

MERGER AGREEMENT

between

Brotherhood of Maintenance of
Way Employes

and

International
Brotherhood of Teamsters

IBT

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MERGER AGREEMENT
between
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
and
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

The Brotherhood of Maintenance of Way Employes (BMWE) and the International Brotherhood of Teamsters (IBT) enter into this Merger Agreement subject to approval and ratification as required by their respective Constitutions.

WHEREAS, after considering several potential merger partners, the Grand Lodge Officers of the BMWE voted unanimously to pursue merger discussions with the IBT; and

WHEREAS, the Unions determined that the merger agreement should be discussed and negotiated through a Joint Committee procedure in which both Unions would participate; and

WHEREAS, a Joint Committee composed of representatives of the BMWE and the IBT have met over an extended period, and the representatives have become familiar with the operations of each Union and its various subordinate organizations and have mutually agreed upon the terms set forth in this Merger Agreement and in the Bylaws of the IBT Rail Conference, and the Bylaws of the Brotherhood of Maintenance of Way Employes (a Division of the IBT Rail Conference); and

WHEREAS, representatives from both Unions have determined that the terms and conditions set forth in this Merger Agreement, the Bylaws of the IBT Rail Conference and the Bylaws of the Brotherhood of Maintenance of Way Employes (a Division of the IBT Rail Conference) [all of which are incorporated by reference and are a part of this Merger Agreement] guarantee to the BMWE, its subordinate bodies and its members maximum autonomy within the structure of the IBT; and

WHEREAS, the BMWE Grand Lodge Officers and the members of the Joint Committee believe that a merger with the IBT will give the BMWE strength and resources to enable it to better represent its members and to negotiate strong contracts; and

WHEREAS, the Joint Committee members from both Unions recommend approval of this agreement, the incorporated bylaws and the merger they represent;

NOW, THEREFORE, BE IT RESOLVED that the parties agree to the following terms and conditions to govern the merger of the BMWE and the IBT subject to the approval procedures set forth in the Constitutions of each Union; and

BE IT FURTHER RESOLVED that the terms of this Merger Agreement and the Brotherhood of Maintenance of Way Employes Division (BMWED) Bylaws shall govern in the event of

any conflict or inconsistencies with the Rail Conference Bylaws or the IBT Constitution as provided in paragraph 1.4.

GENERAL PRINCIPLES

1.1. Purpose. The purpose of this Agreement is to provide for the merger of the BMWWE and the IBT; to maintain for the BMWWE, its subordinate bodies and its members, the autonomy available within the structure established by this Merger Agreement, the IBT Constitution and the Rail Conference bylaws; to gain for the BMWWE and its members the strength and resources available both from the International Brotherhood of Teamsters and from cooperation and coordination with IBT Local Unions and other affiliates throughout the United States, Canada and Puerto Rico; to enable BMWWE to better serve and represent its members and to secure stronger contracts for its members; to join the IBT Rail Conference; and to allow the BMWWE to expand its jurisdiction and membership to include, but not be limited to, all maintenance of way workers, contractors, suppliers and manufacturers within the Rail and related industries.

1.2. Overview. On the effective date of the Merger, the BMWWE and its subordinate bodies in the United States will become known as the Brotherhood of Maintenance of Way Employes Division (BMWED) and will become affiliated with the IBT Rail Conference as a Craft Division. The BMWED and its subordinate bodies will maintain the same control over their assets, contracts and affairs that they have prior to the merger, limited only by the provisions of this Merger Agreement. All officers of all BMWWE bodies (Grand Lodge, System Federations and Divisions, Local Lodges and State Legislative Boards) holding office immediately before the effective date of the merger will maintain those offices in accord with the applicable bylaws, and elections in each body will be conducted as currently scheduled, provided that the first BMWED Convention and the first elections of BMWED national officers will be held in June 2006 and every four years thereafter. The IBT Rail Conference is an umbrella organization designed to coordinate activities on behalf of members within the Rail Industry in the United States including all members of the BMWED and the Brotherhood of Locomotive Engineers and Trainmen (BLET) in the United States and any rail union with independent jurisdiction that may merge with the IBT in the future. The BMWED will initially designate four representatives to serve as members of the policy committee of the IBT Rail Conference. The Merger Agreement also provides a transition with respect to certain governing provisions of the IBT Constitution, with respect to the payment of per capita by BMWED to the IBT, and with respect to the assumption by IBT of certain BMWWE administrative and other functions. The Merger Agreement guarantees the parties the right to withdraw from the merger during a two-year period following approval through the procedures set forth in paragraph 4.28, below.

