

**MEMORANDUM OF AGREEMENT**

**between**

**CANADIAN NATIONAL RAILWAY COMPANY,  
ECORAIL INC.**

**and the**

**CANADIAN COUNCIL OF RAILWAYS OPERATING UNIONS  
(CENTRAL AND EASTERN CANADA)**

**governing the terms and conditions for employees**

**OPERATING ECORAIL TRAINS**

**over**

**CN LINES**

**July 30 ,1998**

-

**PREAMBLE**

Whereas ECORAIL Incorporated, a federally chartered railway and wholly owned subsidiary company of Canadian National Railway has contracted with Canadian National Railways to provide employees to operate ECORAIL equipment and trains, the parties have agreed to the attached terms and conditions

governing the employees.

## **1- RECOGNITION**

**1.1** The Company recognizes that the Canadian Council of Railway Operating Unions is the sole and exclusive bargaining agent for all employees operating ECORAIL equipment and trains over CN Lines.

**1.2** Where the term Union appears herein, it shall be understood to mean the duly elected officers of the Canadian Council of Railway Operating Unions (UTU - BLE). Where the term Company appears herein, it shall be understood to mean ECORAIL.

3. The parties agreed that under this agreement, Ecorail may operate only with the present Ecorail equipment (bogies), Roadrailer equipment, or any other similar equipment that uses trailers on independent bogies.

4.

## **2- USE OF MASCULINE GENDER**

**2.1** The use of the masculine gender in this agreement includes the feminine.

## **3- CREW CONSIST**

**3.1** Each ECORAIL Train will be manned by two employees. One Locomotive Engineer and one Conductor from the respective seniority lists.

**Note:** Conductors who are awarded a position at Ecorail who are not ESE or CLO qualified will be provided CLO training by Ecorail.

**3.2** Conductors will be considered qualified as CLO on the successful completion of the CLO training course comprised of one week of technical training and two weeks of on the job training.

## **4- RATES OF PAY**

**4.1** Effective January 1, 1998, ECORAIL employees will be paid a weekly rate of \$1275.00

Effective January 1, 1999, the weekly rate will be increased to: \$1300.00

Effective January 1, 2000, the weekly rate will be increased to: \$1325.00

**4.2** Employees who are unavailable for service (except when under rest) will have their weekly rate reduced proportionally to their assignment.

Example: An employee is scheduled to work on a four day per week assignment and is unavailable for a tour of duty. The employee's weekly rate will be reduced by 1/4.

**4.3** An employee called from CN to operate a ECORAIL assignment on a tour of duty basis will be paid the applicable rates and arbitraries (including initial and final terminal time) of the 4.16 or 1.1 Agreements respectively. However, the conditions of the assignment for which called under this Agreement are applicable.

**4.4** For the purposes of this agreement, all ECORAIL assignments will be considered as CN Block 1 for Maintenance of Earnings.

## **5- GUARANTEE**

1. Employees governed by this agreement shall be guaranteed a minimum of 40 hours a week. Employees will be paid each 14 days the bi-weekly rate or portion thereof. Employees will be allowed to book 10 hours rest after each tour of duty, including call time, without affecting their guarantee.

## **6- BASIC DAY**

**6.1 Minimum Day** - Eight (8) hours or less shall constitute a day's work at 1/5 the weekly rate.

## **7- WORK WEEK**

### **Establishment of work week**

**7.1** As per operational requirements, the Company and employees will establish work weeks as close to forty hours as possible.

**7.2** Work weeks will begin on each Monday or as mutually agreed by the Company and respective Union.

## **8- DAYS OFF**

**8.1** Each employee will be granted two consecutive days off per week. Where it is not practicable to grant two (2) consecutive days off in a work week, agreements may be made to provide for the accumulation of days off.

