ATTORNEY GENERAL OF THE STATE OF NEW YORK
ROCHESTER REGIONAL OFFICE

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In the Matter of

CSX TRANSPORTATION, INC.

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VOLUNTARY SETTLEMENT AGREEMENT

INTRODUCTION AND BACKGROUND

This Voluntary Agreement ("Agreement") is made and entered into between CSX Transportation, Inc. ("CSXT") on the one hand and Eliot Spitzer, Attorney General of the State of New York ("the Attorney General") on the other hand. (CSXT and the Attorney General are referred to collectively as "the Parties.") The Parties are entering into this Agreement in full and final settlement of any and all claims under any New York State civil statute or any common law theory that the Attorney General may have against CSXT arising out of or relating to CSXT's highway-rail grade crossings in the State of New York. This Agreement is effective as of March 7, 2005 ("the Effective Date").

ATTORNEY GENERAL'S ALLEGATIONS

1. CSXT is a corporation incorporated in Virginia with its principal place of business in Jacksonville, Florida, that operates an interstate freight rail transportation system within the State of New York.

2. On or about March 22, 2004, following the February 3, 2004 grade crossing accident at Winton Road South outside of Rochester, New York, the Attorney General commenced an investigation of CSXT's practices with regard to the operation of highway-rail grade crossings in the State of New York.

3. Based on his investigation, the Attorney General alleges that CSXT failed to comply with state and federal laws by its repeated failure to timely repair warning systems, to keep adequate maintenance records, to make required reports, and to take steps to provide notification to local law enforcement agencies of crossings with deactivated warning systems; and maintained conditions that had the potential to endanger public safety.

4. The Attorney General alleges that, based on the foregoing, a cause of action exists against CSXT under N.Y. Executive Law § 63(12) and N.Y. Railroad Law § 53 arising out of and/or relating to maintenance and repair of CSXT's highway-rail grade crossings in the State of New York.

CSXT'S CONTENTION IN RESPONSE

5. CSXT contends that federal law preempts any state action pertaining to the subject matter of the Attorney General's investigation, including but not limited to the Attorney General's authority to investigate, regulate, or commence an enforcement action against CSXT with respect to CSXT's maintenance and repair of its highway rail grade crossings in the State of New York.

6. CSXT neither admits nor denies the allegations of the Attorney General and furthermore denies all wrongdoing regarding CSXT's highway rail grade crossings.

7. CSXT, while reserving its right to contest any state regulation of its highway-rail grade crossings, voluntarily and fully cooperated with the Attorney General's investigation.

8. CSXT, following the commencement of the Attorney General's investigation:

a) conducted an intensive review of its operations in the State of New York, culminating in the development of CSXT's Grade Crossing Action Plan, as part of which it performed signal and/or track maintenance work at 143 grade crossings throughout the State of New York, including the complete rebuilding of surfaces at some of those crossings;

b) partnered with local leaders to establish a community task force centered in Monroe County, New York;

c) issued revised instructions and procedures concerning maintenance of its grade crossing warning devices and notifications to local police departments concerning grade crossing warning device malfunctions; and

d) took other steps to further enhance the safety of its operations in the State of New York.

AGREEMENT

The Attorney General (on the one hand) and CSXT (on the other hand), in consideration of the mutual promises set forth below, the sufficiency of which is hereby acknowledged and accepted, agree as follows:

9. Reports to Police Agencies

9(a). Within thirty (30) days after the Effective Date, CSXT shall issue and maintain in effect operating procedures that will govern notification to local law enforcement agencies when, after responding to a report of a grade crossing warning device malfunction in the State of New York, CSXT personnel determine that they are unable to complete repairs within twenty four hours or determine that they are unable to complete repairs at that time and deactivate the crossing warning device. Prior to the issuance of these

procedures, CSXT will share the proposed procedures with the Attorney General and allow him to comment thereon.

9(b). CSXT shall conduct periodic audits of its notifications to New York police agencies of reports of grade crossing warning device malfunctions.

