic, but all other restrictions remain the same.
- ix. Tracks may only be fouled when specifically authorized by the flagman.
- x. All equipment must stop working on the approach of any train when the equipment is on the Railway right of way, or within 15m (50ft) of the nearest track; or when said equipment is in the vicinity of track(s) and where the work, in the opinion of the Railway, may be exposed to, or interfere with, railway operations.
- xi. The Contractor must stop work immediately and move all personnel and equipment into the clear when instructed by the Flagman. Failure to promptly comply with the Flagmans instructions which results in a train delay may expose the contractor to a financial penalty.
- xii. The Contractor must not resume work until authorized by the Flagman.

b. TRACK BLOCKS (EXTENDED WORK BLOCKS)

- i. Where significant work activities require uninterrupted working time (Installing girders, installing shoring, etc.) the contractor must request a track block in advance.
 - 1. Blocks up to 4 hours must be requested at least 30 days in advance.
 - 2. Blocks four hours or longer must be requested at least 60 days in advance (Blocks greater than four hours may not be available on key corridors).



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3. Blocks greater than 6 hours require Railway executive approval, and will generally not be considered. Work methodologies must be modified to reduce working time.
- ii. When requesting a track block, the contractor must provide all relevant details about the scope of work, the detailed methodology, and the breakdown of tasks and their durations.
- iii. Track block approval is subject to train schedules and operational requirements.
- iv. Track block start and end times will be established to minimize train impacts and may include holidays, nights and/or weekends. Track block start and end times are subject to adjustment, modification or cancellation at any time.
- v. Blocks cancelled by the contractor less than 96 hours in advance will not be rescheduled.

c. TRACK BLOCK WORK PLANS

- i. Where the railway approves a track block for contractor work, the contractor will be required to provide detailed plans describing the construction sequence that has as many intermediate steps (describing all activities planned in 15 minute intervals) to permit the work to be completed. Where applicable the plan should contain schematic diagrams, equipment details, labour resources, lift design, bracings and temporary works.
 1. Equipment details include, but are not limited to:
 - a. Number of equipment on site;
 - b. Equipment descriptions;
 - c. Location of equipment with respect to the project and the CP track;
 - d. Detailed description of methods and equipment to be used in handling materials;
 - e. Standby equipment;
 - f. Current calibration certificates for all equipment and standby equipment;
 2. Labour resources include, but are not limited to:
 - a. Type of crews present to perform the work;
 - b. Length of each shift, number of shifts per crew and crew leaders;
 - c. Work cycle;
 - d. Number of workers in each crew and number of crews;
 - e. Name of the leader of each crew and their relevant experience;
- ii. The Contractor shall also develop and submit a contingency plan that deals with actions that the Contractor will take to secure the work site for safe train movement at the end of the track block if for some unforeseen reason the work cannot be accomplished as planned.
- iii. All submissions shall be stamped and signed by an Engineer licensed to practice in the Province where the project is located, and shall be submitted to **the**



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Project Manager for review a minimum of 15 days prior to commencing of the planned work.

- iv. Once the extended track block(s) is agreed to by CP, then at least three (3) days prior to the commencement of extended track closure the Contractor shall call upon all key personnel executing the work to attend a meeting with the Contract Administrator and CP to review:
 - 1. All activities to be executed during that specific track closure;
 - 2. Methodology and equipment to be used, including backup plans;
 - 3. Conduct an audit to verify that all materials at the storage site are on hand and discuss loading and unloading procedures;
 - 4. Discuss with all participants the expected progress;
 - 5. Review all safety compliance procedures.
- v. At least twenty-four (24) hours prior to the scheduled track closures, the Contractor shall have all resources and equipment in place to carry out the work for that particular block.

d. CP TRACK MAINTENANCE AND INSPECTION

- i. CP regularly patrols and inspects the track, ROW and structures. The contractor will not be permitted to interfere with these activities.
- ii. During the course of the work, the railway may need to undertake track maintenance (Either emergent or planned).
- iii. Emergent work will be undertaken by the Railway without notice and may impact the Contractor's ability to work. The Contractor must adjust their work plans to accommodate Railway work.
- iv. Planned track work (Rail, Tie and Ballast production gangs) may have a significant impact on the Contractor's ability to work for a period of a week or more. However, this work is generally scheduled in advance, and the contractor will be provided with at least 7 days notice so they can adjust their works plans as required.

e. WEATHER RESTRICTIONS

- i. The Railway reserves the right to suspend any construction activity which may affect the stability of the roadbed, ballast or track structure as a result of hot weather or excessive precipitation.
- ii. When the ambient air temperature is equal to or greater than 25°C (77°F), the Railway may impose excavation restrictions
- iii. When the ambient air temperature is expected to exceed 30°C (86°F), excavation of the Zone of Potential track Loading (ZPTL) or ballast shoulders is prohibited.
- iv. Backfilled excavations must be protected from erosion until natural vegetation properly germinates. This may include tarping slopes when significant precipitation is expected.

5. CLEARANCES & SIGHTLINES

a. CLEARANCES



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- i. Proposed clearances must be clearly shown on the application and approval drawings.
- ii. All clearances must meet or exceed those depicted on CP's Minimum Clearance Diagram (STDCLR-01).
- iii. The proponent will be required to field validate that all required minimum clearances have been adhered to and immediately modify or remove any clearance encroachments.
- iv. Where minimum clearances cannot be met or a temporary exemption is being requested, the proponent must complete and submit Form MWS170 to CP.

b. SIGHTLINES

- i. The contractor shall not undertake any work, place any machinery, materials or equipment where such activity impedes the required sightlines near crossings, crossing warning systems, railway signage or railway signals.
- ii. The proponent shall be required to protect for CP's future needs including sightlines for future wayside signals.
- iii. Activities which obstruct, or in any way inhibit, the timely observation and interpretation of railway signals are prohibited.

6. CONSTRUCTION REQUIREMENTS

a. LOCATES & UTILITIES

- i. The Contractor is required to obtain and maintain locates for the entire working area prior to commencing any excavation or subsurface work.
- ii. Fibre Optic locates must be requested through the CP Operations Desk at 1-800-387-1833. Fibre Optics are located parallel to the ROW throughout most of the Railways network.
- iii. Fibre Optic cables must be protected, and physically exposed where directed by the Fibre Optic Owners representative.
- iv. Railway Signal locates must also be obtained through the CP Operations Desk.
- v. All other utility locates must be obtained through the utilities directly, or through a One-Call service as appropriate.
- vi. The contractor shall be solely responsible for properly locating, protecting and restoring any utilities within Railway Property.

b. SETBACKS

- i. Required construction clearances shall be maintained at all times throughout the work.
- ii. No permanent facilities shall be constructed within 7.62M (25') of any main track centerline
- iii. No temporary facilities shall be constructed within 4.0M (13') of any main track centreline, and then only with expressed written authorization by CP
- iv. Where ii) or iii) above have the potential to impact wayside signal or crossing sightlines, the distances must be increased to comply with sightline requirements



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c. CROSSING TRACK(S)

- i. Personnel may only cross tracks on foot when authorized by the flagman unless using a designated public crossing. Cross the tracks at a 90 degree angle, and never step on the rail.
- ii. The operation of any machinery, vehicle or equipment on or across tracks at a location other than a designated crossing is prohibited.
- iii. Temporary crossings shall only be installed where authorized by CP, and shall comply with all applicable Crossing safety regulations.
- iv. Temporary crossings will be installed and removed by CP forces, and shall not be constructed or used unless a signed agreement is in effect.
- v. Temporary crossings must be secured by a locked gate on both sides of the track at all times that the flagman is not present.
- vi. When crossing tracks at a crossing, contact with the rail by machinery tracks or other metal components is strictly prohibited. Blasting mats or other means must be installed to prevent mechanical contact between metal surfaces and the rails.
- vii. Crossings must be kept clear of material, mud or debris. The crossing must be inspected and cleaned as required, with particular attention to the flangeways, prior to the passage of each train.
- viii. The contractor must ensure that both rails of the same track are never connected with any metal conductor (such as bare wire, steel tape measures, equipment, etc).

d. HOUSEKEEPING

- i. The project site must be kept clean and tidy. Debris must be promptly removed.
- ii. Storage of materials on Railway property is prohibited
- iii. Positive drainage away from the tracks must be maintained at all times.
- iv. All scaffolding, falsework, formwork, Protective coverings etc. must be secured against movement during the passage of trains at track speed.
- v. Open excavations must be protected by signage and fencing. Consideration must be given to the safety of train crews who may be required to walk through the work site at night.
- vi. Wherever practical, open excavations shall be fully covered and secured in lieu of fencing.
- vii. Storage of equipment and machinery on Railway property is prohibited.
- viii. Tracks must be protected from debris during work operations. Plywood, filtercloth or other measures shall be installed at the direction of the Railway to prevent contamination of the track ballast.
- ix. The contractor shall be liable for any cost incurred by the railway to restore fouled track ballast.

e. BLASTING REQUIREMENTS

- i. Any blasting on CP property must be done by a licensed contractor specializing in the work to be undertaken



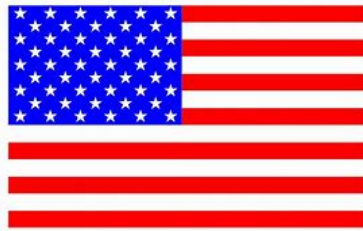
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- ii. Maximum allowable vibration is 50mm/s within 10m of track centerline. Vibration monitors shall be installed, and the results logged and provided to CP. Track alignment must be checked after each blast to ensure that there is no deflection or deviation.
- iii. All track must be fully protected with blast mats or other means to prevent any impact to track structure
- iv. All blasted material must be cleared from the clearance envelope prior to the passage of trains.
- v. Blasting adjacent to CP property shall not be undertaken without proper track protection in place. Blasting during the passage of trains is prohibited.
- vi. All blasting is subject to CP's Guideline for Blasting on or near CP Tracks or Property

APPENDIX D



Minimum Safety Requirements for Contractors Working on CP Property in the United States



Approval Authority:	Corporate Risk	Effective Date:	October 1, 2018
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Introduction

At Canadian Pacific (CP), safety is an integral part of the way we do business. We expect everyone working on Canadian Pacific's property to be unconditionally committed to safety. Safety must be given top priority and will take precedence over deadlines, production schedules, and all other considerations.

1 Application

1.1 Application

- 1.1.1 These Minimum Safety Requirements are applicable to all who work on CP property (except as noted in 1.13 and 1.14 below) including Contractors and other persons performing Work or otherwise providing services to Canadian Pacific on CP Property in the United States.
- 1.1.2 These Minimum Safety Requirements cannot be waived or altered, in whole or in part, without a prior Risk Assessment specific to the Work being conducted, and written consent has been provided by Manager-in-Charge.
- 1.1.3 Notwithstanding the foregoing, these Minimum Safety Requirements do not apply to other railroad companies who only operate trains on CP Property under various trackage or interchange agreements.
- 1.1.4 Further notwithstanding the foregoing, these Minimum Safety Requirements may not apply to Work or services provided in CP office premises, in which case, CP's Minimum Safety Requirements for Contractors Working in CP Offices may apply.