## **9- SENIORITY BOUNDARIES**

**9.1** All CN Seniority Boundaries prior to May 5th, 1995 remain in effect and will be respected by the Company.

## **10- OPERATION OF ASSIGNMENTS**

1. Assignments will have a fixed starting time. The starting time of an assignment may be changed, provided the Company has notified the employees prior to completion of their last tour of duty. However, this will not prevent the Company from trying to contact the employees after the completion of their last tour of duty but before their assignment starting time. In the event the assignment operates without such employees as a result of a late notification, their weekly rate or maintenance of earnings will not be affected.

**10.2** Employees on assignments may be required to change off at the meeting point and return to their respective home terminal.

**10.3** Employees may be required to work twelve hours on a tour of duty depending on the requirements of the assignment.

**10.4** Employees must be in and off duty at the objective terminal or at the rest facility prior to the expiration of twelve hours. If employees are not in and off duty at the rest facility at the away from home terminal prior to the expiration of the twelve hours, employees will be compensated one and a half time the hourly rate for each hour of portion thereof until the rest facility is reached. Employees enroute to their home terminal who are not in and off duty at their objective terminal prior to the expiration of twelve hours, will be compensated also in accordance with this paragraph. Any payment made under this Article will be over and above the weekly guarantee.

**10.5** Because each ECORAIL project may be different, there may be a need for flexibility regarding assignment duties. Assignment duties will be mutually developed and agreed upon by Ecorail and the CCROU for each individual project.

**10.6** Assignments will not be established that require employees to be held at an away from home terminal for longer than 12 hours. Employees who are held at an away from home terminal beyond 12 hours will be paid the basic hourly rate of pay for each hour or any portion thereof until such time as the employee(s) is required to report for duty. Payment under this article will be over and above any weekly guarantee.

**10.7** Employees will be allowed to trade shifts or tours of duty provided the Company is notified prior to the employee(s) reporting for duty. The provisions of Article 10.8 will not apply in this situation.

**10.8** Employee(s) who accept to work on other then their regular assignment will be paid;

1. over and above their weekly salary the daily rate of the assignment worked; or
2. straight time rates up to forty hours and then time and one half the basic hourly rate for all time worked in excess of forty hours, over and above their weekly salary whichever is greater.

**10.9** Employee(s) called under the provision of Article 10.8 will be called in seniority order and in their classification provided the assignment called for does not interfere with the employee working his/her own assignment.

## **11- SPAREBOARD**

**11.1** In the event that operations require the establishment of a spareboard , ECORAIL and the CCROU will meet to negotiate the terms and conditions of operation and regulation of the spareboard(s).

## **12- BULLETINING OF ASSIGNMENTS**

**12.1** There will be two changes of timetable one in the Spring and one in the Fall each year. At a change of timetable, all district assignments will be bulletined to CN employees at least

7 days previous to the effective date of the change.

**12.2** Employees who are awarded an assignment at the Change of Timetable at ECORAIL will not be permitted to bid any assignment(s) at CN between Change of Timetable.

**12.3** CN employees will not be permitted to displace to an assignment at ECORAIL during a Change of Timetable unless the employee would otherwise be laid off or the employee(s) can no longer hold a position in the classification from which displaced at the home terminal.

**12.4** Temporary assignments of more than 7 calendar days will be bulletined for at least 48 hours to CN employees, including employees at ECORAIL and filled by the senior qualified applicant.

### **13- CALLING**

**13.1** Calling procedures will be in accordance with Article 61 of the 4.16 Agreement and Articles 60 & 62 of the 1.1 Agreement.

### **14- REPORTING LOCATIONS**

**14.1** Locations for going on and off duty will be dictated by project assignment and according to operational requirements. Any change in reporting locations will be subject to negotiations between the CCROU and ECORAIL except at terminals where there is a series of yards.

**14.2** Lockers will be provided for employees at reporting locations.

### **15- MEALS**

**15.1** Employees will report for work suitably prepared for a tour of duty recognizing that the opportunity to take a meal will be governed by the practicality of operations. Trains properly equipped with eating facilities will not be delayed nor operations disrupted in order to eat. Operating eating facilities such as: microwave oven, hot plates, fridge and drinking water will be included in the locomotive along with washroom and toilet facilities. Locomotives will also be equipped with boltar seats. Only in a case of an emergency or unforeseen circumstance may a train be operated without the appropriate eating and seating facilities.

