

TRAIL OWNER - TRAIL OPERATOR LEASE AGREEMENT

THIS LEASE AGREEMENT, made this 13th day of September, 2015, by and between the WEST VIRGINIA STATE RAIL AUTHORITY, a governmental instrumentality of the State of West Virginia and body corporate, (hereinafter called "SRA"), Lessor, and FRIENDS OF THE CHEAT, INC., a West Virginia Non-Profit Corporation, (hereinafter called "FOC"). Lessee.

WITNESSETH:

WHEREAS, FOC desires to utilize the railroad right-of-way owned by the SRA. The property to be leased is located in Preston County, West Virginia, and more particularly described as follows: CSX Rail Line Right-of-Way between BAJ 3.00 to BAJ 9.78 located in the Portland District, Preston County, West Virginia, between endpoints in the vicinity of Manheim at the south endpoint and in the vicinity of Preston at the north endpoint containing 91.05 acres, more or less, together with all buildings, structures and improvements thereon, and all rights, alleys, ways, waters, privileges, hereditaments and appurtenances thereto belonging or in any way incident or appertaining and including but not limited to that trestle located at the northern end near Preston, the piers, backwalls, steel and concrete components thereon, more particularly shown on Exhibit A, and attached to that Quitclaim Deed between CSX Transportation, Inc., a Virginia Corporation and SRA, said deed being dated the 2nd day of March, 2016, and recorded in deed book number 789 at page 998 in the Office of the Clerk of the County Commission of Preston County, West Virginia, a copy of said deed attached hereto as Exhibit B.

WHEREAS, FOC desires to lease the aforesaid property for the purpose of developing and operating a recreational hiking and bicycling trail to be used by the public as hereinafter set forth.

WHEREAS, the Board of Directors of SRA, meeting in regular session on January 26, 2012, authorized by duly adopted resolution, resolved to enter into a lease agreement between the WVSRA and FOC for the Premises for public recreational purposes. A copy of that resolution is attached hereto as Exhibit C, and made a part hereof.

NOW THEREFORE, in consideration of the mutual benefits to be derived and other good and valuable consideration given and accepted by the parties hereto, the receipt and sufficiency of all of which is hereby acknowledged, the SRA does hereby demise, lease and let unto FOC all of the aforesaid and described real estate and appurtenances thereto belonging subject to the terms

and conditions set forth herein.

SECTION ONE - LOCATION AND USES OF PROPERTY

A. The property which is the subject of this lease agreement is generally shown on those railroad maps attached hereto and made a part hereof by reference as Exhibit A.

B. At all times during the term and life of this lease agreement, FOC may use the property solely for the purpose of a hiking and bicycling trail and for other appropriate recreational uses as set out in West Virginia Code §5B-1A-1 et seq. and West Virginia Code §5B-1-13, -13a and -16a as amended.

SECTION TWO - EXISTING LEASES

A. The property transferred to the SRA by deed dated _____, was, in certain instances, subject to certain lease agreements in force and effect between CSX and other parties. Some of these leases were retained by CSX, others were transferred to the SRA. All right, title and interest in those lease agreements that were transferred to the SRA from CSX as of that date shall remain with the SRA. Provided, however, that FOC shall be responsible for the management of those aforesaid lease agreements that pertain to the SRA right-of-way covered by this lease agreement. FOC shall be responsible for the collection of all lease fees under such leases and may negotiate such fees at its discretion. All such lease fees shall accrue to FOC, be retained and used by FOC to cover the costs of administering this lease agreement.

B. The authority granted to FOC to collect all lease and license fees relating to the property covered by this lease on behalf of the SRA shall be revocable upon thirty (30) days written notice to FOC and to the holders of the leases and license rights. Until such notice is received, such lessees and licensees shall rely upon this lease as their authority to remit their payments to FOC.

C. All funds so collected shall be expended for the benefit of the leased property, the general public who use the trail, and the operation of FOC as a non-profit Rail-Trail support group. Such funds shall be used and applied for the benefit of the right-of-way leased to FOC and for such promotional and educational events as shall make the best use of the natural and cultural resources which the trail provides.

D. It is also contemplated that FOC, in improving the trail to accommodate the purposes of this lease, shall remove portions of the ballast where the ballast covers the trail to a depth in excess of that necessary for a recreational trail. FOC covenants that the proceeds from

such ballast removal shall be applied exclusively to the improvement of the trail, insurance premiums on the trail, and such other direct physical improvements as shall materially protect the trail and promote its use.

