

NATIONAL RAILROAD PASSENGER CORPORATION

AGREEMENT

THIS AGREEMENT, dated as of April 16, 1971, between National Railroad Passenger Corporation, a corporation organized under the Rail Passenger Service Act of 1970 (hereinafter referred to as the "Act") and the laws of the District of Columbia (hereinafter referred to as "NRPC"), and George P. Baker, Richard C. Bond, Jervis Langdon, Jr. and Willard Wirtz, Trustees of the Property of Penn Central Transportation Company, Debtor (hereinafter referred to as "Railroad").

WHEREAS, NRPC was organized pursuant to the Act for the purpose of providing modern, efficient intercity rail passenger service within a national rail passenger system;

WHEREAS, in furtherance of that purpose, NRPC desires to contract with Railroad for the acquisition or use of certain equipment and facilities and for the furnishing of certain services;

WHEREAS, NRPC is in the process of entering into a number of contracts with other railroads identical with this Agreement save as to the provisions of Appendix B;

WHEREAS, the parties desire to enter into an agreement relieving Railroad of its responsibility to perform intercity rail passenger service, and facilitating the initiation of intercity rail passenger service by NRPC, on May 1, 1971; and

WHEREAS, the parties are unable to agree within the time available prior to May 1, 1971, on a basis for compensating Railroad subsequent to July 1, 1973, for the services, equipment and facilities which Railroad is undertaking to make available to NRPC hereunder, but in order to further the purposes of the Act and permit NRPC to undertake passenger service on a timely basis, the parties are willing to enter into this Agreement which, in Article Five, provides an initial basis for compensation and for a future redetermination of the basis for compensation.

NOW, THEREFORE, in consideration of the terms and conditions herein contained, NRPC and Railroad hereby agree as follows:

ARTICLE ONE

DEFINITIONS

"Intercity Rail Passenger Service" means all rail passenger service over the lines of Railroad owned, leased, or operated by Railroad other than

(i) commuter and other short-haul service in metropolitan and suburban areas usually characterized by reduced fare, multiple-ride and commutation tickets and by morning and evening peak period operations, and (ii) auto-ferry service characterized by transportation of automobiles and their occupants where contracts for such service have been consummated prior to October 30, 1970.

"Intercity Rail Passenger Trains" means all trains operated in Intercity Rail Passenger Service.

"Act" means the "Rail Passenger Service Act of 1970."

"Commission" means "Interstate Commerce Commission."

"Rail Lines" is defined in Section 4.1.

ARTICLE THREETHE SERVICESSection 3.1. Right to Services.

Subject to and in accordance with the terms and conditions of this Agreement, Railroad hereby agrees to provide NRPC, over Rail Lines of Railroad, with the services requested by NRPC for or in connection with the operation of NRPC's Intercity Rail Passenger Service, including the carrying of mail and express on Intercity Rail Passenger Trains to the extent authorized by the Act. The initial services with respect to Railroad shall be as provided in Appendix B and shall be compatible with the physical capabilities of Railroad.

Section 3.2. Modification of the Services.

NRPC shall have the right from time to time to request, and subject to and in accordance with the terms and conditions of this Agreement Railroad hereby agrees to provide, modified or additional services. Such requests shall be made by filing an amendment to Appendix B with Railroad on a date sufficiently in advance of the date upon which such amendment is to become effective to permit adequate joint planning and joint preparation for the modified or additional services provided for in such amendment. The services requested in any such amendment shall be subject to the physical and financial capabilities of Railroad and shall give due regard to Railroad's speed, weight and similar operating restrictions and rules and safety standards and to the avoidance of

unreasonable interference with the adequacy, safety and efficiency of its other railroad operations. In applying the foregoing, recognition shall be given to the importance of fast and convenient schedules and passenger comfort and convenience to the success of NRPC's Intercity Rail Passenger Service.

Section 3.3. Provision of the Services.

Railroad further agrees to provide and furnish all labor, materials, equipment and facilities necessary to perform the services to be provided under Sections 3.1 and 3.2 (except as the same are provided by NRPC), but shall not, except as is otherwise provided in this Agreement or upon agreement with NRPC, be required to purchase, construct, rebuild or replace Rail Lines, locomotives, cars, rolling stock or ancillary facilities (as defined in Section 3.8).

Railroad shall provide services hereunder in an economic and efficient manner and shall give appropriate recognition to the importance of on-time passenger train operations and passenger comfort and convenience. Railroad shall make every reasonable effort to maintain the schedules established by NRPC for its Intercity Rail Passenger Service. From time to time NRPC will deliver to Railroad, pursuant to Section 3.2, requests regarding manner and standards of operation designed to refine and make precise the foregoing and to bring about nationally high and uniform standards of intercity rail passenger operations.

Railroad pursuant to Article Three hereof, Railroad will notify NRPC, and on request of NRPC, shall furnish a substitute facility reasonably equivalent in utility. Railroad shall give notice to NRPC thirty (30) days prior to disposing of any other ancillary facility.

ARTICLE FOUR

Rail Lines

Section 4.1. Rail Lines.