### **16- DEADHEADING**

**16.1** Employees deadheading or travelling on Company business will be paid a basic day or hourly for all time, whichever is greater. Deadheading time will count towards the forty hour per week principle.

**16.2** Deadheading and service may be combined provided deadheading time does not exceed three hours and when so combined, employees will not be paid less than a basic day.

### **17- SLEEPING QUARTERS**

**17.1** When it is necessary for ECORAIL to supply accommodations enroute or at the away from home terminal, accommodations will be afforded in accordance with the principles of WorkAlert and or CanAlert . Also eating facilities are to be available in accordance with the provisions of Article 24.6 of the 4.16 and Article 82 of the 1.1 Agreement.

## **18- GENERAL HOLIDAYS**

**18.1** Employees who qualify for General Holidays with pay in accordance with Article 77 of the 4.16 Agreement and Article 76 of the 1.1 Agreement will be paid the following:

a) If an employee's assignment is cancelled on the General Holiday and the employee is not required to work, there will be no reduction in his weekly rate.

b) An employee that is required to work on a general holiday will be paid the earnings of the tour of duty over and above the weekly rate.

1. If a General Holiday falls on an employee is scheduled day off, the employee will be paid 1/5 the weekly rate over and above the weekly rate.

## **19- ANNUAL VACATION**

**19.1** Employees annual vacation entitlement and pay will be calculated in accordance with Article 78 of the 4.16 Agreement and Article 77 of the 1.1 Agreement.

## **20- GRIEVANCE PROCEDURE**

### **A GRIEVANCE MAY BE PROGRESSED UNDER THE PROVISIONS OF THE APPLICABLE COLLECTIVE AGREEMENT OF THE COMPANY ISSUING DISCIPLINE.**

**20.1** A grievance concerning the interpretation or alleged violation of this agreement shall be processed in the following manner.

An appeal against discharge, suspension, demerit marks in excess of 30 and restrictions shall be initiated at Step 2 of this grievance procedure. All other appeals against discipline imposed shall be initiated at Step 1B of this grievance procedure.

#### **(a) Step 1A - Presentation of Grievance to Immediate Supervisor**

In the case of an appeal involving any grievance (except an appeal against discipline), within 28 calendar days from the date of cause of grievance the employee or the Local Chairman may present the grievance in writing to the immediate supervisor. The grievance shall include a written statement of grievance as it concerns the interpretation or alleged violation of the agreement and identify the article and paragraph(s) of the article involved. The supervisor will give a decision in writing within 28 calendar days of receipt of the grievance. In case of declination the supervisor will state the reason(s) for the decision in relation to the statement of grievance submitted. Once a grievance has been declined by the immediate Supervisor, the grievance may be progressed by the Local Chairperson to the General Chairperson for handling at Step 2.

**(b) Step 1B - Appeal to Immediate Supervisor**

In the case of an appeal against discipline imposed, within 28 calendar days of the date on which the employee was notified of the discipline assessed, the Local Chairman may appeal the decision in writing to the General Manager.

The appeal shall include a written statement of grievance as it concerns the interpretation or alleged violation of the agreement, and identify the article and paragraph(s) of the article involved. The written statement in the case of an appeal against discipline imposed shall outline the Union's contention as to why the discipline should be reduced or removed.

The decision will be rendered in writing within 28 calendar days of receipt of the appeal. In case of declination, the decision will contain the Company's reason(s) in relation to the written statement of grievance submitted.

**(c) Step 2 - Appeal to General Manager**

Within 28 calendar days of the date of the decision under Step 1A or 1B, the General Chairman may appeal the decision in writing to the General Manager.

The appeal shall be accompanied by the Union's contention, and all relevant information concerning the grievance and shall;

(1) be examined in a meeting between the General Manager or delegate and the General Chairman or delegate within 30 calendar days of the date of the appeal. The General Manager shall render a decision in writing within 30 calendar days of the date on which the meeting took place. Failure to comply with this provision will permit the Union to progress the grievance to the Canadian Office of Arbitration on an Ex Parte basis.