E. Except for Division of Highways and other public access crossing rights-of-way, such aforesaid lease agreements may be cancelled by FOC for noncompliance with any of the terms thereof, or may be cancelled if FOC desires to use the property which is the subject of any such lease agreements for the purposes set forth herein, provided such cancellation is permitted under the subject lease. Thirty (30) days notice of such cancellation shall be given in writing to the lessee or sublessee by FOC and a copy thereof shall be sent to the SRA.

F. FOC hereby acknowledges receipt of copies of all aforesaid lease agreements in force and effect as of this time. FOC shall file all such leases and maintain those files. Further, FOC shall be responsible for all notices and billings and for renewal of leases and subleases as may be required.

SECTION THREE - SUBLEASES

A. FOC shall consider all requests for subleases it receives after the date of execution of this lease agreement. FOC shall negotiate utility corridor right-of-way subleases with any utility which desires to cross the property subject to terms which would protect FOC's interest in and use of the property as a recreation trail and the interests of the SRA. All rental fees from such subleases shall accrue to FOC, be retained by FOC, and be used by it for the cost of administering this lease agreement and for the benefit of the property described in this lease agreement.

B. Any future sublease agreements entered into by FOC shall be subject to the SRA's rights of cancellation of this lease and for reuse of the said property for rail service of the railroad right-of-way. All such subleases shall contain a provision for cancellation upon written notice provided thirty (30) days prior to any such cancellation. FOC shall provide copies of all such subleases into which it enters and notices of any cancellations to the SRA.

C. Any modifications to the physical condition of the trail undertaken by any sublessee of FOC must meet or exceed American Railway Engineering and Maintenance-of-Way Association (AREMA) standards for such improvements or alterations. Such provisions shall be included in all subleases granted by FOC.

SECTION FOUR - RESERVATION OF ACCESS BY THE SRA

A. The SRA reserves the right of access to and on the property that is the subject of

this lease agreement for any lawful and proper purposes it has or is assigned to it, and FOC shall make said property available for such purposes.

B. FOC may, by rules and regulations, reasonably limit access to the right-of-way in furtherance of the activities authorized by this lease, but shall not be required to alter or improve the premises. Any material improvement or alteration made shall be constructed in the best interest of and to protect public health, safety and welfare as is reasonable and prudent.

SECTION FIVE - MAINTENANCE, OPERATION AND LIABILITY

A. During the term and life of this lease agreement, FOC shall provide all maintenance required on the property that is the subject of this lease agreement so as to cause it to remain in a condition equal to its condition on the date of the execution of this agreement, except for normal wear, tear and deterioration.

B. FOC may take no action which may cause destruction of the lineal integrity of the land that is the subject of this lease agreement which would preclude its use for future railroad operating purposes. If any such damage should occur, it shall be repaired promptly by FOC.

C. The lessee shall indemnify, defend and hold harmless the West Virginia State Rail Authority, its servants, agents, employees, officers, directors and assigns from any and all claims, demands or causes of action including reasonable attorney's fees related in any manner whatsoever to lessee's use of the property which is the subject of this lease. FOC understands and accepts such legal liability for any injury that may occur as a result of the use of said property for the activities authorized by this lease, arising from any negligent or intentional act of FOC. The lessee shall be required to carry liability insurance in the minimum amount of \$1,000,000.00 naming the SRA as an additional insured. A certificate of insurance coverage must be provided to the SRA by the lessee. For purposes of this requirement, coverage issued and maintained by FOC with and through the West Virginia State Board of Risk shall satisfy the requirements of this paragraph.

D. FOC agrees to construct and maintain at FOC's sole cost and expense, any fences, railings or guard rails along any boundary lines between the property and the adjacent land(s) of CSX or of any other company affiliated with CSX; or be liable for or required to pay any part of the cost or expense of erecting or maintaining such fences, railings or guard rails, or any part thereof; or be liable for any damage, loss or injury that may result by reason of the non-existence or the condition of any fences, railings or guard rails.

E. FOC hereby covenants that it, its successors, heirs, legal representatives or assigns shall maintain the existing drainage on the property in such a manner as not to impair adjacent railroad operating property drainage and to not redirect or increase the quantity or velocity of surface water runoff or any streams into CSX's drainage system or upon the railroad operating property or other lands and facilities of CSX. If the property or existing drainage are modified or improved, FOC agrees to construct and maintain, in accordance with all applicable statutes, ordinances, building and subdivision codes, covenants and restrictions, an adequate drainage system from the property to the nearest public or non-CSX owned drainage or storm sewer system in order to prevent the discharge of roof, surface, stream and other drainage waters upon said railroad operating property or upon other adjacent lands and facilities of CSX.

