

**AGREEMENT AND
CONSENT TO JOINT USE OF TRACK**

THIS AGREEMENT is made and entered into as of the _____ day of _____, 20____, by and between **UNION PACIFIC RAILROAD COMPANY** (hereinafter "Railroad") and **CITY OF LEE'S SUMMIT**, a Missouri municipal corporation, to be addressed at 220 SE Green Street, Lee's Summit, Missouri 64063, (hereinafter "Industry") and **IPL USA, INC.**, a Missouri corporation, to be addressed at 401 SE Thompson Dr, Lee's Summit, Missouri 64082 (hereinafter "User").

RECITALS:

By agreement dated June 7, 1991, and as supplemented by agreement dated January 11, 1994, identified in the records of Railroad as Agreement Audit No. 155854 in Folder No. 1644-58 (hereinafter the "Basic Agreement"), Railroad has agreed to operate certain track 724 and 725, Circ7: MX259, Yard 14 (herein and therein "Track") for the benefit of Industry at LEES SUMMIT, MO, as described in the Basic Agreement, for the purpose of receiving rail service as contemplated by the Basic Agreement.

User desires rail service from Railroad on or over all or a portion of the Track, represents that it has made arrangements with Industry to use all or a portion of the Track jointly for rail service, and that Industry and User desire Railroad's consent to be jointly served;

Railroad is willing to give such consent on the terms and conditions described in this Consent to Joint Use of Track (this "Agreement").

AGREEMENT:

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

Article 1. INDUSTRY'S CONSENT

In consideration of the covenants and agreements of User herein contained, Industry hereby consents to the joint use by User of the Track for the purpose of being served thereon by Railroad.

Article 2. RAILROAD'S CONSENT, TERM

In consideration of the covenants and agreements herein contained, and subject to the terms and conditions hereof, Railroad hereby consents to serve jointly Industry and User over all or a portion of the Track for the period commencing as of the date first herein written, and extending for a term concurrent with the term of the Basic Agreement, conditioned upon and subject to the terms and conditions of this Agreement; provided, however, that upon termination howsoever of the Basic Agreement, this Agreement shall terminate forthwith.

Article 3. OBLIGATIONS OF INDUSTRY AND USER

All of the covenants, terms and conditions of the Basic Agreement shall remain in full force and effect. User agrees to be bound by the terms and conditions of the Basic Agreement which are binding upon Industry, to the same extent and in the same manner as such terms and conditions pertain to the

Track and are binding upon Industry; provided, however, nothing herein contained shall be deemed to release Industry from keeping and performing all the terms, covenants, and conditions by Industry to be kept and performed under the Basic Agreement or to release Industry from any of Industry's liabilities or obligations thereunder; further provided, however, that User shall not acquire by virtue of this Agreement any ownership or salvage interest in the Track. Nothing in this Agreement shall be construed as amending or modifying the Basic Agreement except as specifically provided herein.

Article 4. TERMINATION

This Agreement may be terminated by any party upon at least 30 days written notice to the other parties. Such notice shall be in writing and (a) personally delivered; (b) delivered by a reputable overnight courier; or (c) delivered by certified mail, return receipt requested and deposited in the U.S. Mail, postage prepaid. Telecopy notices are valid only if actually received by the individual to whom addressed, and followed by delivery of actual notice in the manner described above within three (3) business days thereafter. Notices will be deemed received at the earlier of actual receipt, or one (1) business day after deposit with an overnight courier as evidenced by a receipt of deposit, or three (3) business days after deposit in the U.S. mail as evidenced by a return receipt. Notice must be directed to the parties at their respective addresses shown below, or such other address as any party may, from time to time, specify in writing to the others in the manner described above:

If to Railroad: UNION PACIFIC RAILROAD COMPANY
 ATTN: Real Estate Folder 03142-21
 1400 Douglas Street, Mail Stop 1690
 Omaha, Nebraska 68179
 Facsimile: (402) 501-0340

With a copy to: UNION PACIFIC RAILROAD COMPANY
 ATTN: Senior Vice President Law and General Counsel
 1400 Douglas Street, Mail Stop 1580
 Omaha, Nebraska 68179
 Facsimile: (402) 501-0132

If to Industry: CITY OF LEE'S SUMMIT
 220 SE Green Street
 Lee's Summit, Missouri 64063

If to User: IPL USA, INC.
 401 SE Thompson Dr
 Lee's Summit, Missouri 64082

Article 5. INSURANCE

A. Irrespective of and in addition to any indemnity provisions hereof, before the term of this Agreement begins, User, at its sole expense, shall provide to Railroad prior to execution, and subsequently upon request, a certificate issued by its insurance carrier evidencing the insurance coverage required under Exhibit A attached and by reference made a part of this Agreement.

B. Not more frequently than once every two (2) years, Railroad has the right to modify reasonably the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

C. Industry and User understand and accept that the terms of this Article are wholly separate from and independent of the terms of Article -- LIABILITY in the Basic Agreement.

Article 6. NO FURTHER SUBLETTING OR ASSIGNMENT

Neither Industry nor User may transfer or assign any interest in this Agreement. This Agreement shall not be construed to authorize Industry or User further to transfer or assign any interest in the Basic Agreement.