2 Definitions and Interpretation

2.1 Definitions

- 2.1.1 In these Minimum Safety Requirements, the following capitalized terms shall have the ascribed meaning below:
 - (a) **"Applicable Legislation"** means all applicable legislation, regulations, by-laws, codes, rules, standards, policies, procedures, promulgated by any federal, state, and municipal governmental body, including those of its agencies, having authority over CP and, or a Contractor in relation to the Work in the matter of health and safety of the person, property and, or the environment;
 - (b) **"Canadian Pacific"** or **"CP"** means Canadian Pacific Railway Company Ltd., and its subsidiaries and affiliates, and includes each of their respective directors, officers, employees, agent, and representatives;
 - (c) **"CP Personnel"** means CP's employees, agents, and representatives;
 - (d) **"CP Property"** means any building, facility, yard, track, right of way or other property owned or controlled by CP;
 - (e) **"Contractor"** means the company or person, and their respective employees and authorized agents, representative and subcontractors who are providing goods or services to CP; or on behalf of a third party working on CP property.
 - (f) **"Contractor Personnel"** means the Contractor's employees, and authorized agents, representative and subcontractors;
 - (g) **"Co-mingled Work"** means Work where Contractor Personnel works directly with or, in close proximity (time or space) to CP Personnel;

- (h) **“eTest”** an efficiency test. It is a planned procedure to evaluate compliance with rules, instructions and procedures, with or without the employee's knowledge.
- (i) **“Foul of Track”** means the placement of an individual or equipment within 4' feet of the outside rail of a railway track that could be struck by a moving train or on-track work equipment (e.g. Hi-rail equipment).
- (j) **“Hazardous Materials”** means any substance, which is hazardous to persons or property and includes, without limiting the generality of the foregoing:
 - (i) radioactive, explosive, poisonous, or toxic substances;
 - (ii) any substance that if added to any water, would degrade or alter the quality of the water to the extent that it is detrimental to its use by man or by any animal, or plant;
 - (iii) any solid, liquid, gas or odor or combination of any of them that, if emitted into the air, would create or contribute to the creation of a condition of the air that endangers the health, safety, or welfare of persons, or the health of animal life, or causes damage to plant life or to property; and
 - (iv) substances declared to be hazardous, toxic or dangerous under any law or regulation now or hereafter enacted by any governmental authority having jurisdiction.
- (k) **“Manager-in-Charge”** means a CP manager as designated or otherwise identified by CP as being responsible for overseeing the Work to be performed, such Manager-in-Charge may include, but is not limited to Local CP Management, Superintendents, Chief Engineers, and Project Managers.
- (l) **“Mobile Equipment”** means any motorized and self-propelled equipment, excluding railroad equipment and highway vehicles, but including, for example, forklifts, tractors, cranes, ATVs, mules, motorized scissor lifts, telescopic boom lifts, and similar equipment that are not designed to operate or move on railroad tracks;
- (m) **“Office Premises”** means any building, facility, or portion thereof, or other premises, whether owned or controlled by CP, which is used solely for clerical or administrative purposes and which does not contain heavy equipment or machinery, as designated by CP from time to time;
- (n) **“Qualified and Authorized”** means a status attained by a person who has successfully completed any required training and demonstrated proficiency in the duties of a particular position or function and who has been given the right to act.
- (o) **“Railroad Equipment”** means trains, locomotives, railcars, on track equipment (track units), hi-rail vehicles and any other equipment designed to operate or move on railroad tracks;
- (p) **“Site Safety Plan”** means a documented plan which set out how Work is to be conducted in a safe manner, as required by Applicable Legislation, see 3.15 c);
- (q) **“Third Party Project”** means any work being performed on CP property that CP is not managing (i.e. road authority, utility company, commuter agency, or other similar entity, are on CP property for their own purposes, and not a project sponsored or managed by CP.
- (r) **“Work”** means the provision of products and services and related activities;
- (s) **“Work Site”** means any CP Property where CP Personnel or Contractor Personnel are present, or permitted to be present, while engaged in any Work, including any railroad equipment, mobile equipment and highway vehicles operated by or used to convey a person engaged in such Work. This applies also to work immediately adjacent to CP property which can pose a risk to safe railway operations (i.e., blasting, excavation next to ROW, etc).

2.2 Interpretation & Application

- 2.2.1 Where legislation is referred to in these Minimum Safety Requirements, it shall include all amendments and replacements thereto as promulgated from time to time.
- 2.2.2 Where standards, such as those of the American National Standards Institute (ANSI), are referred to in these Minimum Safety Requirements, they shall include all amendments and replacements thereof from time to time.
- 2.2.3 Where there is any ambiguity, inconsistencies, or omissions between or among any agreements with CP, expressed or implied; any Applicable Legislations; any applicable CP policies and practices; and any applicable industrial standards and practices, Contractor and Contractor Personnel shall adhere to that which is most stringent and current.

3 Contractor Compliance & Responsibilities

3.1 General Compliance

- 3.1.1 Contractor shall be fully and solely responsible for ensuring the health and safety of Contractor Personnel and for ensuring that its Work and other activities do not compromise the health and safety of CP Personnel or any other party, the protection of the environment, the protection of CP's property and those of any other party, and do not interfere with the safety of CP's railroad operations.
- 3.1.2 Contractor shall comply with and shall ensure all of Contractor Personnel are trained and qualified to safely perform the Work and that they comply with all Applicable Legislation pertaining to the protection against fire, safety, health, and environmental hazards, and with any license, permits, authorizations issued by the respective authority. Contractor shall provide CP with written certification that Contractor's safety program required by 49 CFR Part 243 has been approved by the Federal Railroad Administration (FRA) where applicable.
- 3.1.3 Contractor shall comply with and shall ensure all of Contractor Personnel comply with all terms and conditions of all agreements, expressed or implied, between Contractor and CP, and all applicable CP policies and practices.
- 3.1.4 Subject to the requirements of CP's Access Control Procedures, the contractor shall provide CP eRailsafe training for each employee engaged in work on CP property. Where there is no agreement between CP and the Contractor, the Contractor is responsible for meeting the additional requirements outlines within CP's Access Control Procedures.
- 3.1.5 Contractor shall provide Contractor Personnel, at its own expense, any and all safety equipment required to protect against injuries during the performance of the Work and shall ensure that Contractor Personnel are knowledgeable of and utilize safe practices in performing the Work.
- 3.1.6 The Contractor shall have a copy of the following documents at the Work Site at all times, and shall produce them as and when requested by CP:
 - (a) These Minimum Safety Requirements for Contractors Working on CP Property;
 - (b) Licenses, certifications, permits, training records or other documents required by Applicable Legislation or these Minimum Safety Requirements;
 - (c) Contractor's Site Safety Plan;
 - (d) Contractor's Emergency Information Sheet (see Attachment A); and
 - (e) Any additional documents required by Contract or by agreement with Manager-in-Charge.
 - (f) Employee identification (eRailsafe badge – see 9.1.1).

3.2 Compliance Assurance

- 3.2.1 CP reserves the right to observe, inspect, test and audit Contractor and Contractor Personnel for compliance with all requirements herein, and to demand and receive all relevant records, documentation, and materials evidencing compliance, at any time, and from time to time.
- 3.2.2 Failure of the Contractor or Contractor Personnel to comply with any applicable provisions herein may be considered a material breach, and in addition to all other remedies available, CP may without prejudice:
 - (a) take over control of that Work or activity;
 - (b) order the Work to stop; and/or
 - (c) order Contractor Personnel to leave CP Property.
- 3.2.3 Upon the earlier of the completion of the Work, the expiration of the applicable agreement, or the request of a Manager-in-Charge, Contractor and Contractor Personnel shall return all identification, badges, access cards, and decals, issued or provided by CP to the Manager-in-Charge.

4 Site Safety Plans

4.1 General Requirements

- 4.1.1 Prior to starting any Work on CP Property, the Contractor must have a written Site Safety Plan that identifies:
 - (a) All applicable legislation, rules, policies and work practices in relation to the work being performed;
 - (b) Specific hazards that are associated with the Work being performed on CP property for CP, and Work being performed not for CP:
 - for example:
 - (i) Construction, maintenance or inspections of buildings;
 - (ii) Working on or adjacent to railroad tracks;
 - (iii) Maintenance or inspection or railroad tracks, crossings or signal systems;
 - (iv) Operating Railroad Equipment on CP tracks; or
 - (v) When/where Contractor Personnel work directly with or in proximity (time or space) to CP Personnel; and
 - (c) Methods of verifying compliance.
- 4.1.2 The Contractor will provide Manager-In-Charge with a copy of this Site Safety Plan on reasonable request.
- 4.1.3 The Contractor must be able to demonstrate an awareness of applicable legislation, rules, policies and work practices in relation to the work being performed.

5 Safety Training

5.1 Minimum Training & Qualifications

- 5.1.1 At its sole cost and expense, Contractor shall ensure that all Contractor Personnel be fully trained and qualified for the Work they will be performing. Contractors and Contractor Personnel shall meet, or exceed, all Applicable Legislation requirements relating to training and qualification, including but not limited to the requirements of 49 CFR Part 243.
- 5.1.2 Additionally, Contractor Personnel training and qualification shall meet or exceed all applicable industry standards.

5.2 Proof of Training & Qualification

- 5.2.1 Contractor Personnel shall at all times have proof of such training and qualifications and shall produce them as and when requested by the Manager-in-Charge.
- 5.2.2 CP reserves the right to inspect qualification certificates, licenses, training records and/or Work-history records for any Contractor Personnel, and, or to be provided with copies thereof, on reasonable request. In addition, CP reserves the right to perform eTests on contractor employees, and request discipline for non-conformance.

6 Safety Orientation

6.1 General Requirements

- 6.1.1 Prior to beginning Work, all Contractor Personnel shall participate in a CP authorized safety orientation, including on-site orientation presented by the Manager-in-Charge or designate.
- 6.1.2 Any time the scope of Work, location, condition or supervision changes, Contractor Personnel may be required to attend additional safety orientation sessions.
- 6.1.3 After successful completion of such safety orientation, Contractors must be able to produce company identification or an eRailsafe photo identification badge authorizing access to CP property unescorted for the purposes of conducting work. Managers have the ability to enter the tracking code into CM (Compliance management). Third parties who hire subcontractors must ensure required compliance while on CP property. The eRailsafe identification card shall be worn or be made visible at all times, or produced upon request and cannot be transferred under any circumstances.

7 Job Safety Briefing

- 7.1.1 Contractor Personnel shall attend all Job Safety Briefings as and when conducted. Contractor Personnel shall be solely and fully responsible for understanding the content of the Job Safety Briefing, and at a minimum shall:
 - (a) have an understanding of the scope of Work to be performed and an appreciation of the nature of the location, environment, and conditions where such Work is to be performed;
 - (b) be aware of specific or unusual hazardous condition, existing or potential and the control measures required to protect against, control, mitigate, or where possible, avoid said hazard; and
 - (c) have an emergency response plan/evacuation procedures.

- 7.1.2 Where Contractor Personnel are working directly with or in proximity (time or space) to CP Personnel, job safety briefings must include both CP Personnel and Contractor Personnel, and any other affected third parties. The job safety briefing shall identify nature and extent of the interaction between the Work being performed by Contractor Personnel, and those performed by CP Personnel or other third parties. Contractor Personnel shall inform CP Personnel, and any other third parties of known or potential unsafe conditions and hazards that may be created by, resulting from, or inherent in their Work and the corresponding preventative, mitigation, and/or control measures at all job briefings prior to commencing Work, or as soon as Contractor Personnel becomes aware of such conditions.
- 7.1.3 In all situations, all Contractor Personnel are expected to:
- (a) continually identify hazards and assess risk of hazards and to continually and clearly communicate all hazards to the Manager-in-Charge and to all other parties that may be affected at job safety briefings, and at any other time as and when appropriate or necessary;
 - (b) take actions that are within their assigned responsibility to eliminate or control hazards and risks; and
 - (c) immediately notify their supervisor or the Manager-in-Charge of hazards that pose unacceptable risk that they are unable to eliminate or control.
- 7.1.4 Where Contractor Personnel are unable to eliminate or control a hazard, Contractor Personnel shall take interim measures to protect people, property, equipment and the environment until the hazard can be properly assessed and appropriate corrective actions taken.

8 Applicable Legislation

8.1 General Requirements

- 8.1.1 Contractor and Contractor Personnel shall be solely responsible for identifying and complying with all Applicable Legislation. At a minimum, Contractor and Contractor Personnel shall comply with the federal legislations set out below which list is intended solely for general guidance, and not as a comprehensive list of all Applicable Legislation.
- 8.1.2 Additionally, the Association of American Railroads (AAR) is an industry association which can provide support and guidance on matters related to railroad safety and the transportation of hazardous materials.