1.3. Relationship of BMWED and IBT Departments. The BMWED will remain the certified representative of its members and shall continue to negotiate and administer collective bargaining agreements on behalf of its members. The IBT will support and assist BMWED with respect to Legislative Affairs, Negotiations, Arbitrations, Legal Affairs, Health and

Safety, Organizing, Employee Protection, Strategic Planning, Education, and all other matters. The BMWED National President will retain authority over the Arbitration Office currently located in Chicago, Illinois, including the appointment of BMWED's member to the Third Division of the National Railroad Adjustment Board.

1.4. Relationship of Controlling Documents. In the event of any conflict or inconsistency, this Merger Agreement shall govern over the BMWED Bylaws, all subordinate BMWED affiliate bylaws, the IBT Constitution and the IBT Rail Conference Bylaws; and the Merger Agreement and the BMWED Bylaws shall govern over the IBT Constitution and the IBT Rail Conference Bylaws.

1.5. Ratification. This merger is subject to the approval of each Union in accord with the procedures established by their Constitutions.

RAIL CONFERENCE

2.1 Rail Conference. The IBT Rail Conference was created to coordinate activities on behalf of Craft Division members within the Rail Industry in the United States. The Bylaws of the IBT Rail Conference are incorporated as part of this Merger Agreement.

2.2. Rail Conference Jurisdiction. The jurisdiction of the Rail Conference consists of employees working in the Rail Industry or organized within a Craft Division of the Rail Conference. The Craft Divisions within the Rail Conference shall have jurisdiction in accord with traditional craft lines. The Brotherhood of Locomotive Engineers and Trainmen (BLET) became a Craft Division in the IBT Rail Conference as a result of its merger with the IBT. The BMWED will also become a Craft Division within the IBT Rail Conference and will represent all maintenance of way track and structures personnel and other BMWED organized employees.

2.3. Rail Conference Headquarters and Offices. The headquarters and office of the Rail Conference is located at the IBT headquarters building in Washington, D.C.

2.4. Rail Conference Policy Committee. The Policy Committee is the principal governing body of the Rail Conference between conventions. The Policy Committee is comprised of representatives from each of the Craft Divisions affiliated with the Rail Conference. Each Craft Division affiliated with the Conference shall be entitled to one Member on the Policy Committee for the first 10,000 active members (or any fraction thereof), plus one additional member for each additional 10,000 active members (beyond the first 10,000 members) or fraction thereof. Members to the Policy Committee are chosen by the executive board or equivalent body of each affiliated Craft Division either upon affiliation with the Rail Conference or prior to each regular Rail Conference Convention. Once chosen by the appropriate Craft Division executive board or equivalent body, Policy Committee Members shall serve until the next regular Conference Convention. Initially the BMWED shall be entitled to four members on the Rail Conference Policy Committee. The initial

BMWED Policy Committee members shall be the National Division President, the National Division Secretary-Treasurer and additional members as determined by the National Division Officers.

2.5. Rail Conference Convention. The Rail Conference will hold its first Convention at or about the time of the 2006 IBT Convention and every four years thereafter at a time and place set by the Rail Conference Policy Committee.

2.6. Rail Conference Per Capita. Operations of the Rail Conference shall be supported initially by the IBT by a per capita of \$0.25 per member per month for 30 consecutive months from the effective date of this merger agreement to be allocated from the per capita rate paid to the IBT by the BMWED. The delegates at the first Rail Conference Convention shall continue or change the per capita rate and, beginning with the 31st consecutive month, the per capita shall be paid by the BMWED directly to the Conference and separate from any other per capita. These funds shall be maintained and controlled by the Rail Conference in accordance with the Rail Conference Bylaws. Should the delegates to the Rail Conference Convention change the per capita from the initial \$0.25 per member per month prior to the expiration of the 30 month period from the effective date of the merger agreement, the BMWED will contribute the difference or receive a refund from the IBT.

2.7. Rail Conference Operations. As provided by its Bylaws, the Rail Conference shall coordinate the activities of its affiliated Craft Divisions. The expenses of the Rail Conference shall be paid by the Rail Conference as funded by the Craft Divisions except as otherwise explicitly provided in this Merger Agreement.

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION

3.1. Brotherhood of Maintenance of Way Employes Division. On the effective date of the merger, the BMWE shall become the Brotherhood of Maintenance of Way Employes Division (BMWED), a Division of the IBT Rail Conference, and will be governed by the BMWED Bylaws which are incorporated by reference and are a part of this Merger Agreement. The BMWED Bylaws are designed to establish and continue within the IBT as much of the existing structure and operation of BMWE and its subordinate bodies as is consistent with the IBT Constitution.

3.2. BMWED Jurisdiction. The jurisdiction of the BMWED shall consist of the jurisdiction of the BMWE as it exists on the date of this Agreement as well as any other employees that may be organized by BMWED specifically including maintenance of way track and structures personnel who are not direct employees of a common carrier by rail.