Railroad shall (i) retain and not dispose of or abandon its Rail Lines used in the initial (commencing May 1, 1971) operation of NRPC's Intercity Rail Passenger Service or in any operation of such service initiated subsequent to May 1, 1971, for as long as such use continues or for the term of this Agreement, whichever period is the shorter, provided that seasonal changes or suspensions of service shall not be deemed discontinuance of use, and (ii) preserve until July 1, 1973, its rights with respect to any of its Rail Lines not included in clause (i) above which were used by it for Intercity Rail Passenger Service on or during the 12 months preceding April 30, 1971. In the event that NRPC shall, prior to July 1, 1973, initiate service on any Rail Lines described in (ii) above, Railroad will retain and not dispose of or abandon such Rail Lines for the period of such use or for the term of this Agreement, whichever is shorter, provided that seasonal changes or suspension of service shall not be deemed discontinuance of use. Railroad shall not, without giving NRPC at least thirty (30) days' prior notice, abandon, relinquish or otherwise dispose of

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any of its right, title or interest in any part of its Rail Lines. Nothing herein shall prevent Railroad from modifying, changing or relocating any facility or any segment of its tracks, provided that with respect to tracks covered by (i) and (ii) of this paragraph the continuity of the tracks is retained.

The "Rail Lines" of Railroad shall include all of its rights of way and real properties appurtenant thereto which constitute its trackage, whether owned or leased or otherwise held, and all of its rights to use such properties of others (not including, subject to the provisions of Section 4.4, joint terminal trackage), together with the roadway structures thereon or appurtenant thereto used in connection with the actual operation of Intercity Rail Passenger Trains.

Section 4.2. Maintenance of Rail Lines.

The Rail Lines of Railroad used in NRPC's Intercity Rail Passenger Service pursuant either to Article Three or Article Four hereof shall be maintained by Railroad at not less than the level of utility existing on the date of the beginning of such use.

Section 4.3. Additional Maintenance and Improvements.

Upon the request of NRPC, Railroad shall as promptly as feasible modify its Rail Lines maintenance, at the sole expense of NRPC for any additional cost to the extent such additional cost is not reimbursed under Appendix A, so as to increase the level of utility of any part of its Rail Lines to the level specified in such request.

NRPC shall have the right (i) at its sole expense, to the extent that the cost thereof is not reimbursed under Appendix A, to require Railroad

to improve its Rail Lines as provided in such request, or (iii) subject to mutually satisfactory arrangements, to improve the Rail Lines of Railroad; provided that any such improvement shall not unduly interfere with or unduly limit Railroad's other rail operations, that any such requested improvement shall be made by Railroad as promptly as feasible, and that any increase in maintenance cost occasioned by such improvement shall be paid by NRPC to the extent that such increased cost is not reimbursed under Appendix A.

Section 4.4. Jointly Owned Terminals and Joint Trackage.

Railroad will use its best efforts to obtain for NRPC, until July 1, 1973, subject to earlier termination by NRPC on thirty (30) days' notice as to any terminal, such access to and services by jointly owned terminals now used by Railroad as will be required to render the services provided for from time to time under Sections 3.1 and 3.2 and Appendix B and such access to and services by other jointly owned terminals in which Railroad has an interest as is required for NRPC's Intercity Rail Passenger Service. For such access and services NRPC, during such period, will pay to Railroad the costs thereof (exclusive of costs related to ownership) reasonably and necessarily incurred by Railroad under then existing contracts relating to such terminals, to be determined in accordance with Appendix A, including any increased allocation of such costs resulting from reduction in use of such terminals at or about May 1, 1971, provided, however, that notwithstanding any other provision of this Agreement NRPC shall not be obligated to pay any costs of or resulting from protective arrangements applicable to any employees employed in or by any such terminals, except that if, as a result of any increase in or modification of Intercity Rail Passenger Service, the number of job positions in any such terminal is increased over the number of such positions in existence on

April 30, 1971, or if such terminal is required to reestablish any such job position theretofore eliminated, the labor protection costs borne by Railroad which result therefrom shall be deemed an operating cost to be reimbursed by NRPC.

Railroad also will use its best efforts to obtain for NRPC access to trackage now used by Railroad jointly or in common with other railroads as will be required to render the services provided for from time to time under Sections 3.1 and 3.2 and Appendix B or as is required for NRPC's Intercity Rail Passenger Service. For such access and service until July 1, 1973, NRPC will pay to Railroad, unless NRPC has obtained such rights directly from such other railroad or railroads, the costs reasonably and necessarily incurred by Railroad under existing contracts relating to such trackage which arise from the operation of and are solely related to Intercity Rail Passenger Service, including any increased allocation of such costs resulting from the procurement by Railroad of access to such joint trackage for the operation of NRPC Intercity Rail Passenger Service.

It is the intention of the parties that, subject to the maintenance or provision of the continuity of trackage as set forth in Section 4.1 and to the provision of substitute terminal services for terminals then being used, nothing herein shall be construed to require retention of or constitute a lien upon the real estate of any terminal company or upon any real estate, including terminal facilities, owned or operated by a railroad.