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Agreement

BETWEEN THE

Pennsylvania Company,
Chicago and Alton Railroad Company,
Chicago, Burlington and Quincy Railroad Company,
Pennsylvania Railroad Company,
Joliet & Chicago Railroad Co.

AND

Pittsburgh, Fort Wayne & Chicago Ry. Co.

Use of Tracks in Chicago.

Dated September 7th, 1880.

This Agreement,

Entered into this seventh day of September, in the year 1880, between the Pennsylvania Company as first party, the Chicago and Alton Railroad Company as second party, the Chicago, Burlington and Quincy Railroad Company as third party, the Pennsylvania Railroad Company as fourth party, the Joliet and Chicago Railroad Company as fifth party, and the Pittsburgh, Ft. Wayne and Chicago Railway Company as sixth party, bears witness :

Whereas, The fifth and sixth parties are the owners, as tenants in common, of certain real estate in Chicago, Illinois, with two main tracks thereon, situated between Sixteenth street and the north side of Van Buren street, the same being now and for a long time a part of the main line of railway of said respective parties ; and,

Whereas, The first party is in possession of and is operating the entire railway of the sixth party under a lease of the same to the fourth party, dated June 7, 1869, and extending for a term of nine hundred and ninety-nine years, from July 1, 1869 ; and the second party is in possession of and is operating the entire railway of the fifth party, under a perpetual lease.

Whereas, The third party wishes to connect the tracks of its railway north of and near Sixteenth street with the two main tracks now constructed as aforesaid, and with such other tracks as may be hereafter constructed at that point, by the first and second parties, for the purpose of using jointly with the first and second parties, said tracks between said point of connection near Sixteenth street and the north line of Van Buren street, for the passage of its passenger trains, and said tracks between said point of connection near Sixteenth street and a point near the north line of Twelfth street for the passage of its freight trains ; and the first and second parties are willing to grant a right to such joint use on the terms and conditions following :

Now, Therefore, It is covenanted and agreed between the parties as follows :

I. The first and second parties hereby grant and convey to the third party, its successors and assigns, a right to use jointly with the first and second parties, but for the passage of its engines and cars in passenger, mail and express service only, said two main tracks between said connection near Sixteenth street and the north line of Van Buren street ; also, any other track or tracks parallel with and contiguous to said two main tracks which may be hereafter constructed between said points, for the accommodation of the passenger, mail and express business of the parties hereto ; the object of this grant being to enable the third party to reach and enjoy the facilities of the new

General Passenger Depot now being constructed on lands of the sixth party between Madison and Van Buren streets in said city.

The first and second parties also further grant and convey to the third party, its successors and assigns, a right to use jointly with the first and second parties, for the passage of its engines and cars in freight service, so much of the tracks hereinbefore described as are or may be situated between Sixteenth street and Twelfth street.

II. The grant herein made, includes the right of the third party to make, at its own expense, necessary connections with the tracks described and the tracks of its own railway; and the third party agrees to furnish, at its own expense, frogs, switches, switch posts, and such other material as may be necessary to effect such connection of tracks, in a manner that shall be satisfactory to the first and second parties.

III. The third party hereby accepts the grant of right of joint use as herein set forth, and agrees to pay annually to each of the first and second parties respectively, as fixed rental or compensation for use of said two main tracks as now constructed, one-sixth of the interest, at seven per centum per annum, on the sum of two hundred and fifty thousand dollars, which sum, amounting to twenty-nine hundred and sixteen dollars and sixty-six cents, due and payable to each of the first and second parties annually, the third party agrees to pay to the treasurer of each of said parties, in lawful money of the United States of America, in four equal quarterly payments on the first Monday of each of the following months: January, April, July and October. It being the intention of the first and second parties to purchase additional land and construct additional tracks, immediately adjacent to the two main tracks already constructed, for the accommodation of joint business between Sixteenth street and Van Buren street, the third party covenants and agrees that in addition to the fixed rental hereinbefore stipulated to be by it paid, in respect to said two main tracks, it will pay to said first and second parties, respectively, one-sixth the interest at seven per centum per annum on the cost of real estate and of materials and construction required in providing said additional tracks, which additional payment of fixed rental shall be made at the time and in the manner hereinbefore set forth in respect to the rental of said existing two main tracks.