F. This lease agreement is made subject to the following:

G. Except as specifically recognized by or provided in subsection (4) below, Grantor and its successors and assigns, by providing the public with land (or who owns adjoining land to the trail under this conveyance), pursuant to West Virginia Code §5B-1A-9 is not, by providing that trail or land or owning land adjoining the trail:

(1) Presumed to extend and assurance that the land is safe for any purpose;
(2) Incur any duty of care toward a person who goes on that land, or
(3) Become liable for any injury to persons or property caused by an act or an act or omission of a person who goes on that land.

(4) Exception.

(a) This section shall not apply to the owner or lessee of the land used as a trail if there is any charge made or usually made for entering or using the trail or property or any part thereof.

(b) This section does not apply to the owner of land adjoining a trail if there is any charge made or usually made by the owner of such adjoining land for using the trail or land, or any part thereof, or if any commercial or other activity relating to the use of the trail whereby profit is derived from the patronage of the general public is conducted on such adjoining land or on any part thereof.

(c) The foregoing applies whether the person going on the land provided or adjoining is an invitee, licensee, trespasser or otherwise.

(d) The foregoing does not relieve any person of liability which would otherwise exist for deliberate, willful or malicious injury to person or property.

G. This lease agreement is further made subject to all exceptions, reservations, conditions, terms, covenants, restrictions, leases, rights-of-way, easements and servitudes as contained in prior instruments of record for said real estate.

SECTION SIX - WARRANTIES

A. FOC has inspected the property being leased to it by the SRA under the terms and provisions of this lease agreement and FOC understands and agrees that all such property is lease to is "as is" and that the SRA neither gives nor makes any warranties, expressed or implied, regarding the property other than those herein contained.

B. SRA does not represent or warrant to FOC any ownership or estate in the property or any specific title or interest in the property and FOC hereby releases SRA, its officers and agents from any claim or demand resulting from this lease or from any failure of or defect in SRA's title to the property.

C. Said covenant(s) shall run with title to the property conveyed and bind upon FOC, its heirs, legal representatives and assigns or corporate successors and assigns and anyone claiming title to or holding the property through FOC.

SECTION SEVEN - AGREEMENT: BENEFIT: THIRD PARTY BENEFICIARIES

A. This lease agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

B. This lease agreement, any provision contained therein or any provision included herein by reference shall not be construed to inure to the benefit of any other party except as expressly specified herein.

SECTION EIGHT - TERM OF AGREEMENT

A. The term of this lease agreement, commencing on the date of the agreement first above written shall be thirty (30) years, unless terminated by action of law, by agreement of the parties to this agreement, or as otherwise provided herein.

SECTION NINE - RENEWAL OF AGREEMENT

A. FOC shall have the right to renew this lease agreement for an additional thirty (30) year term. If FOC decides to exercise this right, it must give written notice to the SRA not later than one year prior to the expiration of the initial term.

B. In the event that the lessee hereunder should hold over under this lease after the expiration thereof, such holding over shall be presumed to be a month-to-month tenancy.

SECTION TEN - TERMINATION OF AGREEMENT

A. If either party fails to live up to the terms of this lease agreement or fails to perform any of the agreements, obligations and duties as set forth herein, the other party may give official notice in writing to the party so failing in the manner provided in Section Eleven of this agreement.

Such notice shall state the substance and detail of the failure and request relief or correction of the matter within a reasonable time which shall be specified therein. The parties to this lease agreement hereby promise and assure the other party that it will make prompt and complete efforts to correct any such failings on its part. If such correction is not made within a reasonable time and as specified and within thirty (30) days in any case, it shall be adequate justification and reason for the other party to terminate this lease agreement unless if voluntarily and willingly waives such rights.

B. Either party to this lease agreement may terminate it by giving thirty (30) days' notice of its desire and intent to do so to the other party hereto in writing as provided in Section Eleven of this agreement.

C. If the SRA terminates this lease agreement in order to resume rail service over the line and if time is of the essence, SRA shall provide FOC with notice to that effect as provided for in Section Eleven of this agreement. In such case the notice period shall be thirty (30) days.