8.2 Transportation of Hazardous Materials

- 8.2.1 When Work involves the handling or transportation of hazardous materials (hazmat), that Work must comply with Hazardous Materials Transportation Act and regulations administered by the Pipeline and Hazardous Materials Safety Administration (PHMSA).
- 8.2.2 Contractors shall be solely responsible for ensuring that all Contractor Personnel who handles, offers for transport and/or transports hazmat by any transportation mode are trained and hold a valid training certificate or is working under the direct supervision of someone who is trained and holds a valid training certificate. That training must be based on the Work that the person is expected to perform and the hazmat that the person is expected to handle, offer for transport or transport.
- 8.2.3 All U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations are published in Chapter I of title 49 of the Code of Federal Regulations (49 CFR).

8.3 Railroad Work

- 8.3.1 When Work involves the construction, alteration, operation, inspection and maintenance of any part of the general railroad system of transportation, that Work must comply with the Federal Railroad Safety Act and regulations administered by the Federal Railroad Administration (FRA).
- 8.3.2 Contractors shall be solely responsible for ensuring that all Contractor Personnel who perform railroad Work are trained and qualified in accordance with those regulations and hold valid certificates when required.
- 8.3.3 All FRA regulations are published in Chapter II of title 49 of the Code of Federal Regulations (49 CFR).

8.4 Occupational Safety & Health

- 8.4.1 Any Work being performed that may create a risk to the health and safety of any person, including CP Personnel and Contractor Personnel, when not covered by FRA regulations shall be governed by U.S. Department of Labor regulations administered by Occupational Safety and Health Administration (OSHA).
- 8.4.2 All OSHA regulations are published in Chapter XVII of title 29 of the Code of Federal Regulations (29 CFR).

8.5 Environmental Protection

- 8.5.1 Where Work is being performed that may impact the environment, that Work must comply with all applicable federal state, and local government legislation, regulations and standards.
- 8.5.2 Federal legislation is generally administered by the Environmental Protection Agency. A compilation of those laws and regulations can be accessed at <http://www.epa.gov/lawsregs/>

9 Security Access to CP Property

- 9.1.1 All Contractor Personnel must have personal identification and/or eRailsafe credentials authorizing access and in their possession at all times while on CP Property, and present them for review to any Manager-in-Charge, other CP managers and employees, Police Officer, security guard, or regulatory officer upon request:
 - (a) photo identification (e.g. driver's license); and
 - (b) proof of employment, document or card; and
 - (c) CP safety orientation certificate; or
 - (d) building access pass issued by CP or third party having control over CP premises; or
 - (e) CP security photo ID card or badge; or
 - (f) other proof of safety orientation and access authorization issued by CP.
 - (g) Valid eRailsafe card
- 9.1.2 Where any Work requires Contractor Personnel to ride in locomotive or other non-passenger railroad equipment, the Contractor must also possess a CP ACCESS PASS for riding non-passenger railroad equipment, signed by the responsible operating manager. Such a signed pass must be presented to the train crew or operator when boarding the equipment. Failure to possess such a pass will result in the equipment not moving, removal from the equipment, and/or the filing of trespasser charges.

9.2 Security Awareness

- 9.2.1 Contractor shall conduct employee background checks as is necessary to ensure that Contractor Personnel do not pose a security risk to CP, such security risk includes the risk of the commission of terrorist activities, sabotage, vandalism, theft, and violence. CP reserves the right, at all times, to require that Contractors undertake certain security training and/or performs background checks on Contractor Personnel, prior to allowing such Contractor Personnel to enter onto CP Property.
- 9.2.2 On request CP can make available a copy of CP's Railway Security Awareness Program for use by Contractor Personnel.

9.3 Firearms & Explosives

- 9.3.1 Firearms (loaded or empty) are not permitted on CP Property, except for Police officers and other designated government officials when authorized to do so.
- 9.3.2 No explosives will be permitted on CP Property without written approval by the Manager-in-Charge.

9.4 Reporting

Contractor Personnel must report any security concern, security incident, criminal activity (known or suspected), suspicious happenings and/or suspicious persons on CP Property to the Manager-in-Charge or to CP Police Services in accordance with Section 18.

10 Personal Conduct

10.1 Drug and Alcohol Prohibition

CP recognizes the problem of alcohol and substance abuse in today's society. This problem poses particular concerns to an employer who is subject to governmental regulations and seeks to promote the safety of the general public. CP has a concern for the safety, health and well-being of its employees as well as an obligation to comply with the United States Department of Transportation (DOT) and Federal Railroad Administration (FRA) regulations. CP will comply with all statutes and regulations administered by the FRA in implementing the required 49 CFR §219 Drug and Alcohol Program. CP also expects employees of other railroads, visitors or contractors to comply with this regulation while on CP property, consistent with federal regulations. If subject to this regulation, Contractor shall be solely responsible for compliance with the 49 CFR Part 219. Contractor shall provide CP with proof of its compliance prior to performing services for CP and continued proof of compliance must be provided to CP immediately upon request. This proof of compliance will include, but will not be limited to, a copy of the 49 CFR §219 Drug and Alcohol Program Plan and FRA Approval Letter and Continued Certification of Compliance and Statistical Reporting. Periodic audits to ensure compliance with these regulations may be performed and cooperation and compliance is expected upon request.

If subject to other DOT modalities and regulations, such as the Federal Motor Carriers Safety Administration (FMCSA), compliance of that modality's drug and alcohol program guidelines will be required and periodic audits to ensure compliance with these regulations may be performed and cooperation and compliance is expected upon request.

- 10.1.1 Entry onto CP Property when in possession of, or under the influence of alcohol, intoxicants, narcotics, or controlled substances is strictly prohibited. Controlled substances include all Schedule 1 drugs (such as marijuana and "medical marijuana") and synthetic/designer drugs and/or any intoxicants or products labeled "not intended for human consumption".
- 10.1.2 The sale, trade, and/or offer for sale alcohol or controlled substances are prohibited.

10.1.3 Additionally, Contractor Personnel shall be free of any condition which may in any way adversely affect alertness, concentration, responsiveness, or the ability react calmly and responsibly to safety hazards.

10.1.4 CP reserves the right to request drug and/or alcohol tests for Contractor Personnel as and where required or permitted by law.

10.2 Inappropriate Behavior

10.2.1 CP is committed to maintaining a work environment that supports the dignity of all individuals. No person working at CP may be subjected to any form of discrimination or harassment, including sexual harassment.

10.2.2 Acts or threats of violence are unacceptable at all times on CP Property. Uttering of threats or committing acts of violence will result in the removal of the responsible Contractor Personnel from CP Property, termination of the Contract, and/or criminal charges.

10.2.3 Horseplay, practical jokes, fighting or any other activity that may create a safety hazard is not permitted.

10.3 Electronic Entertainment and Communication Devices

10.3.1 The use of personal entertainment devices, including portable audio and video devices such as compact DVD, CD, video game players, tablets, SMART watches and MP3 players, is prohibited:

- (a) while Working on CP Property;
- (b) while transporting CP Personnel, whether on and off CP Property; and
- (c) while operating any CP highway vehicle, railroad equipment or mobile equipment, whether on and off CP Property.

10.3.2 The use of electronic communication devices, including cell phones, Smart Phones, Blackberries, walkie-talkies, PDAs, iPads, Tablets, GPS navigation units, portable computers, and similar devices, is prohibited:

- (a) while operating any highway vehicle, unless it is stopped and parked in a safe location;
- (b) while transporting CP Personnel, whether on and off CP Property;
- (c) while operating or assisting in the operation of any railroad equipment or mobile equipment;
- (d) while operating power tools, equipment or machinery;
- (e) when Foul of Track for any reason;
- (f) wherever use is prohibited by signage or by a CP manager; or
- (g) whenever use of such a device creates an unsafe condition.

10.3.3 Notwithstanding the foregoing, company cell phones, radios, walkie-talkies, GPS units, iPads, tablets and other communication devices may be used solely for the conduct of business when authorized by the CP Manager-in-Charge and where not prohibited by state or municipal legislation. Any electronic communication device may be used when it is necessary to communicate an emergency condition.

10.4 Smoking

10.4.1 Smoking, including the use of e-cigarettes is prohibited on all CP Property, and in or on all highway vehicles, Railroad Equipment, and Mobile Equipment, except for CP designated outdoor smoking areas.

11 Personal Protection

11.1 Work Clothing

11.1.1 The Contractor must ensure that Contractor Personnel wear clothing that meets applicable legislation and is suitable to perform the work safely. This includes at minimum ankle length pants and waist length shirts with a minimum quarter-length sleeves at all times. Clothing must not interfere with vision, hearing or use of hands and feet.

11.2 Personal Protective Equipment (PPE)

11.2.1 The Contractor shall ensure that Contractor Personnel wear personal protective equipment required by applicable legislation, regulations, codes and industry standards as necessary to protect against personal injuries while on railroad property. All personal protective equipment shall meet applicable legislation and American National Standards Institute (ANSI) standards and shall be in good condition and be properly fitted.

11.2.2 The following mandatory personal protective equipment (“PPE”) shall be supplied by the Contractor at its own expense, and shall be worn at all times by Contractor Personnel while on CP Property:

- (a) safety hard hat, meeting ANSI 89.1 standards, except in office buildings or in enclosed vehicles or equipment;
- (b) safety footwear with protective toe caps and puncture resistant soles, meeting ASTM F2413 standards.
- (c) safety glasses with permanently attached side shields meeting ANSI Z87.1 standards in office buildings or enclosed highway vehicles. Note- transition lenses are not permitted;
- (d) high visibility fluorescent outerwear with retro reflective striping meeting ANSI 107 Class 2 standards not covered by other clothing or equipment, except where necessary for safety reasons such as where fall protection or pole climbing equipment is being used; and
- (e) any other PPE as required by applicable legislation or referenced standard, or as otherwise required to protect Contractor Personnel from injuries.

Type of Protection	Additional Recommendations
Hard Hats	Have hi-visibility characteristics which are not obscured by markings or decals
Safety Eyewear	Tinted safety eyewear must meet military standards for red signal recognition if operating railroad equipment (safety eyewear meeting this requirement is available from ORR Safety; ask for CP approved tinted safety eyewear) Transition lenses are discouraged and should be worn with caution when working in changing light conditions Personal sunglasses are discouraged and must not be worn when operating Railway Equipment Wear mesh face shields over top safety glasses when using any striking tool while performing on track maintenance work (e.g. spiking, snapping on/off anchors, etc.). If working alongside CP employees you will be required to comply with this practice.
Safety Footwear	Have defined heels Be laced and tied securely for ankle support When snow and ice conditions are present wear anti-slip winter footwear
High-Visibility Apparel	Lime-green is recommended when working on, or near tracks, or when performing Co-mingled Work

- 11.2.3 Contractor and Contractor Personnel shall be solely and fully responsible for assessing the risks related to the work and determining whether additional PPE may be required such as:
- (a) Nomex or Proban fire-retardant protective gear when performing certain Transportation of Dangerous Goods (TDG) work and/or handling certain Hazardous Materials, or performing specialized work.
 - (b) hearing protection when working in any area where noise exposure levels:
 - (i) are consistently equal to or greater 85 dBA;
 - (ii) exceed 115 dBA at any time; and
 - (iii) any other work areas where posted, or so notified by CP management.
 - (c) respiratory protection where Contractor Personnel may be exposed to occupational dusts/particulates, fumes, mists, gases and vapors, in which case, in which case Contractors must have a written Respiratory Protection Program that meets or exceeds applicable legislation;
 - (d) additional eye and face protection meeting ANSI standard Z87.1 (i.e. face shields, impact/splash goggles, welding/cutting goggles and welding helmets); and
 - (e) fall protection systems and equipment meeting appropriate ANSI Z359 standards as required by applicable legislation and as appropriate for the related fall hazards.
 - (f) fall protection when working on an unguarded surface over water, where the water is deeper than 4 feet, or where there is a hazard of drowning due to terrain, winter conditions, water velocity or current; contractors must use a fall protection system or a personal floatation device (PFD) meeting approved standards.