IV. The first party shall be charged with the duty of maintenance of the tracks herein described, and of payment of all taxes and assessments which may be lawfully levied or assessed upon the same, and every part thereof; and the third party agrees that, in addition to the fixed rental above mentioned, it will pay to the first party its just and proper proportion of such expense of maintenance; also, of taxes and assessments, and the wages of joint employes, including its proportion

of any moneys the first and second parties may contribute towards the erection of viaducts over or tunnels under said tracks so to be jointly used; such payments to be made monthly, upon bills to be presented by the first party, and within ten days of the time when such bills may be presented. That just and proper proportion of current expenses to be paid by the third party, as recited in this paragraph, shall be determined by the ratio which the car and engine mileage of the third party bears to the total car and engine mileage of all parties using said tracks. The total and individual car and engine mileage on the tracks in question, shall be determined by actual count, at such times and for such periods as the parties may agree upon. But a new count and computation of mileage shall be made at any time, on request of either party. And until such request for new count and computation shall be made, the ratio previously determined and agreed upon shall continue in force.

V. The general managers of the parties using shall tracks shall arrange the time of the movement of their respective trains over the same. They shall also provide rules for the management of joint employes. The first party shall appoint the same, subject to removal on the joint request of the second and third parties, or for good cause, on request of either the second or third party.

VI. Each party shall be responsible for loss or damage caused by conduct or neglect of its own employes, to persons or property. Loss or damage caused by conduct or neglect of joint employes shall be adjusted by the first party, and all moneys so paid by it shall be charged to the joint current account of expenses of maintaining said tracks and operating trains thereon.

VII. If the third party shall, at any time, make default in the payment of any or either of the amounts herein provided by it to be paid, and such default shall continue for the space of ninety days after written notice of said default shall have been served, then, at the election of either the first or second party, to whom such payment shall be due and unpaid, and on written notice thereof, but not otherwise, the rights of the third party, under this agreement, shall wholly cease and determine; and, upon service of said last mentioned notice, the third party shall surrender peaceable possession of the tracks, herein described, to the first and second parties.

VIII. Should the first and second parties, at any future time, grant to any other company or companies the right to use, in common with the parties hereto, their tracks between Sixteenth street and the north line of Van Buren street, then the division of rental and operating expenses shall be readjusted on the basis of the number of roads using said tracks, and the car and engine mileage of each thereon.

IX. The grant herein made to the third party shall continue during the unexpired term of the lease of the Pittsburgh, Ft. Wayne and Chicago Railway to the Pennsylvania Railroad Company, namely, nine hundred and eighty-eight years from July 1, 1880, *subject always, however,* to the faithful performance by the third party of each and all the obligations herein stipulated to be by it performed, and provided that no assignment of the rights and privileges conferred upon the third party in this agreement to any other company shall be of any effect without the assent thereto, in writing, of the first and second parties.

X. The fourth party, as lessee of the Pittsburgh, Ft. Wayne and Chicago Railway, under the lease mentioned in this agreement, hereby assents to and affirms the execution of this agreement, on the part of the first party. It further agrees that if, for any cause, the first party shall cease to operate and control the Pittsburgh, Ft. Wayne and Chicago Railway, under said lease, and the fourth party shall, in consequence thereof, resume the operation of said Pittsburgh, Ft. Wayne and Chicago Railway, under said lease, said fourth party will assume the obligations herein stipulated to be performed by the first party, and will protect the third party in the enjoyment of the rights and privileges hereby conferred upon it, so long as said fourth party shall continue in possession of said Pittsburgh, Ft. Wayne and Chicago Railway. But nothing herein contained shall require either the first party or the fourth party to insure the third party in the use of the tracks herein described, any longer than said lease of the Pittsburgh, Ft. Wayne and Chicago Railway shall continue in force and effect.