9(c). The notification procedures specified in Paragraph 9(a), and the payments specified in Paragraph 10(a), are a pilot project of CSXT and are not applicable to grade crossing warning devices outside of the State of New York.

10. Voluntary Payments

CSXT agrees to voluntary payment of up to one million five hundred thousand dollars ($1,500,000.00) as follows:

10(a). New York Law Enforcement Reimbursement ("NYLER")

(i) For a period of three years from the Effective Date, if a police agency having jurisdiction over a highway-rail grade crossing location incurs costs in providing protection to a CSXT highway-rail grade crossing in the State of New York as a result of a report from CSXT pursuant to Paragraph 9(a), the police agency may submit an invoice to CSXT for reimbursement of the costs incurred. The invoice shall reference the NYLER Fund and shall include the following: the date(s) and time(s) that protection was provided, the DOT/AAR crossing number, and the street and town/city where the crossing is located. It is understood and agreed that the decision to provide law enforcement personnel, if any, to protect such highway-rail grade crossing shall be at the sole discretion of the police agency. The invoice shall be submitted to the following person:

Mr. Joe Davis
Manager, Signal Operations
CSX Transportation (J-370)
4901 Belfort Road, Suite 130

Jacksonville, Florida 32256

Subject to the limitations contained in Paragraph 10(a)(ii), CSXT shall pay each invoice received.

(ii) Notwithstanding Paragraph 10(a)(i), CSXT shall have no obligation to pay any invoice:

(A) received on or after April 1, 2008; or

(B) if the amounts paid by CSXT pursuant to Paragraph 10(a)(i), in the aggregate, total five hundred thousand dollars ($500,000.00).

For the avoidance of doubt, CSXT's obligation to pay invoices received pursuant to Paragraph 10(a)(i) shall forever terminate when either of the two conditions listed in the preceding sentence is first satisfied.

(iii) By reimbursing expenditures pursuant to this Paragraph 10(a), CSXT neither acknowledges the necessity of, nor accepts responsibility for, the quality of any protection services provided by or on behalf of any police agency. CSXT's obligation with respect to disbursements under Paragraph 10(a)(i) is limited to making payments. It has no obligation to audit invoices received or otherwise to determine whether the charges included on invoices submitted by police agencies comply with this Agreement or any provision of law.

10(b). Voluntary Payment to State of New York.

CSXT shall pay one million dollars ($1,000,000.00) to the State of New York to fully and finally resolve the disputed Claims (as defined in Paragraph 15 below) against CSXT. Payment shall be made by certified check made payable to "State of New York" and delivered to The State of New York, c/o Robert A. Colón, Esquire, Assistant Attorney General in Charge, 144 Exchange Boulevard, Rochester, New York, 14614 within five days of the Effective Date.

11. Reports of Repair Times in Excess of 24 Hours

Since the Attorney General commenced his investigation, CSXT has implemented revised procedures, and will keep procedures in effect, requiring senior Communications and Signals ("C&S") personnel at CSXT headquarters (or wherever they might be located in the future) to be informed of any active grade crossing warning device repairs that cannot be completed within 24 hours, including for crossings which may have intermittent problems because of infrequent rail traffic.

12. CSXT Monthly Reviews.

CSXT shall implement procedures requiring CSXT headquarters C&S personnel to conduct monthly reviews and analyses with Albany Division C&S personnel of New York State highway-rail grade crossings with recurring malfunctions. CSXT shall take appropriate action to address recurring malfunctions at the crossings it identifies during its monthly reviews. The procedures shall require that the monthly reviews commence in the month following the Effective Date.

13. Grade Crossing Warning Device Repair Recordkeeping.

CSXT records reports of signal problems with grade crossing warning devices, and maintenance in response to such reports, in a computer system known as the "TCIS system." CSXT is in the process of upgrading that system to improve consistency of data entry. It shall complete and implement its planned upgrade to the system as soon as practicable. CSXT shall provide new and expanded training for new and existing personnel required to input information into the TCIS system in conjunction with implementation of the system upgrade described in the preceding sentence.