12 Railroad Track Protection

12.1 Contractor's Responsibilities for the Protection of Railroad Traffic and Property

- 12.1.1 Where the Work Site is in close proximity to, or is located on, above, or below railroad tracks, special attention, care and precautions shall be taken to ensure the safety of all Contractor Personnel, CP Personnel, all other third parties and to protect CP's property and railroad operations.
- 12.1.2 Contractor shall ensure that Contractor Personnel is made aware of all unique and inherent hazards in working near, on, above or below railroad tracks and shall ensure that all Contractor Personnel are fully trained and equipped to work safely.
- 12.1.3 Contractors who perform inspection, maintenance or repair to railroad tracks or track structures must be trained in accordance with FRA On Track Safety Rules (FRA 49 CFR Part 214, Subpart C - Roadway Worker Protection Regulations).
- 12.1.4 Contractors will not be allowed to foul a track unless:
- (a) They have been properly advised of the On Track Safety awareness procedures;
 - (b) A railroad employee who is qualified to provide protection is present at the work site, or.
 - (c) The Contractor has personnel present who are specifically trained, qualified and authorized to provide that protection.
- 12.1.5 All work shall be organized or executed in such a manner as to ensure no interference with the regularity and safety of railroad operations. No step or sequence of any Work that might directly

or indirectly affect the safe movement of railroad traffic shall be started without the approval of the Manager-in-Charge.

- 12.1.6 No temporary structure, materials, or equipment shall be permitted closer than 12 feet to the nearest rail of any track without prior approval in writing of the Manager-in-Charge.

Contractor Personnel shall at all times remain alert to the movement of trains, rolling stock and other railroad equipment.

- 12.1.7 Contractor Personnel shall be especially alert in yards and terminal areas as

- (a) Railroad equipment that appears to be stationary may be moving;
- (b) the rate of movement of railroad equipment may be faster than it appears;
- (c) Railroad equipment change tracks often; and movements may be occurring simultaneously on adjacent tracks.

- 12.1.8 The Contractor shall, at all times, conduct its operations in a wholly responsible manner to avoid damage to the CP's tracks or property.

12.2 50 feet Clearance Requirement

- 12.2.1 All work shall be performed as far away from railroad tracks as possible.

- 12.2.2 Unless authorized by CP, Contractor Personnel, equipment, and vehicles are not permitted to be within 50 feet of the closest track centerline.

- 12.2.3 In the event work must be carried out within 50 feet of the closest track written authorization must be obtained from the Manager-in-Charge, and Contractor Personnel must still remain at the maximum practicable distance from all railroad tracks at all times.

- 12.2.4 When crossing tracks, Contractor Personnel shall ensure a minimum of 50 feet separation between standing railroad equipment, stay at least 15 feet away from the end of the nearest equipment, and look both ways before crossing tracks, and if clear, walk at a right angle to the tracks.

- 12.2.5 No work activities or processes are allowed within 50 feet of the track while trains are passing through the work site unless specifically authorized.

12.3 Flagging Protection

- 12.3.1 When the Work requires Contractor Personnel to be within 50 feet of any railroad tracks, Contractor or Contractor Personnel shall notify and obtain the written approval of the Manager-in-Charge in advance of the intended start date, and when approved, shall only perform Work strictly in accordance with all terms and conditions of that approval.

- 12.3.2 Unless otherwise indicated by the Manager-in-Charge, proper protection against the movement of trains, rolling stock and other railroad equipment shall be deemed required at all times whenever Work or Contractor Personnel must be within 50 feet of the closet track. Protection may be provided only by a qualified CP employee through use of a flag person.

- 12.3.3 Where CP determines that flagging is required, then Work must be strictly conducted under the direction of a CP flag person or such other person designated by the Manager-in-Charge.

- 12.3.4 Contractor Personnel shall ensure that there is clear communication at all times between Contractor Personnel and any CP flag person. Contractor Personnel shall ensure that they are aware of:

- (a) flagging distance limits;
- (b) time limits; and
- (c) any adjacent tracks where movement of railroad equipment may still occur.

- 12.3.5 Contractor Personnel shall not assume that a train movement is being stopped or cleared unless clear communication is received directly from the CP flag person.
- 12.3.6 A job briefing between the CP flag person and all Contractor Personnel must occur before beginning any Work on or Foul of Track.
- 12.3.7 Blue signal protection is used to indicate that CP or Contractor Personnel are working on, under or between railroad equipment and movement of trains or other railroad equipment is prohibited. Blue signals must not be tampered with or obstructed. Blue signals can only be removed by the person or group of persons who originally applied it. Application, use, and removal of blue signals, when appropriate, may only be done under the authorization and guidance of the Manager-in-Charge.
- 12.3.8 Red flag protection is used to indicate that CP or Contractor Personnel are working on or foul of track, or the track is out of service and movement of trains or other railroad equipment is prohibited. Red flags must not be tampered with or obstructed. Application, use, and removal of red flags, when appropriate, may only be done under the authorization and guidance of the Manager-in-Charge.

12.4 Working on or near Tracks

- 12.4.1 When authorized to perform Work foul of track or otherwise be near railroad tracks, Contractor Personnel shall ensure all Contractor Personnel, equipment, and vehicles are kept as far away from railroad tracks as practicable, and shall at all times:
- (a) be alert to train movements and shall expect the movement of trains, engines, cars, or other mobile railroad equipment at any time, on any track, and in any direction, even if they appear to be stationary or in storage;
 - (b) not rely on others to protect them from train movement;
 - (c) stay at least 15 feet away from the ends of railroad equipment when crossing the track;
 - (d) ensure a minimum of 50 feet separation prior to crossing between Railroad Equipment;
 - (e) look both ways before crossing tracks, and if clear, walk at a right angle to them.
 - (f) never climb on, under or between railroad equipment;
 - (g) be aware of the location of structures or obstructions where track clearances are close;
 - (h) not stand on the track in front of an approaching engine, car or other equipment;
 - (i) stand at least 20 feet from the track(s) when there is a passing movement of trains, engines, cars, or other mobile railroad equipment, to prevent injury from flying debris or loose rigging and shall observe the train as it passes and be prepared to take evasive action in the event of an emergency;
 - (j) not stand on or between adjacent tracks in multiple track territory when a train is passing;
 - (k) not walk, stand or sit on the rails, between rails or on the end of ties, unless absolutely necessary. As the rail surface can be extremely slippery, personnel must step over the rails when crossing tracks. Personnel shall also be aware railroad ties can also be slippery and that railroad ballast can shift while walking on top of it. Situational awareness and use of proper footwear is important;
 - (l) not remain in a vehicle that is within 50 feet of a passing train unless specifically authorized, or where this is not possible.
 - (m) keep away from track switches as remotely operated switch points can move unexpectedly with enough force to crush ballast rock. Personnel shall stay away from any other railroad devices they are unsure of. Personnel shall not disturb or foul the ballast at any time.

- (n) Third party work that has a potential to impact rail traffic must take into account machine swing radius, vertical grade differences, overhead work, etc to ensure it will not impact a passing train; work and equipment must maintain a distance of 50 feet of a passing train.
- (o) When exiting on track machinery as trains are passing; exit on the opposite side.
 - (a) use 3-point contact when getting on/off any vehicle, equipment or track unit;
 - (b) face the vehicle or equipment/track unit when getting on/off
 - (c) place handheld items onto equipment/track unit or seek help prior to getting on/off
 - (d) get on/off on the operators side when possible

12.5 Equipment on or near tracks

- 12.5.1 Contractor Personnel shall not be Foul of Track with any piece of equipment without a CP flag person or other authorized track protection;
- 12.5.2 Contractor Personnel shall not move equipment across the tracks except at established road crossings, or unless under the protection and authorization of a CP flag person and only if the Work Site has been properly prepared for such a move. Tracked equipment will require a CP flag person any time railroad tracks are crossed.
- 12.5.3 Contractor Personnel shall not move equipment across railroad bridges or through tunnels, except as expressly authorized and only under such conditions as stipulated by the Manager-in-Charge.
- 12.5.4 When there is passing rail traffic, Contractor Personnel shall move equipment away from the tracks at least 50 feet, or where not possible, park the equipment as far away from the tracks as possible, exit to the side away from the track where the movement is taking place, and walk to a safe a distance.
- 12.5.5 When there is passing rail traffic, buckets, shovels, and loads on cranes must be lowered to the ground to rest, and cranes without a load must have their load line tightened or retracted to prevent movement.

12.6 Railroad Signs, Signals, Flags and other Communication Infrastructure

- 12.6.1 Signs, signals and flags shall not be obstructed, removed, relocated, disabled or altered in any way without proper authorization and qualification.
- 12.6.2 Only qualified Contractor Personnel who are authorized by CP are permitted to operate switches, derails, electric track mechanisms, signal and communication systems or other track control appliances.
- 12.6.3 Railroad pole lines carry electric power and should be treated as any other power lines.
- 12.6.4 The Contractor shall keep all Contractor Personnel informed of current weather conditions. Personnel shall stay alert for possible high water conditions, or flash floods. During severe weather conditions:
 - a) Personnel shall be prepared to take cover in the event of a tornado
 - b) Personnel shall not work while lightning is occurring
 - c) If storm conditions arise unexpectedly, Contractor Personnel shall ensure that equipment is in the clear of the tracks and secured before seeking cover. Contractor Personnel shall stay away from railroad tracks when visibility is poor, such as during fog or blizzard conditions.

Any Contractor personnel discovering a hazardous or potentially unsafe condition, which may affect the safe passage of railroad traffic, must advise CP Police immediately by calling the CP Police Communications Centre – 1-800-716-9132

12.7 Excavation

- 12.7.1 Before starting excavation operations, the Contractor shall ascertain that there are no underground wires, fiber optic cables, pipelines or other utilities which could be damaged or, if present, that such installations are properly protected. Fiber optic cables are present on most segments of the right-of-way. Prior to commencing any excavation, the Contractor shall contact the proper authority CP and/or public utility to obtain the necessary permit and to locate and protect such cables or other underground utilities.
- 12.7.2 Excavations shall not be left unattended unless they are properly protected; and the Manager-in-Charge shall be notified.
- 12.7.3 Contractors MUST obtain and maintain utility locates in accordance with applicable law.

13 HAZCOM

13.1 General Requirements

- 13.1.1 If at any time Contractor's Work involves the use, handling, storage, or disposal of Hazardous Materials ("Handling of Hazardous Materials"), Contractor Personnel must inform the Manager-in-Charge.
- 13.1.2 Contractors shall ensure that all Contractor Personnel are fully trained in the Handling of Hazardous Materials and that Contractor and Contractor Personnel are in full compliance with all Applicable Legislation, and as directed by the Manager-in-Charge.
- 13.1.3 Contractor Personnel shall have appropriate processes, systems and controls in place to prevent or otherwise mitigate potential environmental, health and safety risks associated with the Handling of Hazardous Materials.

13.2 Access to Safety Data Sheets (SDS)

- 13.2.1 Prior to beginning any Work that may expose CP Personnel to Hazardous Materials, Contractor or Contractor Personnel shall:
 - (a) provide a copy of the respective SDS to the Manager-in-Charge; and
 - (b) keep a copy of the SDS at the work site and ensure that it is readily available at all times.

13.3 Hazardous Material Incident or Spill

- 13.3.1 In the event of a hazardous material incident or spill, the Contractor must:
 - (a) ensure that no Contractor or CP Personnel have or will be exposed;
 - (b) take all reasonable actions to contain the spill;
 - (c) respond in accordance with its emergency response plan; and
 - (d) notify CP immediately in accordance with Section 18 below.

14 Operation of Highway Vehicles

14.1 Highway Vehicles

14.1.1 The following requirements apply to all highway vehicles, when operated on CP Property; or used to transport CP Personnel.