XI. The fifth party, as lessor of the Joliet and Chicago Railroad, hereby assents to and confirms this agreement. It further agrees that if, for any cause, the second party shall cease to operate and control the Joliet and Chicago Railroad, under the lease of the same herein mentioned, and the fifth party shall in consequence thereof resume the operation and control of the same, the fifth party will assume the obligations herein stipulated to be performed by the second party, and will protect the third party in the enjoyment of the rights and privileges herein conferred upon it, during the period of the grant herein made to the third party.

XII. The sixth party, as lessor of the Pittsburgh, Ft. Wayne and Chicago Railway, hereby assents to and confirms this agreement. It further covenants that, in case the lease of the Pittsburgh, Ft. Wayne and Chicago Railway to the Pennsylvania Railroad Company shall for any reason be forfeited, or otherwise cease before the termination of the period herein named, to-wit: nine hundred and eighty-eight years, from July 1, 1880, the sixth party will continue to the third party the

rights and privileges conferred upon said third party in this agreement, *upon condition* that said third party will strictly and faithfully perform all the conditions and covenants herein stipulated to be by it performed. *Provided, however*, that nothing herein contained shall, in any manner, be construed to be a release of the Pennsylvania Railroad Company from its full responsibility as lessee, or from the payment of either or any of the sums of money required in said lease by it to be paid, or from the full and complete performance by it of either or any of the obligations devolved upon said Pennsylvania Railroad Company in said lease, or be construed to recognize or consent to the possession or operation of the demised property by the first party, except as agent of the fourth party herein mentioned.

XIII. If, at any time, a difference of opinion shall exist in respect to the rights or duties of either party under this agreement, or under the rules which may be adopted by the General Managers of the parties hereto, for the government of joint employes, the question in dispute shall be referred to a Board of Arbitrators, consisting of three competent disinterested persons, one of whom shall be chosen by each party to the dispute, and the two so chosen shall select a third. The party desiring such arbitration shall give written notice of the same to each of the parties to this agreement, setting forth therein, definitely, the point or points in dispute, and name the person selected by such party to act as arbitrator.

In event that the parties, on whom such notice shall be served, shall not, within fifteen days of such service, name a second disinterested person to act as arbitrator, the party serving such notice shall select the second, and the two thus chosen shall select a third.

The Board of Arbitrators, thus chosen, shall proceed at once to hear, consider and determine the matter submitted to them; and shall give to each of the parties to such matter of difference, notice, which shall not be less than ten days, of the time and place of hearing; and at the time and place appointed, shall proceed with the hearing, unless for good cause, of which the arbitrators shall be the judges, it shall be postponed to some later day or days. And the determination of the arbitration thus constituted, or a majority of the persons composing the same, to be made in writing, and a copy thereof to be delivered to each of the parties, shall be final and conclusive upon the parties in reference to all matters thus submitted.

In Testimony Whereof. The parties to this agreement have caused the same to be executed by their proper officers, and their respect-

ive corporate seals to be hereto affixed, duly attested, the day and year first above written.



Attest :

The Pennsylvania Company, by
J. N. McCULLOUGH,
First Vice President.

S. B. LIGGETT,
Assistant Secretary.



Attest :

The Chicago and Alton Railroad Company, by
T. B. BLACKSTONE,
President.

C. H. FOSTER,
Secretary.



Attest :

Chicago, Burlington and Quincy Railroad Company, by
C. E. PERKINS,
Vice President.

J. E. WALKER,
Secretary.



Attest :

The Joliet and Chicago Railroad Company, by
JOHN CRERAR,
President.

C. H. FOSTER,
Secretary.



Attest :

The Pennsylvania Railroad Company, by
G. B. ROBERTS,
President.

JNO. C. SIMS, JR.,
Assistant Secretary.



Attest :

The Pittsburgh, Ft. Wayne and Chicago Railway Company, by
L. H. MEYER,
President pro tem.

F. M. HUTCHINSON,
Secretary.