SECTION ELEVEN - NOTICES

A. All notices that are required to be given under this lease agreement or which are otherwise in relation to it shall be given by the one party to the other party hereto in writing and addressed as follows and delivered personally or by Registered or Certified Mail. Service of any notice by Certified Mail, return receipt requested, shall be deemed to have occurred on the date of the mailing thereof.

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| To SRA: | Executive Director West Virginia State Rail Authority 120 Water Plant Drive Moorefield, WV 26836 |
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| To FOC: | Friend of the Cheat 119 S. Price St., Suite 206 Kingwood, WV 26537 |
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Notice of any change in the address of either party to this lease agreement shall be given by such party promptly to the other party in the manner set forth above.

SECTION TWELVE - WAIVERS

A. Any waiver of or failure to enforce any right, duty, obligation, privilege or entitlement by either party under this lease agreement or any breach thereof by either party shall not affect the same or similar rights, duties, obligations, privileges or entitlements subsequently arising under the agreement. Nor shall any waiver operate as a waiver of subsequent breaches of the same kind or similar kinds nor as a waiver of the clause or condition under which the breach

occurred or under which a breach might occur.

SECTION THIRTEEN - REVERSIONARY INTEREST

A. FOC understands and agrees that the fundamental purpose and primary use of the property described in this lease agreement is for railbanking purposes. The SRA originally took title to the property with the hope and expectation that at some time in the future rail service over the entire length of the property could be reestablished. In keeping with this purpose and use, FOC will at all times protect and ensure the continuity and integrity of the property so that the capability of reestablishing rail service will be maintained and new rail service can be initiated and new railroad facilities can be installed with a minimum of time and expense

B. Bridges and grade crossings are essential to the reversionary interest of this railroad corridor. FOC shall make safety provisions for the crossing of bridges for public trail usage. Usage of bridges shall be limited to rail trail use. The use of motorized vehicles on bridges shall be limited to maintenance and safety vehicles. FOC shall secure entrance ways to bridges to limit their use to the purposes of this lease agreement. Signage will be placed to identify the limited usage. Any modification to bridges or crossings other than to construct and maintain the trail shall require approval by SRA.

SECTION FOURTEEN - AMENDMENT OF AGREEMENT

A. This lease agreement is complete in itself and contains all of the terms and conditions agreed to by the parties to the agreement. This lease agreement cannot be amended verbally but only in writing upon the mutual agreement of both parties to the agreement. Any such written amendment of this lease agreement shall upon execution thereof become and be a part of the agreement as if it had been part of it originally and it shall have full force and effect and be part thereof.

SECTION FIFTEEN - SEVERABILITY

A. If any provision of this lease agreement shall be declared invalid or unenforceable, the remainder of this document shall continue in full force and effect.

SECTION SIXTEEN - TIME IS OF THE ESSENCE

A. Time shall be deemed to be of the essence with regard to all provisions of this lease agreement.

IN WITNESS WHEREOF, the Executive Director of the West Virginia State Rail Authority and the Executive Director of the Friends of the Cheat have duly executed and sealed

these presents, the day and first written above:

WEST VIRGINIA STATE RAIL AUTHORITY

By: Lucinda K Butler
Lucinda K. Butler, Executive Director

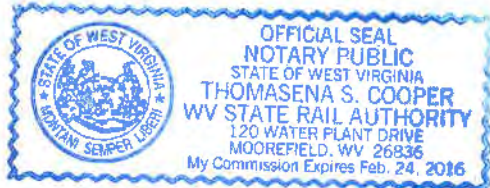
FRIENDS OF THE CHEAT

By: Amanda Pitzer
Amanda Pitzer, Executive Director

COUNTY OF Hardy,

STATE OF WEST VIRGINIA:

The foregoing was acknowledged by Lucinda K Butler before me this the 1st day of September, 2015.



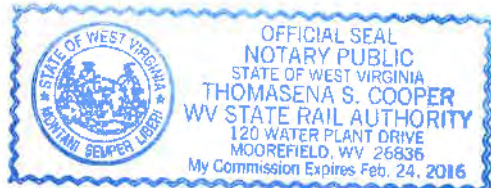
Thomasena S Cooper
Notary Public

My Commission Expires: February 24, 2016

COUNTY OF Hardy,

STATE OF WEST VIRGINIA:

The foregoing was acknowledged by Amanda Pitzer before me this the 1st day of September, 2015.



Thomasena S Cooper
Notary Public

My Commission Expires: February 24, 2016