14. Semi-Annual Briefing for Attorney General's Office

CSXT and the Attorney General (and/or his designated representative(s)) shall meet for semi-annual briefings commencing in the sixth month after the Effective Date and continuing for a term of three years from the Effective Date. During each briefing, CSXT shall: report on its audits of notifications to police agencies, review disbursements to local police agencies, outline its steps to implement the terms of this Agreement and engage in a dialogue concerning highway-rail grade crossing safety.

15. No Action To Be Filed Against CSXT

The Attorney General shall not institute any action against CSXT (including but not limited to its agents, employees, officers, directors, corporate parents, subsidiaries, divisions and affiliates) under any New York State civil statute or any common law theory ("Claims") arising out of or relating to CSXT's highway-rail grade crossings, including but not limited to maintenance, operation, and recordkeeping concerning grade crossing warning

devices, that could have been brought by the Attorney General based on the allegations contained in paragraphs 2 through 4.

16. This Agreement constitutes the entire understanding between the Parties with respect to the subject matter hereof, supersedes any and all prior negotiations and agreements of the Parties with respect to the subject matter hereof, and shall not be modified except by an instrument in writing executed by the Parties.

17. After three years from the Effective Date, if at any time business, technology, communications, regulatory or safety improvements cause CSXT to seek a change or elimination of the procedures and obligations contemplated by Paragraphs 9, 11, 12 and 13, CSXT shall advise the Attorney General of any change or elimination 60 days before it is scheduled to take effect. The Attorney General shall have 30 days to submit any objections. The Attorney General shall not object unless he has good cause to believe that doing so would reduce the safety of highway rail grade crossings in the State of New York. If he has not objected to the change or elimination within 30 days, CSXT may implement it. If the Attorney General objects, the Parties shall meet and confer in good faith to reach agreement, but CSXT shall not be prevented from implementing the change or elimination if it does not violate federal law.

18. To the extent that CSXT has waived any preemption defense or argument by entering into this Agreement, the waiver expires at the end of three years from the Effective Date, and any enforcement of this Agreement will be strictly limited to those matters, if any, which are not preempted by federal law.

19. The Parties expressly agree and acknowledge that this Agreement is in full accord and satisfaction of the disputed Claims (as defined in Paragraph 15 above) the Attorney General could bring with regard to CSXT's highway-rail grade crossings in New York State; that

the provisions of this Agreement constitute a fair, reasonable and adequate settlement; and that they have entered into this Agreement freely and voluntarily after consultation with counsel. This Agreement is not to be considered as an admission of liability or wrongdoing by or against CSXT in any proceeding.

20. This Agreement is the product of negotiation and preparation by and among the Parties and their respective counsel. The Parties expressly acknowledge and agree that this Agreement shall not be deemed to be prepared or drafted by any one of them or their attorneys, and will be construed accordingly. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement.

21. This Agreement shall be construed in accordance with and governed by the laws of the State of New York in effect as of the date of execution of this Agreement (including its statutes of limitations) without regard to choice-of-law principles. The preceding sentence shall not be deemed a waiver or diminution of CSXT's claims of federal preemption.

22. This Agreement shall not confer any rights upon any persons or entities other than CSXT and the Attorney General.

23. Nothing herein shall be construed to deprive any person or entity other than the Attorney General of any private right under the law.

24. Notwithstanding any other provision of this Agreement, if any provision of this Agreement violates federal law, as now in existence or as enacted or amended in the future, CSXT shall have no obligation to comply with such provision of this Agreement.

25. Except as otherwise provided herein, the Parties agree that they shall be responsible for their own costs and attorneys' fees arising out of the Attorney General's investigation.

26. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Voluntary Agreement.

Eliot Spitzer,
Attorney General of the State of New York

By: _____

Date: March ___, 2005

CSX Transportation, Inc.

By: _____
Cynthia Craig-Johnson
Associate General Counsel

Date: March 6, 2005