14.2 Regulations and Inspection

14.2.1 Before using a highway vehicle, Contractor Personnel shall:

- (a) complete a pre-trip inspection;
- (b) maintain an inspection log;
- (c) ensure periodic inspections are completed at official testing locations as required;
- (d) ensure the vehicle is maintained and in safe operating conditions at all times; and
- (e) ensure the vehicle is in compliance with applicable motor vehicle regulations and license requirements.

14.2.2 Vehicle maintenance, inspection records and logs must be made available to the Manager-in-Charge on request.

14.3 Vehicle Operator Requirements

14.3.1 Operation of highway vehicles is restricted to those Contractor Personnel who are licensed, qualified and authorized to do so. Such Contractor Personnel shall be responsible for the safety of all passengers at all times. For greater certainty, such Contractor Personnel shall:

- (a) hold a valid license for the class of vehicle being operated, in accordance with applicable local, state and federal requirements, and
- (b) strictly comply with all posted traffic signs, signals, and all shall obey all applicable legislation; and
- (c) maintain the required driver log, and make the log available to the Manager-in-Charge on request, and
- (d) comply with the requirements on the use of electronic devices as set out in Section 10 above.

14.4 Driving on CP Property

14.4.1 In addition to the requirements set out above, while on CP Property, Contractor Personnel shall:

- (a) travel only on designated roadways unless otherwise instructed;
- (b) keep daytime running lights on (if so equipped);
- (c) not exceed 15 mph unless otherwise posted;
- (d) come to a full stop at all blind corners, rail and roadway crossings;
- (e) yield the right of way to all Mobile Equipment and other non-highway equipment or service vehicles;
- (f) not operate vehicles (or any internal combustion equipment) inside buildings or enclosed structures unless adequate ventilation is provided;
- (g) not park Foul of Track unless on-track protection is provided;
- (h) not leave vehicles running unnecessarily;

- (i) park only in pre-determined or designated areas;
- (j) always use the parking brake (or wheel chocks) when leaving an unoccupied vehicle running; and
- (k) prior to operation of a vehicle the driver must conduct a walk around of the vehicle to identify any obstacles, clearance restrictions, or adjacent vehicles that may interfere with executing a safe movement.
- (l) where safe and practicable, pull vehicles through or back into marked parking spaces to avoid reverse collisions when exiting.
- (m) If a passenger is present, he exit the vehicle prior to a reverse movement to provide guidance and direction to the driver during the reverse movement and applies to commercial vehicles and vehicles with restricted rear views

14.4.2 All Contractor Personnel who will be operating a highway vehicle or Mobile Equipment in any CP intermodal facilities must complete a Driver Safety Orientation program prior to first entry, and from time to time thereafter as directed by the Manager-in-Charge.

14.5 Seat Belts

14.5.1 Seat belts must always be worn while operating or riding in any equipped vehicle unless Contractor personnel is actively engaged in inspections requiring said Contractor Personnel to be free of such restraint, and then only when the vehicle is operating at less than 15 mph.

14.6 Loads

14.6.1 Contractor Personnel shall ensure vehicles are loaded according to weight and dimensional requirements as authorized by state regulations and permits, and properly load and secure tools, material, equipment and freight to avoid shifting, falling, leaking or otherwise escaping from vehicles during operation.

14.7 Riding in CP Vehicles

14.7.1 Contractor Personnel are prohibited from operating or riding in any CP vehicles unless authorized to do so, or in case of emergency.

15 Tools, Equipment and Machinery

15.1 General Safety Requirements Respecting All Tools, Equipment and Machinery

15.1.1 Contractor Personnel shall ensure that all tools, equipment, and machinery used be:

- (a) in compliance with all Applicable Legislation;
- (b) in good working order, properly serviced and maintained;
- (c) safe for their proposed use and used only for purposes specified by the manufacturer;
- (d) operated and maintained only by persons properly trained and qualified for that duty;
- (e) seat belts (if present on equipment) must be worn while operating or riding any such equipped mobile equipment;
- (f) if mobile, equipped with appropriate safety devices (e.g. lights, horns, back-up alarms, safety beacons); and prevented from moving, through use of the hand brake, wheel blocking, wheel chocking and/or a derail, where applicable.

15.1.2 The Contractor shall provide adequate lighting when performing work between sunset and sunrise.

15.1.3 Use of CP tools, equipment and machinery by Contractor Personnel is prohibited unless specifically authorized by local CP management.

15.2 Hazardous Energy Control- Lockout

15.2.1 Contractor Personnel shall employ lockout/tagout procedures as required to eliminate the accidental or unexpected start-up, energizing, or release of stored (residual) energy during maintenance, repair and/or servicing activities.

15.2.2 All tools, equipment and machinery must be made safe and isolated from all energy sources rendering the machine, equipment, or process inoperative prior to performing maintenance, repair or servicing related tasks.

15.2.3 No Contractor Personnel can remove any CP applied lock or tag, including bad-order tag.

15.2.4 Notwithstanding the foregoing, if Contractor's Work may create an energy hazard to any CP Personnel, then all affected parties must follow the requirements set forth in CP's Lockout – Hazardous Energy Control Policy and Code of Practice.

15.2.5 If CP Personnel and Contractors are jointly performing maintenance, repair or servicing activities on the same machine, equipment or using the same energy source, then a multi-lock hasp must be applied with individual locks and tags affixed (as per CP's Lockout – Hazardous Energy Control Policy and Code of Practice).

15.3 Electrical Safety Requirements

15.3.1 In addition to the hazardous energy control lockout requirements above, all electrical Work must comply with Applicable Legislation, National Electrical Code (NEC), and National Fire Protection Association (NFPA) requirements.

15.3.2 Contractor Personnel Working on electrical systems must:

- (a) if in proximity to CP Personnel, inform them of:
 - (i) existing or potential electrical hazards;
 - (ii) any specific additional personal protective equipment that may be required;
 - (iii) applicable safe work practices;
 - (iv) applicable emergency and evacuation procedures; and
 - (v) apply lock out procedures as per section above on Hazardous Energy Control-Lockout
- (b) have practices, procedures and training that comply with:
 - (i) Applicable sections of the NEC and NFPA electrical safety standards;
 - (ii) Any other Applicable Legislation; and
- (c) not operate or allow cranes or other mobile equipment to approach closer to any live electrical power line than is permitted by OSHA regulations (29 CFR 1910.333).

15.4 Lifting Devices

15.4.1 All lifting devices, including but not limited to jacks, cranes, cables, slings, chains and hooks shall:

- (a) meet Applicable Legislation governing design, inspection, maintenance and operation;
- (b) be safety certified and labeled or tagged with load capacity limits where required;

- (c) have sufficient capacity for the planned lift;
- (d) have sufficient footing or support area to properly distribute the load during a lift.

15.5 Welding and Torch Cutting

15.5.1 When welding or torch cutting, Contractor Personnel shall:

- (a) be properly trained and qualified;
- (b) ensure that all closed containers have been properly purged;
- (c) direct flame or sparks away from other Workers, equipment and flammable material;
- (d) have a fire extinguisher readily available;
- (e) keep compressed gas and oxygen cylinders stored in a secure, vertical position, with regulators removed and caps applied, labeled properly and located in vented cabinets or other designated locations.

15.6 Explosive Actuated Tools

15.6.1 Only Contractor Personnel who are qualified and licensed in accordance with Applicable Legislation, and authorized by CP, may use explosives or explosive actuated tools.

15.7 Unattended Equipment or Machinery

15.7.1 Tools, Equipment and Machinery shall not be left unattended at any time and shall not be stored on CP Property, unless expressly permitted pursuant to a written agreement with CP or by the Manager-in-Charge in writing, and where so permitted, Contractor shall ensure that:

- (a) storage shall be restricted to the designated area, or as otherwise specified by CP.
- (b) all such tools, equipment and machinery shall be secured in a safe position well clear of all tracks to prevent accidental contact with trains and moving equipment and to not restrict train crew sightlines;
- (c) as much as possible, tools, equipment and machinery shall be stored in locations out of public view.
- (d) Machines must be secured in accordance with on-track machinery rules.

16 Emergency Response

16.1 Emergency Response Plan

16.1.1 The Contractor must maintain a current emergency response plan and make it available to CP on request. Emergency response plans must include at a minimum:

- (a) contractor reporting procedures in the event of an incident or spill;
- (b) emergency response contacts and phone numbers, including phone numbers for CP incident reporting and local CP managers (See Attachment A); and
- (c) containment measures to be taken in the event of an incident or spill.

16.2 Initial Response

16.2.1 Initial response to any emergency condition must follow the following sequence:

- (a) Protect the safety and security of all individuals and communities
- (b) Provide environmental protection and mitigation
- (c) Conduct incident investigation and evidence preservation
- (d) Restore railroad operations

16.3 First Aid

16.3.1 Contractor Personnel must have sufficient First Aid qualified personnel and the required First Aid kit and any other required First Aid equipment at the Work Site, suitable for the crew size, nature of Work being performed and location, all of which shall, at a minimum, comply with OSHA regulations (29 CFR 1910.266).

16.4 Fire Protection

16.4.1 The Contractor must have appropriate fire extinguishers suitable (i.e., type, size and quantity) for nature of the work being done, in compliance with applicable legislation, and be readily available at all times on:

- (a) the work site; and
- (b) all Contractor equipment, machinery and highway vehicles.

16.4.2 Contractor Personnel shall ensure that all necessary precautions are taken to prevent fires, including the following:

- (a) storing flammable material (e.g., paper, rubbish, sawdust, oily or greasy rags, etc.) in proper containers;
- (b) storing and transporting fuel, gasoline or other flammable liquids in approved containers. Use of unapproved containers is prohibited;
- (c) proper disposal of flammable material daily;
- (d) preventing static electricity when dispensing or transferring flammable liquids by using proper grounding and bonding techniques;
- (e) avoid using cutting or welding torches during the last one-half hour of shifts, if possible;
- (f) taking special precautions with fusees, including:
 - (i) store and transport in approved containers;
 - (ii) do not allow fusees to come in contact with any combustible material, including railroad ties or wooden timbers; and
 - (iii) fully extinguish fusees before leaving the location where used;
- (g) promptly advise CP management of any fire on CP Property; and
- (h) fully extinguish or provide protection for any fire prior to leaving the Work Site.

16.4.3 Contractors Working on the CP right-of-way where a high risk of fire exists (e.g., during rail grinding, rail welding) must have:

- (a) appropriate fire prevention and suppression plans (including emergency numbers for CP, local firefighters and fire control districts); and
- (b) additional firefighting equipment and trained Contractor Personnel on site, as required by Applicable Legislation or the Manage In Charge.

17 Confined Space

17.1 Confined Space

- 17.1.1 Qualified and authorized Contractor Personnel must follow all required confined space entry procedures in accordance with applicable legislation and standards prior to entering into a confined space.
- 17.1.2 Rescue procedures and equipment must readily available when required to enter a confined space.

18 Reportable Accidents, Incidents and Injuries

18.1 Reportable Injuries

18.1.1 Reportable injuries include any personal injury to:

- (a) Contractor Personnel;
- (b) any CP Personnel; or
- (c) to any third party on CP Property.

18.2 Reportable Accidents

18.2.1 Reportable accidents include any occurrence that results in:

- (a) damage to railroad tracks, right of way, buildings or other CP Property;
- (b) damage to railroad equipment;
- (c) damage to CP highway vehicles;
- (d) release of hazardous material;
- (e) spill or loss of transported commodities; and
- (f) any threat to the environment.

18.3 Reportable Incidents

18.3.1 Reportable incidents include:

- (a) unintended movement of railroad equipment;
- (b) failure to provide track protection for Workers when required;
- (c) movement of railroad equipment beyond authorized limits;
- (d) operation of railroad equipment by an unqualified person;
- (e) unauthorized handling of a track switch;
- (f) damage, vandalism or tampering with any railroad signals, structures or railroad safety device;

- (g) seepage, leakage, spills of, or other contamination from, Hazardous Materials;
- (h) actual, threaten or suspected security related incidents;
- (i) slides, washouts or other on-track obstructions; or
- (j) any occurrence that may disrupt the movement of trains or affect safe rail operations.