(2) should the General Manager consider that a meeting on a particular grievance is not required, he or she will so advise the General Chairman and render a decision in writing within 60 calendar days of the date of the appeal.

**Appeal to Arbitration**

**20.2** A grievance concerning the interpretation or alleged violation of this agreement, or an appeal against discipline imposed, which is not settled under sub-paragraph 20.1 (c) may be referred by any of the signatories to this agreement to the Canadian Railway Office of Arbitration for final and binding settlement without stoppage of work.

**20.3** A request for arbitration shall be made in writing by either party to the other within 60 calendar days following the date a decision is rendered in writing under sub-paragraph 20.1 (c) by filing written notice thereof with the Canadian Railway Office of Arbitration and on the same date by service thereof on the other party. In the event that the parties cannot agree upon a Joint Statement of Issue within 2 days of such request, either party to the dispute may progress the dispute to the Canadian Office of Arbitration on an Aex parte basis@.

**General**

**20.4** Any grievance not progressed by the Union within the prescribed time limits shall be considered settled on the basis of the last decision and shall not be subject to further appeal. The settlement of a grievance on this basis will not constitute a precedent or waiver of the contention of the Union in that case or in respect of other similar claims.

**20.5** Where a decision is not rendered by the appropriate officer of the Company within the prescribed time limits, the grievance may, except as provided in sub-paragraph 20.6, be progressed to the next step in the grievance procedure.

**20.6** In the application of paragraph 20.1 of this article to a grievance concerning an alleged violation which involves a disputed time claim, if a decision is not rendered by the appropriate officer of the Company within the time limits specified, such time claim will be paid. Payment of time claims in such circumstances will not constitute a precedent or waiver of the contentions of the Company in that case or in respect of other similar claims.

**20.7** The settlement of a grievance shall not under any circumstances involve retroactive pay beyond a period of ninety calendar days prior to the date that such grievance was submitted at the first applicable step of the grievance procedure.

**20.8** Time limits specified in this article may be extended by mutual agreement.

**20.9** Where provision is made in this article for the appeal of a grievance to a designated Company officer, the Company may substitute another Regional or Area officer for the officer designated by advising the General Chairman concerned in writing.

**NOTE: The provisions of this Article will not prevent the parties from mutually agreeing to have a grievance resolved by a Mediator/Arbitrator.**

## **21- COMPANY INITIATED MEETINGS**

**21.1** When an employee is requested by a Company Officer to attend a meeting on a matter initiated by the Company, such employee will be compensated as follows on account of such attendance:

- a) Where necessary to lose time, reimbursement for actual time lost.
- b) Where between shifts or on a designated day off, 1/5 the weekly rate for each day.

## **22- INVESTIGATION - DISCIPLINE**

**22.1** Investigations will be conducted in accordance with the established practice for operating employees at CN. This will not prevent the Company and the Council from having alternative measures in place when mutually agreed.

## **23- HELD FOR INVESTIGATION**

**23.1** Employees required to attend Company investigations or who are held off work by the Company for such investigations will be paid 1/5 the weekly rate for each day held out of service or required to attend such investigations or loss of earnings whichever is greater.

## **24- TRAINING PROGRAMS**

**24.1** Employees required to take a Company and/or CN training program(s) such as safety seminars, dangerous commodities, equipment handling, etc. prior to or after their shift, will be paid overtime for each hour or portion thereof in excess of forty hours in the work week.

## **25- LEARNING THE ROAD**

**25.1** A Locomotive Engineer learning the road may be required to undergo initial observation and demonstration tours of duty under the direction and guidance of a qualified Locomotive Engineer and paid in accordance with this agreement. A Locomotive Engineer will be provided with a minimum of 3 trips if requested.

**25.2** A Conductor who is not familiar with the territory will be provided a minimum of 3 trial trips if requested and paid in accordance with this agreement.