Article 7. NON-DISCLOSURE

For the term of this Agreement and for thirty six (36) months thereafter, no party may disclose any of the terms of this Agreement to any non-party without the prior written consent of the other party except (1) as required by law, (2) to a corporate parent, subsidiary, or affiliate or (3) to legal counsel. Each party to this Agreement agrees to indemnify the other from and against any damage(s) suffered by a party as a result of disclosure by a party hereto, or by an auditor or counsel of any of the terms or conditions in violation of this provision. In the event a party determines that the terms of the Agreement have been disclosed to a non-party without the prior written consent of the non-disclosing party, then the non-disclosing party shall have the right to terminate this Agreement immediately upon notice to the other party, and to seek whatever remedies it may have at law or in equity.

Article 8. TRACK SAFETY DEVICE - DERAILS

A. Unless otherwise notified by Railroad, Industry at its sole cost shall maintain all derail device(s) on the Track, if any, including without limitation those required pursuant to Subarticle B below, in accordance with Article - MAINTENANCE BY INDUSTRY.

B. Whether or not derail devices(s) are on the Track, Railroad in the sole discretion of its Operating personnel at any time may require Industry to install new or replace existing derail device(s) on the Track. In such event, upon thirty (30) days notice from Railroad, Industry at its sole cost shall install or cause to be installed the required replacement or additional derail(s) of a type and size, and in location(s) specified by Railroad. Industry shall cooperate at all times with Railroad personnel regarding inspecting, repairing, replacing and installing derail device(s) on the Track.

Article 9. TERMINATION OF PRIOR AGREEMENT

Effective as of the date hereof, that certain agreement dated June 8, 1991, now in effect between the parties hereto, identified in the records of Railroad with its Audit Number 155854 (the "Prior Agreement"), is hereby terminated; PROVIDED, (i) such termination shall not affect any of the rights or obligations of the parties hereto under the Prior Agreement which may have accrued, or liabilities, accrued or otherwise, which may have arisen prior thereto and (ii) if not a party to the Prior Agreement User represents that it has succeeded to all right, title and interest of the non-railroad party thereto and agrees that the Prior Agreement is superseded by this Agreement.

Industry acknowledges that if it or its contractor provided to Railroad digital imagery depicting the Track (the "Digital Imagery"), Industry authorized Railroad to use the Digital Imagery in preparing the print attached as an exhibit hereto. Industry represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Railroad to use the Digital Imagery in said manner.

This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page of this Agreement by facsimile shall be effective as the delivery of a manually executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

By: _____

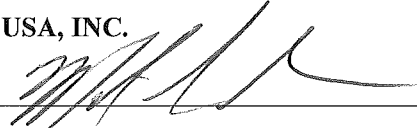
Jennifer Galer
Manager, Real Estate - Track

CITY OF LEE'S SUMMIT

By: _____

Print Name: _____
Title: _____ - Industry

IPL USA, INC.

By:  _____

Print Name: MATTHEW S. CAHNER
Title: Plant Director - User

EXHIBIT A
Union Pacific Railroad
Contract Insurance Requirements

User shall, at its sole cost and expense, procure and maintain during the life of this Agreement (except as otherwise provided in this Agreement) the following insurance coverage:

A. Commercial General Liability Insurance. Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, which must be stated on the certificate of insurance:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" covered under the Master Track Agreement as the Designated Job Site.

B. Business Automobile Coverage Insurance. Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos.)

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" covered under the Master Track Agreement as the Designated Job Site.
- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.

C. Workers Compensation and Employers Liability Insurance. Coverage must include but not be limited to:

- User's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If User is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. Umbrella or Excess Insurance. If User utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.
Other Requirements

E. All policy(ies) required above (except business automobile, worker's compensation and employers liability) must include Railroad as "Additional Insured" using ISO Additional Insured Endorsement CG 20 26 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as Additional Insured shall not be limited by User's liability under the indemnity provisions of this Lease. BOTH USER AND COMPANY EXPECT THAT UNION PACIFIC RAILROAD COMPANY WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORM CG 20 26.

F. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise

under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.

G. User waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees for damages covered by the workers compensation and employers liability or commercial umbrella or excess liability obtained by Industry required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.

H. All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

I. The fact that insurance is obtained by User will not be deemed to release or diminish the liability of User, including, without limitation, liability under the indemnity provisions of this Agreement or the Basic Agreement. Damages recoverable by Railroad from User or any third party will not be limited by the amount of the required insurance coverage.

J. User shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer showing compliance with the insurance requirements in this Agreement.

K. All insurance correspondence, certificates of insurance and endorsements shall be addressed as follows:

Union Pacific Railroad Company
Real Estate Department – Folder # 03142-21
1400 Douglas Street, Stop 1690
Omaha, NE 68179

Basic points to remember:

- The certificate must indicate that Union Pacific Railroad Company is included as an additional insured. (Listing Union Pacific Railroad Company only as a certificate holder is not sufficient.)
- Binders are only accepted for sixty (60) days.
- Failure to comply with insurance requirements may result in a delay of your activity with UPRR.
- The certificate must indicate your folder number.