19 Reporting

19.1 Emergency Reporting

19.1.1 In the case of an emergency, Contractor Personnel must call:

- (a) 911, where this emergency response system exists, or
- (b) the local police, fire or emergency department in all cases; and
- (c) CP Police Services Communication Center- 1-800-716-9132.

19.2 Accident, Incident, Injury Reporting

19.2.1 When an accident, incident or injury occurs on CP Property, the Contractor must:

- (a) immediately report it to the
 - (i) CP Police Services Communication Center 1-800-716-9132; and
 - (ii) CP Manager-in-Charge
- (b) follow all instructions given to protect the scene.

19.2.2 CP is obligated to report Contractor Personnel injuries occurring on CP property to the Federal Railroad Administration (FRA). Any state or required regulatory reporting remains the Contractor's responsibility.

19.3 Information to Report

19.3.1 Information required with the initial report includes:

- (a) type of incident;
- (b) date and time of occurrence;
- (c) location (mileage, subdivision, building, yard or other physical description);
- (d) identity of person(s) involved or injured (company & name);
- (e) description of any hazardous materials involved;
- (f) type & unit number of any railroad equipment or vehicle involved;
- (g) description of occurrence, damage and/or injury, and cause if known;
- (h) description of any emergency response;
- (i) name and contact information of person making the report; and
- (j) any such other information that CP may require.

19.4 Environmental Incidents and Spills

19.4.1 In the event of an environmental incident or spill that could have a negative impact on the environment, the Contractor must immediately:

- (a) report the incident to the Operations Center, the Manager-in-Charge, and the designated CP Contact as per the governing agreement relating to the Work;
- (b) take all reasonable actions to contain the spill;
- (c) respond in accordance with its emergency response plan; and

- (d) provide CP with the following information;
 - (i) description of location and surrounding area, including any sensitive environmental areas nearby (e.g., rivers, parks, sewers);
 - (ii) type and quantity of substance released;
 - (iii) cause of spill or deposit, if known; and
 - (iv) details of any immediate action taken or action proposed to be taken to contain spill and recover substance.

19.5 Additional Contractor Requirements

19.5.1 Contractor and Contractor Personnel must:

- (a) ensure an appropriate emergency response is initiated;
- (b) protect any evidence until released by the CP Manager-in-Charge;
- (c) cooperate fully with any CP investigation;
- (d) cooperate fully with any investigating government agency; and
- (e) notify CP if information is requested by any investigating government agency.

20 Contractor & Contractor Personnel Acknowledgement

Acknowledgement

- 20.1.1 Contractor and Contractor Personnel who Work on CP Property shall be deemed to have read and understood the content of these Minimum Safety Requirements for Contractors While Working on CP Property in the United States, as amended from time to time, and to agree to be bound by them.
- 20.1.2 These Minimum Safety Requirements for Contractors While Working on CP Property in the United States are subject to change without prior notice. The most current version of these Minimum Safety Requirements can be viewed at www.cpr.ca or by contacting the Manager-in-Charge.



***Home Safe™ is a commitment to be vigilant about personal safety
and the safety of co-workers.***

WORK SITE INFORMATION		
	PHONE	LOCATION
Work Site Location Name		
Railroad Subdivision & Mileage		
Address, Number and Street		
Nearest Town		
CP Manager-in-Charge		
Emergency Site Access Route (Describe route from nearest emergency services location in detail including access roads & physical landmarks OR provide sketch on back.)		
Contractor Supervisor		
Site Telephone		
Certified First Aid Attendant		
Location of First Aid Supplies at Site		
Location of Fire Extinguishing Equipment:		
Location of WHIMS data sheets		
UTILITY INFORMATION		
UTILITIES CONTACT	PHONE	LOCATION
Natural Gas:	()	
Electrical:	()	
Fiber Optic Line:	()	
Water & Sewer:	()	
Telephone:	()	
Cable System:	()	
Qualified employee(s) in:	()	
Confined Space Entry, (if applicable):	()	
Equipment requirements for Confined Space Entry, (if applicable):	()	
Other:		

APPENDIX E



Flagman information sheet - Customer copy

Flagging protection is required any time a third party is conducting work on or around CP property and track which has the potential to pose a risk to the safe operation of trains and surrounding workers.

No work will be allowed, nor will personnel be permitted on the property unless proper arrangements are made in advance. CP police will be dispatched to address trespassing on CP property.

In addition, locates must be taken into account prior to any ground disturbance. Please contact your regional locate company as well as CP's CALLB4UDIG group at [Call B4UDig@cpr.ca](mailto:Call_B4UDig@cpr.ca) or 1-800-387-1833 to ensure all underground utilities in the area are protected.

Flagging resources will be supplied at CP's discretion, when they are available.

Notice Period

- For flagging requests of 30 days or more in duration, 12 months advance notice is required.
- For requests less than 30 days in duration, at least 90 day notice should be provided.
- For requests less than 5 days in duration, at least 2 weeks' notice should be provided.
- Cancellations must be received no less than 48 hours prior or 1 day full charge will occur.

When requesting flagging, it is incumbent on the applicant to provide all of the required information or the application may be rejected. An agreement for cost recovery must be in place before flagging services are provided.

Flagging flat rate: \$1,545/day + taxes (up to an 8 hour shift)

Note that the shift includes booking-in time at the flagperson's headquarters and travel time to and from the job site. The actual hours on site will vary by location. In addition, the flagperson's presence on site does not guarantee working time. The company will make every effort to accommodate the planned work but safe unhindered railway operations are paramount and available working hours will vary.

1) Minimum charge

- a. 8 hour shift – Includes travel time to and from site.
- b. Any exception to the minimum of 8 hour flat rate must be confirmed by CP Representative sign-off in advance.

2) The \$1,545 + taxes, fee includes:

- a. Flagperson for up to 8 hours (07:00 – 15:00)
- b. Overhead expenses
- c. Standard vehicle/transportation (includes vehicle rental and gas if necessary)
- d. Crew Radios
- e. Flagperson's expenses including when necessary: Lodging, Fringe Benefits and expenses

3) What the flat rate fee does NOT include:

- a. Overtime hours worked – overtime rate is: \$232/hr + taxes
- b. Flagging on weekends.
- c. Statutory Holiday hours worked
- d. Specialty vehicles (i.e.: High Rail Bus or non-standard vehicle)
- e. Specialty Equipment (Remote control flags, etc.)

All flagging shall be billed per the above UNLESS there is an existing agreement in force, in which case the terms of the agreement will be honored until such time that it is cancelled, expires or is subject to renewal.

APPENDIX F

RIGHT OF ENTRY LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made by and between Canadian Pacific and [NAME]

1. PARTIES:

Canadian Pacific with general offices at:

Address	Contact Info	
1290 ave. des Canadiens-de-Montréal Montréal, Québec H3B 2S2	Name:	Michael Piovesan
	Phone:	514-395-8331
	Fax:	
	Email:	Michael_Piovesan@cpr.ca

Hereinafter called "CP,"

[NAME], whose address is:

Address	Contact Info	
XXXXXXXXXXXXXX	Name:	XXXXXX
	Phone:	XXXXXX
	Fax:	XXXXXX
	Mobile:	XXXXXX
	Email:	XXXXXX

hereinafter called "Licensee."

2. PROPERTY; SCHEDULE; GRANT OF LICENSE;

2.1. Property

CP hereby grants Licensee a license to enter in and upon certain property owned or controlled by CP in various locations in [County, State], as shown upon the map labeled Exhibit A that is attached hereto and made a part hereof (the "Property")

2.2. Work Schedule:

License is granted for the sole purpose of performing, generally, the following activities:
[DESCRIPTION OF ACTIVITIES].

2.3. Grant of License:

This license is granted subject to all the terms and conditions set forth below and apply to all Work and activities upon the Property that may be performed by Licensee through its employees, agents, and contractors. For the purposes of this Agreement, the actions and omissions of such employees, agents, and contractors shall be deemed the actions and omissions of Licensee.

2.4. Agreement To Be Available At Work Site:

Licensee shall keep a copy of this Agreement at the Work site and shall make it available upon demand by any employee or agent of CP.

3. TERM, EFFECTIVE DATE, EXPIRATION & TERMINATION

3.1. Term:

The term of this Agreement shall

Commence at 12:01 am on **April 17th, 2021**, the “**Commencement Date;**” and

Expire at 11:59 pm on **December 31st, 2020**, the “**Expiration Date;**”

the “**Term.**” Upon agreement between CP and Licensee, the Term may be lengthen or shorten without affecting any other provisions of this Agreement

3.2. Effective Date:

This Agreement shall be effective upon the date that it has been signed by both parties.

3.3. Expiration:

This Agreement will expire at the Expiration Date, or when the Work is completed, whichever occurs first. Notwithstanding any other provision of this Agreement, the preceding sentence shall not terminate or limit any claim by CP against Licensee arising prior to the Expiration Date. If the Work includes monitoring wells, and if such wells remain on the Property after the Expiration Date, this Agreement shall remain in effect for those wells until the earlier of the following:

- (i) the date they are properly closed (i.e., sealed and abandoned in accordance with applicable legal requirements) by Licensee or
- (ii) the date CP assumes ownership of such wells pursuant to section 10.8.

3.4. TERMINATION; EXCLUSION:

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, this Agreement is terminable by CP prior to the Expiration Date in the event Licensee breaches any of its obligations under this Agreement. If CP elects to terminate this Agreement, it shall give Licensee notice of termination, which notice shall specify the obligation or obligations breached by Licensee; and this Agreement shall terminate 30 days after such notice is given (provided, however, that this Agreement shall not terminate if the breach is cured within said 20 day period). This Agreement is also subject to early termination pursuant to paragraph 21. The early termination of this Agreement shall not terminate or limit any claim by CP against Licensee arising prior to such termination. If Licensee is in breach of any of its obligations under this Agreement, any employee or agent of CP may order Licensee off the Property, in which case Licensee shall immediately leave the Property; moreover, Licensee shall leave the property immediately upon receipt of a notice given pursuant to this paragraph 3(D); and in either case, Licensee shall not re-enter the Property until such time as the breach is cured.

4. PAYMENTS

4.1. License Fee.

In consideration of the permissions herein granted, the Licensee shall with its execution hereof pay to CP the sum of **Zero Dollars (\$0.00) USD**.

4.2. Utilities.

Licensee shall assume and timely pay for any gas, electrical, telephone, computer, sewer, water, storm water, waste or trash removal or any other service or commodity connected with the Work, collectively “**Utility Service.**” If any Utility Service fee is in common with CP or other parties, Licensee shall be liable for its proportionate share of any such Utility Service Fee and upon receipt of a bill therefor, promptly pay CP or such other party for its share. It shall be a default in the terms of this lease if it can be shown that Licensee has not made such payments within 30 days if due to CP, or within 60 days if payable to any other party.

4.3. Mechanics' And Materialmen's Liens:

If any mechanics' or materialmen's lien, or similar lien, is asserted against the Property, or any other property of CP, as a consequence of the Work, Licensee shall immediately satisfy, defend, or obtain the release of such lien, all at Licensee's expense, and Licensee shall indemnify and defend CP against any Claims arising out of or connected with such lien.

4.4. Additional Charges.

Licensee shall within 30 days of receipt of a bill therefor, pay to CP costs for flagging, track changes or damage, or other such charges as may be provided by this Agreement or that CP may reasonably impose in connection with Licensee's Work.

4.5. Due Dates; Penalties; Other Charges

4.3.1. Due Dates

Any item, submission or payment required to be made shall be deemed timely made if received by the other party on or before the specified due date, or prior to expiration of the applicable period for compliance, submission or payment.

4.3.2. Late Fees

In addition to any amounts payable by Licensee to CP, Licensee shall pay CP a late fee for any payment not timely made by Licensee. The late fee shall be at the rate for overdue accounts set by CP's Accounting Department that is in effect at the time that that any such payment is due. Said late fee shall initially be an amount equal to 1% of the invoice amount per month.