## **26- PAYMENT FOR EXAMINATIONS**

### **Medical Examinations**

**26.1** An employee required to take Company directed medical examinations during off-duty hours shall be paid 1/5 of the weekly rate for each day.

**26.2** In situations where an employee cannot take a Company directed medical examination on their off-duty time and loses time as a result, such employee will be paid for not less than the employee would have earned for their regular shift.

**26.3** Employees required to travel away from their town or city to undergo medical examination will be allowed actual reasonable expenses.

**26.4** Employees required to lose a shift when required to travel for the purpose of Company directed medical examination to a place outside the employees town or city where such examination is to be conducted, will be paid 1/5 the weekly rate or time lost whichever is greater.

## **27- RULES EXAMINATION**

**27.1** An employee required to take any examinations mandated by the Railway Employee Qualifications Standards Regulations, or its successor, during off-duty hours shall be paid 1/5 the weekly rate for each day required.

**27.2** An employee required to take any examinations during his scheduled working day(s) will be paid actual lost earnings of his/her assignment.

## **28- ATTENDING COURT**

**28.1** Employees attending court or Coroner's inquest on legal cases in which the Company is involved, or subpoenaed by the Crown in such cases, will be 1/5 the weekly rate for each

day or actual loss of earnings and will be furnished with necessary transportation. Actual reasonable expenses will be allowed when away from home town or city.

**NOTE:** Court witness fees and mileage will be assigned to the Company.

### **29- BEREAVEMENT LEAVE**

**29.1** Articles 76 of the 4.16 Agreement and Article 80 of the 1.1 Agreement are applicable.

### **30- JURY DUTY**

**30.1** Article 70 of the 4.16 Agreement and Article 81 of the 1.1 Agreement are applicable.

### **31- BENEFIT, DENTAL AND EXTENDED HEALTH CARE PLANS, AND LIFE INSURANCE**

#### **Benefit Plan for Train and Engine Service Employees**

**31.1** Benefits shall be available in accordance with the terms of the current Agreement between Canadian National Railways and Canadian Council of Railway Operating Unions.

### **32- MATERIAL CHANGES IN WORKING CONDITIONS**

**32.1** Articles 79 of the 4.16 Agreement and Article 78 of the 1.1 Agreement are applicable.

### **33- PRINTING OF COLLECTIVE AGREEMENT**

**33.1** The Company undertakes the responsibility for the translation and printing of collective agreement as may be required from time to time and will absorb the cost of printing as well as the cost of delivery of sufficient copies to the General Chairmen.

### **34- DURATION OF AGREEMENT**

**34.1** This agreement shall remain in effect for three (3) years commencing January 1, 1998 and shall be continued from year to year thereafter unless either party gives notice in writing to the other within ninety (90) days prior to the expiry date hereof of the parties intention to terminate this agreement or negotiate amendments and revisions hereto.

**34.2** Nothing in this agreement shall preclude or restrict the parties to this agreement from making any changes to the agreement during the terms hereof that are mutually acceptable and agreed to.

Signed in Quebec 30<sup>th</sup> day of July 1998

---

For: ECORAIL INC. R. Dyon

Gene  
Chai

CCR  
(BLE

---

For: CANADIAN NATIONAL M. Marcoux

RAILWAY COMPANY for: B.E. Wood

Gene  
Chai

CCR  
(BLE

---

R. LeBel

General Chairperson

CCROU (UTU)

---

M. P. Gregotski

General Chairperson

CCROU (UTU)

July 30, 1998

**APPENDIX A**

Mr. R. Lebel Mr. R. Dyon

Mr. M. P. Gregotski Mr. B.E. Wood

Dear Sirs:

During the recent round of negotiations, the CCROU was concerned that on occasion, employees operating ECORAIL trains have been instructed to assist another train or move railway cars not in connection with their train.

On exceptional operation situations (such as cars left on main line, derailments, emergency situations, etc.) where employees operating an ECORAIL train are instructed to perform extra duties or work not in connection with their train, they will be compensated on the basis of a hour for hour or any portion thereof over and above the weekly rate, when performing such exceptional work.