4.3.3. Fines & Service Fees

In addition to any other amounts payable by Licensee to CP, Licensee shall pay CP for any bank fines or service incurred by it in connection with the handling, non-payment, return or currency conversion incurred by CP in connection with processing of any payment made by Licensee to CP.

4.6. Work At No Cost To CP:

The Work completed by Licensee shall be performed at no cost to CP.

5. CONTACT, NOTICES, ETC.

5.1. Contact Persons; Communications:

Communications pursuant to this Agreement shall be directed to the contact persons designated in Section 1 or their designees. Either party may change its contact person, or the address(es), telephone number, or fax number for the contact person, by notice to the other party.

5.2. Notices:

Except as otherwise provided in this Agreement, all notices pursuant to this Agreement shall be in writing and shall be effective upon delivery to the address or fax number of the contact person for the party to whom notice is being given. If notice is given by fax, the notice shall not be deemed effective until received in legible form.

5.3. Notification Prior To Beginning Work:

Licensee must notify CP's contact person by telephone at least five working days prior to beginning any separate phase of the Work, and again promptly after such phase of the Work has been completed.

6. PERMITTED & PROHIBITED USES; RIGHTS OF CP

6.1. Permitted Uses:

6.1.1. *The Work:*

The use of Property by Licensee shall be limited to the completion of the Work set forth in Section 2.2., or such other kind of activities as may be approved by CP in writing.

6.1.2. *Government Authorities.*

Licensee may permit governmental authorities with jurisdiction over the Work to enter the Property for the purpose of inspecting or monitoring the Work. Whenever possible, Licensee shall advise CP (by telephone or other means calculated to bring the matter to CP's immediate attention) prior to permitting such governmental authorities to enter the Property for such purposes. The actions and omissions of such governmental authorities while on the Property for such inspections and monitoring shall be deemed the actions and omissions of Licensee. Licensee is not authorized to permit governmental authorities to enter the Property for any other purpose.

6.2. Prohibited Uses and Activities.

The Licensee shall not use, occupy or permit the Property to be used for any purpose, activity or improvement except as provided in this Agreement or as may be approved of in writing by CP. Specifically, Licensee shall not:

6.2.1. *Advertising*

permit any advertisements or signs upon the Property;

6.2.2. *Use of Hazardous Substances*

without prior written disclosure to and approval by CP, Use or authorize the Use of any Hazardous Substance on the Property, including installation of any above or underground storage tanks; subject thereto, the Licensee shall arrange at its own cost for the lawful transportation and off-site disposal of any and all Hazardous Substances that it shall Use or generate;

6.2.3. *Use of Premises for waste treatment or as storage or disposal facility*

cause or allow the Property or any of CP's adjacent property to become a hazardous waste treatment, storage or disposal facility within the meaning of, or to otherwise bring any such property within the ambit of the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. or any similar state statute or local ordinance; or

6.2.4. *Subleasing is prohibited.*

Sublease the Property or the permissions or rights herein granted in any manner or form.

6.3. Reservations and Rights of CP:

6.3.1. *Railroad Activities Take Priority over Work*

All Work by Licensee shall always and all times be subordinate to the needs of CP in connection with the operation and movement of railroad trains and equipment, and the repair of railroad track, structures, communications and appurtenances thereto.

6.3.2. *Reservation of prior and future uses not inconsistent with Licensee's activities.*

The rights herein granted to Licensee are subject to the rights granted in all other licenses, permits and easements for tracks, roads, walkways, poles, wires, pipelines, sewers, billboards and other improvements that exist or may be placed upon, across,

above or underneath the Property by CP, or its employees, agents, licensees, grantees, representatives or invitees. Further, CP reserves unto itself the right to place (or to give others the right to place) additional tracks, roads, walkways, poles, wires, pipelines, sewers and billboards upon, across, above or underneath the Property in any manner that does not unreasonably interfere with Licensee's Work.

6.3.3. Monitoring

CP may elect to be present during the conduct of the Work and to monitor same.

7. COVENANTS, CONDUCT & RESPONSIBILITIES

7.1 Definitions

7.1.1 "Claim" or "Claims" means any and all liabilities, suits, claims, counterclaims, causes of action, demands, penalties, debts, obligations, promises, acts, fines, judgments, damages, consequential damages, losses, costs, and expenses of every kind (including without limitation any attorney's fees, consultants' fees, response costs, remedial action costs, cleanup costs and expenses which may be related to any Claims);

7.1.2 "Environmental Law" or "Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq., the Clean Water Act, 33 U.S.C. §1321 et seq., the Clean Air Act, 42 U.S.C. § 7401 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., all as amended from time to time, and any other federal, state, local or other governmental statute, regulation, rule, law, ordinance, order or decree dealing with the protection of human health, safety, natural resources or the environment now existing or hereafter enacted;

7.1.3 "Hazardous Substance" or "Hazardous Substances" means any pollutant, contaminant, hazardous substance or waste, solid waste, petroleum product, distillate, or fraction, radioactive material, chemical known to cause cancer or reproductive toxicity, polychlorinated biphenyl or any other chemical, substance or material listed or identified in or regulated by any Environmental Law;

7.1.4 "Release" or "Released" means any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing or spreading of any Hazardous Substance into the environment, as "environment" is defined in CERCLA;

7.1.5 "Response" or "Respond" means action taken in compliance with Environmental Laws to correct, remove, remediate, cleanup, prevent, mitigate, monitor, evaluate, investigate, assess or abate the Release of a Hazardous Substance;

7.1.6 "Use" means to manage, generate, manufacture, process, treat, store, use, re-use, refine, recycle, reclaim, blend or burn for energy recovery, incinerate, accumulate speculatively, transport, transfer, dispose of, or abandon.

7.2 Investigation; Compliance with Laws; Safety Requirements.

7.2.1 Tenants and Licensees in possession of Property.

Before entering the Property, Licensee shall secure the consent of all persons or entities who are using or occupying any portion of the Property. CP will cooperate with Licensee to obtain consent from any such person or entity who unreasonably withholds consent.

7.2.2 Underground Utilities And Structures:

- a. Licensee shall be responsible for determining the location of all underground utilities (electric lines, telephone lines, gas lines, steam lines, sewer lines, water lines, fiber optic cables, pipes, wires, and the like) and underground structures.
- b. Licensee shall call CP “ONE CALL” at 1-888-678-7272 and Roger Communication “ONE CALL” at 1-888-625-8702 a minimum of 5 business prior to commencing any excavation or boring on the Property.
- c. CP will cooperate with Licensee to identify the location of underground utilities and structures known to CP, but such cooperation shall not relieve Licensee from its primary responsibility to determine the locations of such utilities and structures.

7.2.3 Permits And Licenses; Compliance With Laws:

Licensee shall secure, at no expense to CP, any permits or licenses required in connection with the Work and shall comply with all laws applicable to the Work and the Property, including (but not limited to) any laws, standards, regulations, and permit requirements relating to environmental pollution or contamination or to occupational health and safety. Licensee shall indemnify and defend CP against any and all Claims arising out of or connected with the violation of any law by Licensee while on or about the Property.

7.2.4 Compliance With CP Safety Requirements; Identification:

- a. While on the Property, Licensee shall comply with the safety requirements of CP, as such requirements may be amended from time to time during the duration of the Work, all at no expense to CP. CP's safety requirements are set forth “**Exhibit B**” titled “**MINIMUM SAFETY REQUIREMENTS FOR CONTRACTORS WORKING ON RAILWAY PROPERTY IN THE UNITED STATES**” and in CP 's current safety handbook. One free copy of the current safety handbook will be provided to the Licensee by the CP contact person. Additional copies will be provided at Licensee's expense. Licensee shall be responsible for ensuring that any person performing any of the Work for or on behalf of Licensee shall comply with the CP safety requirements that would apply to a CP employee performing similar work.
- b. Licensee and every employee, agent or subcontractor who carries out any part of the Work on the Property shall at all times wear and visibly display the identification badge issued to them following successful completion of the e-railsafe safety training together with whatever additional identification materials that CP may reasonable require.

7.3 Work In Close Proximity To Railroad Operations;

7.3.1 Interference With Railroad Operations:

Licensee shall keep CP fully apprised of its proposed activities on the Property so as to prevent any interference with the operations of CP's trains or equipment (or trains or equipment of others) operating on or near the Property.

7.3.2 Drainage;

Licensee shall not make any changes to existing drainage patterns on or adjacent to railroad property without written approval by CP. Licensee shall not perform work that modifies capacity of drainage conveyance systems.

7.3.3 Clearance;

No work shall be done or any equipment or other obstruction placed over or within 25 feet laterally of the centerline of any track without advance notification to CP prior to performing such work or placing such equipment or obstruction.

7.3.4 Flagging:

Licensee must make arrangements with CP for such flagging or watchman service as CP deems necessary for the protection of railroad traffic. The fact that CP provides such service shall not relieve Licensee from any liability under this Agreement. CP's labor and material additives are subject to change without notice to Licensee, and CP shall be reimbursed based upon its labor and material additives actually in effect as of the date of such service.

Railroad Flagman Service Rates:

- a. Estimated rates for the Railroad Flagman Service is \$1,545.00 USD for an eight (8) hour day.
- b. Currently no overtime is approved for the Railroad Flagman Service.
- c. Plus equipment & expenses (meals, mileage, etc.).

7.3.5 Certain Work Close To Track Not Permitted; Lateral Support:

- a. Unless otherwise agreed to in writing by CP, excavations, borings, wells, pits, test holes, probe sites, and the like shall not be located closer than 25 feet from the centerline of the nearest railroad track on or adjacent to the Property nor shall it take or allow any action upon the Property that would materially impair the lateral or subadjacent support of adjacent lands or railroad tracks.;
- b. Unless otherwise agreed to in writing by CP, drilling and excavating equipment and related equipment shall not be located closer than 25 feet from the nearest rail of any such track;
- c. In the event that CP permits excavations, borings, wells, pits, test holes, probe sites, or the like in close proximity to tracks, embankments or other features providing lateral or subadjacent support to land or tracks, then notwithstanding anything to the contrary in this license, Licensee shall be responsible for designing and constructing at no cost to CP any measure that is required to prevent the collapse, erosion or impairment to said land or tracks.

7.3.6 Storm Water

Licensee shall not, without the advance written approval of CP, make any changes to the Property that would either increase the historic flow rate of storm water from the Property or create an impediment to the historic flow of storm water to the Property. Unless otherwise agreed in writing, Between CP and the Licensee it is understood and agreed that Licensee shall at Licensee's cost and expense be liable to CP for the construction, maintenance, repair and replacement upon the real property or other land not belonging to Grantor such storm sewer lines, manholes, mains, rip rap, boulders, wing walls, ditches and related

7.3.7 Fencing

Licensee shall, at no cost to CP, construct and maintain during the term hereof a fence acceptable to CP in the location(s) designated on Exhibit A. Following completion of the Work, the Licensee shall remove the fencing, remove any post footings or concrete, and fill and tamp any post holes with clean fill material.

7.4 Conduct

7.4.1. **Property clean, safe and free from nuisances**

The Licensee shall not permit the existence of any nuisance upon the Property and shall at all times keep the Property in a proper, clean, safe and sanitary condition, and free from accumulations of waste materials, debris or refuse.

7.4.2. **Release of Hazardous Substances:**

The Licensee shall not cause or allow the Release or threat of Release of any Hazardous Substance on, to, or from the Property.

7.4.3. **Response Actions**

The Licensee shall promptly take all necessary action in Response to any Release or Use of a Hazardous Substance at the Property caused by, or attributable to, any act or omission of the Licensee (or the Licensee's employees, agents, representatives or invitees) that could:

- a. give rise to any Claim under any Environmental Law,
- b. cause a public health or workplace hazard, or
- c. create a nuisance.

7.5. Required Notices/Disclosures

7.5.1 **Transportation and Disposal Contracts**

The Licensee shall, upon written request by CP, provide CP with copies of transportation and disposal contracts and manifests for Hazardous Waste, any permits issued under any Environmental Laws, and any other documents demonstrating that the Licensee has complied with all Environmental Laws relating to the Property

7.5.2 **Releases or Suspected Releases**

The Licensee shall promptly notify CP of any actual or suspected Release of any Hazardous Substance on, to, or from the Property, regardless of the cause of the Release.

7.5.3. **Notices, summons citations, etc.**

The Licensee shall promptly provide CP with copies of all summons, citations, directives, information inquiries or requests, notices of potential responsibility, notices of violation or deficiency, orders or decrees, claims, causes of action, complaints, investigations, judgments, letters, notices of environmental liens or Response actions in progress, and other communications, written or oral, actual or threatened, from the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, or other federal, state or local agency or authority, or any other entity or individual, concerning:

- a. any Release of a Hazardous Substance on, to or from the Property,
- b. the imposition of any lien on the Property, or
- c. any alleged violation of or responsibility under any Environmental Law relating to the Property.

7.5.4. **Other Reports**

Licensee shall, at CP's option, provide CP, at no cost to CP, a copy of any other report, summary or written test results, collectively "**Report**," pertaining to the Work. If any such Report is to be filed or made available to any governmental agency acting in a regulatory capacity, then Licensee shall also give CP a reasonable time (not less than 5 working days) to review and comment on a draft of such Report and when preparing any such final Report pertaining to the Work, Licensee or its contractor shall give due consideration to CP's comments with respect to the draft of that Report. Licensee will promptly provide CP with a copy of any final Report.

7.6. CP's right to Participate in Response Actions

Following receipt of any notice, order, claim, investigation, information request, letter, summons, citation, directive, or other communication identified in 7.D.iii connection with any action taken pursuant to section 7.C.iv, Licensee shall notify CP of and permit CP to participate in any and all investigations, telephone conferences, settlement discussions, remediation plans and all other interactions, direct or indirect, with governmental or regulatory officials, and Licensee shall take all action necessary to ensure that any indemnification, release, waiver, covenant not to sue, or hold harmless agreement benefiting Licensee and arising out of such activities, whether from a governmental or regulatory entity or from a private entity, also benefits CP to at least the same extent as Licensee.

7.7. Restoration of Property;

Upon completion of the Work or expiration or early termination of this Agreement, whichever occurs first, Licensee shall remove any debris resulting therefrom and shall restore the Property to the condition it was in prior to the commencement of the Work (or such other condition as is satisfactory to CP). All excavations are to be backfilled and tamped. All borings shall be backfilled with grout. Drill cuttings shall not be used as backfill. Licensee shall dispose of all drill cuttings, soil and sediment samples, purge water, dewatering effluent, and water samples and all excess excavation material in a manner acceptable to CP and in accordance with all applicable laws, all at no expense to CP.

8. LIABILITY

8.1. Damage To Tracks, Facilities, And Equipment:

If any tracks, facilities, or equipment owned, used, or maintained by CP are damaged in connection with the Work, CP shall repair (or arrange for the repair of) such damage and Licensee shall pay the full cost of such repair within 30 days after CP shall tender a bill therefor.

8.2. Assumption Of Risk:

Licensee is fully aware of the dangers of working on and about railroad property and railroad operations and knowingly and willingly assumes the risk of harm (e.g., injury to or death of persons and damage to or destruction of property) that may occur while on and about the Property. Without in any way limiting the scope of the preceding sentence, Licensee assumes the risk that monitoring wells, elevation bench marks, reference points, and other installations located on the Property may be disturbed, damaged, or destroyed by CP or third persons, and Licensee shall not make any claim against CP on account of same, even if such disturbance, damage, or destruction arises from the negligence of CP or its employees, agents, or invitees. Licensee assumes full responsibility for protecting its installations and personal property from theft and vandalism while such installations and personal property are on the Property.

8.3. Indemnity:

To the maximum extent permitted by applicable law, Licensee shall indemnify and defend the Indemnified Parties (as defined below) against all claims, demands, actions, suits, judgments, losses, damages (including, but not limited to, lost profits and other actual, compensatory, direct, consequential, punitive, and exemplary damages), expenses, penalties, fines, sanctions, court costs, litigation costs, and attorneys' fees (collectively, Claims) arising out of or relating to any destruction of (or damage to) any property or natural resource, any injury to (or death of) any person, or any environmental pollution or contamination whatsoever, where such destruction, damage, injury, death, pollution, or contamination actually or allegedly arises in whole or in part from the Work, any action or omission of Licensee while on or about the Property pursuant to this Agreement, or the exercise by Licensee of the license granted

by this Agreement. As used in this Agreement, Indemnified Parties means the following businesses and their officers, directors, employees, and agents: Canadian Pacific Railway Company, any company doing business as Canadian Pacific Railway, and any railway company or contractor operating trains or rail equipment upon railway tracks in close proximity to the Property, together with the parent companies, subsidiaries, and affiliated companies of all of the foregoing.

9. INSURANCE.

Licensee shall procure and maintain in effect (or shall cause its contractor to procure and maintain in effect), at any time when any portion of the Work is being performed, the following insurance:

9.1. Comprehensive General Liability Insurance:

Comprehensive general liability insurance with a policy limit of not less than \$2,000,000 per occurrence and \$5,000,000 aggregate for bodily injury, death, and damage to or destruction of property (including the loss of use thereof). The policy will include those policy extensions commonly referred to as broad form completed operations, contractor's protective, collapse, and underground damage. The policy shall by its wording or by endorsement insure those liabilities and obligations which this Agreement contemplates will be assumed by Licensee, including liabilities and obligations to indemnify the Indemnified Parties. The policy shall be endorsed to require that CP be given not less than 30 days written notice in advance of cancellation or termination of the policy or of any change or amendment to the policy that restricts or reduces coverage. The policy shall be endorsed with a cross liability (severability of interest) endorsement in substantially the following form: "This policy shall insure each person, firm, or corporation hereunder in the same manner and to the same extent as if a separate policy had been issued to each, but the inclusion herein of more than one insured shall not operate to increase the limits of the insurance company's liabilities." The policy shall be endorsed to add the following as additional insureds: Canadian Pacific Railway Company, any company doing business as Canadian Pacific Railway, and any railway company or contractor operating trains or rail equipment upon railway tracks in close proximity to the Property, together with the parent companies, subsidiaries, and affiliated companies of all of the foregoing (collectively, the Protected Parties). The policy shall also be endorsed to waive subrogation rights against the Protected Parties.

9.2. Automobile Liability and Property Damage Insurance:

Automobile liability and property damage insurance in an amount not less than \$2,000,000, personal injury and property damage combined, covering the ownership, use, and operation of any motor vehicles and trailers licensed for use on public highways which are owned, leased, or controlled by Licensee or its contractor and used in connection with the Work. The policy shall be endorsed to require that CP be given not less than 30 days written notice in advance of cancellation or termination of the policy or of any change or amendment to the policy that restricts or reduces coverage.

9.3. Workers Compensation Insurance:

Workers compensation insurance that meets the requirements of applicable state law.

9.4. Railroad Protective Liability Insurance:

Railroad protective liability insurance (occurrence form), in the name of Canadian Pacific Railway Company, with limits of no less than \$2,000,000 per occurrence and \$6,000,000 aggregate for personal injury and property damage.

9.5. Environmental Pollution Impairment Liability Insurance: <not applicable>

Contractor's environmental Pollution Impairment liability insurance with a policy limit of not less than \$5,000,000 per occurrence. The policy shall be endorsed to require that CP be

given not less than 30 days written notice in advance of cancellation or termination of the policy or of any change or amendment to the policy that restricts or reduces coverage. The policy shall be endorsed with a cross liability (severability of interest) endorsement in substantially the following form: "This policy shall insure each person, firm, or corporation hereunder in the same manner and to the same extent as if a separate policy had been issued to each, but the inclusion herein of more than one insured shall not operate to increase the limits of the insurance company's liabilities." The policy shall be endorsed to add the Protected Parties as additional insureds and to waive subrogation rights against the Protected Parties.

9.6. Other Policies of Insurance:

Such other insurance as may be necessary to protect the Protected Parties against certain other claims arising out of the Work, to wit:

- a. claims under any workers' compensation law,
- b. claims under the Federal Employer's Liability Act, and
- c. any other claims for damages for personal injury or death.

9.7. Contractual Endorsement

Each policy of insurance required in 9.1 and 9.2 shall include the following endorsement upon the certificate, or within the binder, policy or other contractual evidence signed by the insurer and in form acceptable to CP.

Before Licensee enters the Property, CP must receive and approve certificates of insurance evidencing the coverage's required by sections 9.1, 9.2, and endorsements 9.7 and CP must also receive and approve either the policy required by subparagraph 9.4 or a binder evidencing that that policy is in effect. CP reserves the right to demand a certified copy of any required policy, and Licensee or its contractor shall provide such copy within 10 working days after CP shall give notice to Licensee demanding such copy. All of the required policies shall be issued by insurers acceptable to CP and shall be acceptable to CP in both form and substance. Licensee shall not enter the Property until all of the required policies have been approved in writing by CP. If the comprehensive general liability and automobile policies are procured by Licensee's contractor, Licensee shall be added as an additional insured party under such policies. If the contractor uses a subcontractor, the contractor shall provide the required policies and shall, in addition, either require the subcontractor to provide insurance equivalent to that described herein (except that only one policy required by subparagraph 9.4 need be provided for the Work) or obtain endorsements to the contractor's policies naming the subcontractor as an additional insured party. If a subcontractor uses a sub-subcontractor, the sub-subcontractor shall either provide insurance equivalent to that required of the subcontractor or shall be named as an additional insured party on the contractor's or subcontractor's policies. In the event any required policy lapses, CP shall have the option of immediately terminating the License, with or without notice to Licensee; such termination shall be without prejudice to CP's rights and privileges under this Agreement. The insurance coverage obtained pursuant to section 9 and its sub-sections shall in no manner restrict or limit the liabilities assumed by Licensee under this Agreement.

10. ENTIRE AGREEMENT

10.1. Survival of Indemnity Provisions:

The indemnification provisions of this Agreement shall survive its expiration or termination.

10.2. Mere License:

The permissions encompassed by this Agreement is a mere license to use the Property for the specified purpose and does not create any estate or interest in the Property.

10.3. No Warranty of Title:

CP does not warrant that it has good title to the Property.

10.4. Assignment; Binding Effect:

This Agreement may not be assigned by Licensee without the advance written consent of CP. Subject to the preceding sentence, this Agreement shall be binding upon, and inure to the benefit of, the parties' respective successors and assigns.

10.5. Governing Law:

This Agreement shall be construed and interpreted in accordance with the laws of the state in which the Property is located, without reference to the choice of law rules of that state.

10.6. Entire Agreement:

This Agreement is the full, complete, and entire Agreement of the parties with respect to the subjects hereof, and any and all prior writings, representations, and negotiations with respect to those subjects are superseded by this Agreement.

10.7. Headings:

The headings used in this Agreement are provided solely as a convenient means of reference. They are not intended to, and do not, limit or expand the purpose or effect of the paragraphs to which they are appended. The headings shall not be used to construe or interpret this Agreement.

10.8. Singular And Plural:

As used in this Agreement, the singular form of a word includes the plural form of that word, and vice versa, and this Agreement shall be deemed to include such changes to the accompanying verbiage as may be necessary to conform to the change from singular to plural, or vice versa.

10.9. Duplicate Copies & Counterparts.

This Agreement may be executed in counterparts, which together shall constitute one and the same document. The parties may execute more than one copy of this Agreement, each of which shall constitute an original.

11. SIGNATURES.

THE PARTIES HERETO have executed this Agreement as evidence of their agreement to the terms herein.

[NAME]

CANADIAN PACIFIC RAILWAY

By _____

By _____

Its _____

Its _____

Date _____

Date _____

EXHIBIT A

SITE PLAN

EXHIBIT B

“MINIMUM SAFETY REQUIREMENTS FOR CONTRACTORS WORKING ON RAILWAY PROPERTY”