ECORAIL commits that under Article 1.3 of this memorandum of agreement, it is understood that ECORAIL will only handle equipment as defined in Article 1.3 in ECORAIL service.

Yours truly,

---

M. Brault

General Manager

ECORAIL

July 30, 1998

## **APPENDIX B**

Mr. R. LeBel Mr. R. Dyon

Mr. M. P. Gregotski Mr. B. E. Wood

Dear Sirs,

During the recent round of negotiations, the CCROU was concerned that on occasion, employees operating ECORAIL trains have been instructed to assist another train or move railway cars not in connection with their train.

On exceptional operation situations (such as cars left on main line, derailments, emergency situations,

etc.) where employees operating an ECORAIL train are instructed to perform extra duties or work not in connection with their train, they will be compensated on the basis of a hour for hour or any portion thereof over and above the weekly rate, when performing such exceptional work.

ECORAIL commits that under Article 1.3 of this memorandum of agreement, it is understood that ECORAIL will only handle equipment as defined in Article 1.3 in ECORAIL service.

Yours truly,

---

M. Brault

General Manager

ECORAIL

### APPENDIX C

Mr. R. Lebel Mr. R. Dyon

Mr. M. P. Gregotski Mr. B.E. Wood

Dear Sirs:

During this round of negotiations, ECORAIL submitted a demand regarding the filling of assignments by CN employees. ECORAIL requested that any employee awarded an assignment at the Spring Change of Timetable would be locked in for a period of one (1) year. During this time, the employee(s) would be restricted from bidding out of ECORAIL. CN employees would be restricted from exercising seniority at ECORAIL except at the Spring Change of Timetable.

The CCROU expressed concerns regarding this demand as this would result in limiting CN employees rights to exercise their seniority particularly in instances where CN employees would be laid off or otherwise restricted from exercising their seniority following a displacement from the position held in specific classification.

ECORAIL therefore agrees to two Changes of Timetable to coincide with CN Change of Timetables and also to allow CN employees to exercise their seniority at ECORAIL if the employee would otherwise be laid off or the employee could no longer hold a position in the classification from which displaced at his/her home terminal.

Yours truly,

---

M. Brault

General Manager

ECORAIL

July 30, 1998

**APPENDIX D**

Mr. R. Lebel Mr. R. Dyon

Mr. M. P. Gregotski Mr. B.E. Wood

Dear Sirs:

During this round of negotiations the CCROU requested that, as in the past, the CCROU would be entitled to two positions on the Board of Directors for ECORAIL.

ECORAIL committed that the CCROU would be afforded two positions on ECORAIL=s Board of Directors.

Yours truly,

---

M. Brault

General Manager

ECORAIL

July 30, 1998

**APPENDIX E**

**MEMORANDUM OF AGREEMENT between ECORAIL INC. and CANADIAN COUNCIL OF RAILWAY OPERATING EMPLOYEES (B. of L.E. & U.T.U.)**

Mr. R. Dyon Mr. M. P. Gregotski

General Chairman General Chairperson

CCROU (BLE) CCROU (UTU)

3610 Valiquette, Suite 200 516 Garrison Rd, Unit 8

St.-Laurent, Quebec, H4S 1X8 Fort Erie, Ont. L2A 1N2

Dear Sirs:

During discussions regarding the ECORAIL service between Montreal and Toronto, the CCROU was concerned regarding the operating miles, speed and operational requirements of this assignment.

Therefore, in accordance with Article 10.5 of the Agreement, the parties have agreed that the following will apply for the Montreal - Malport project;

The scheduled work week of this project will not exceed 4 tours of duty. Employees required to take training during their off duty hours, will be compensated in accordance with Article 7.2.

If the number of tours of duty are decreased, then employees may be required to take training during an unassigned duty day in accordance with Article 24.1

---

M. Brault

General Manager

ECORAIL

I Concur: \_\_\_\_\_

R. Dyon M. P. Gregotski

General Chairman General Chairperson