3.3. BMWED Headquarters and Office. The headquarters and office of the BMWED shall be located at such place as the BMWED may determine in accordance with its Bylaws.

3.4. BMWED Officers. The initial officers of the BMWED will be the same as the officers of the BMWED in office immediately before the merger and shall thereafter continue in office and be elected in accordance with the BMWED Bylaws.

3.5. BMWED Convention. The BMWED shall hold its first Convention in the month of June 2006 and every four years thereafter.

3.6. BMWED Dues. BMWED dues shall be determined and adjusted as provided by the BMWED Bylaws and in accordance with the requirements of federal law.

3.7. BMWED Operations. As provided by its Bylaws, the BMWED shall have responsibility and authority over the activities of its affiliated System Federations and Divisions, Local Lodges and State Legislative Boards. Except as explicitly modified by the BMWED Bylaws or this merger agreement, the BMWED shall retain and maintain the same responsibility and authority as the BMWED with respect to BMWED operations and subordinate bodies.

3.7.1. Control of Assets and Funds. The BMWED shall retain and maintain control of all BMWED assets and funds. All BMWED subordinate bodies shall retain and maintain control of their respective predecessor BMWED subordinate bodies' assets and funds.

3.7.2. Benefit Plans. The BMWED shall retain and maintain control of any existing BMWED benefit plans, shall continue to participate in current benefit plans, and shall in the future determine its participation in any such plans in accordance with its bylaws.

3.7.3. Employees and Consultants. The BMWED shall have authority and responsibility to hire, supervise and direct its own employees and establish their benefits and other terms and conditions of employment. The BMWED shall have authority and responsibility to engage its own attorneys, accountants, consultants and other vendors.

3.7.4. Collective Bargaining Agreements. The BMWED shall be the successor to and shall continue to hold the certifications and recognitions currently held by the BMWED and shall have complete authority to negotiate and administer collective bargaining agreements pursuant to those certifications and recognitions. The BMWED will be provided full access to, and the support of the various IBT Departments in pursuit of its collective bargaining goals and strategies.

3.8. Initiation Fees, Dues, Assessments and Per Capita. Initiation fees, dues, assessments and any other financial obligations between and among the BMWED and its subordinate bodies shall be as provided in the BMWED Bylaws. The parties agree that the IBT per capita payment in effect on the effective date of this merger agreement will be paid by the BMWED National Division and will not increase a member's current monthly payments. Beginning the first full month following the effective date of this merger, the BMWED shall pay a monthly per capita to the IBT International Union based upon the average hourly rates of pay applicable to each class listed below. The monthly per capita shall be \$10.36 for members under standard contracts, \$8.21 for members under non-standard contracts

and \$6.05 for members under non-rail contracts based upon the average hourly wage rate for each class. The average hourly rate will be recalculated in December of each subsequent year for each class and the per capita (calculated in accord with Article X of the IBT Constitution for each class) will become applicable the following January.

(1) The term “standard contract” means a contract between BMWED and a rail carrier classified as Class I under applicable Surface Transportation Board regulations or a rail carrier providing intercity rail passenger or commuter rail service.

(2) The term “nonstandard contract” means a contract between BMWED and a rail carrier classified as either Class II or Class III under applicable Surface Transportation Board regulations.

(3) The term “non-rail contract” means a contract between BMWED and an employer other than a rail carrier.

(4) The “average hourly rate” for each class enumerated herein shall be as follows:

(a) Standard Contracts: the “average straight time hourly rate as provided in Article XV of the BMWED Bylaws;

(b) Nonstandard Contracts: the weighted average straight time hourly rate paid to BMWED members employed by Class II or Class III carriers;

(c) Non-Rail Contracts: the national average hourly earnings for Manufacturing employees as determined by the Bureau of Labor Statistics.

3.9. Functions/Costs Assumed by IBT. In order to insure that BMWED will be able to pay the per capita due to the IBT without increasing BMWED members’ monthly payments, the IBT agrees to pay all AFL-CIO, TTD and Rail Labor Division per capita on behalf of BMWED following the effective date of this merger. The IBT will assume the cost of operating the BMWED National Legislative Department and the BMWED State Legislative Directors, BMWED Department of Strategic Coordination and Research, BMWED Department of Safety and Education, BMWED Department of Organizing, and the BMWED Department of Communication. As appropriate, this will include moving the personnel of these BMWED Departments into the IBT Headquarters Building to work cooperatively with the corresponding Departments of the IBT.

If the parties find it mutually appropriate to integrate these personnel and functions into existing IBT Departments, the former BMWED Directors shall be designated as BMWED Coordinators and any vacancies in these positions shall be filled from among candidates proposed by the BMWED in accord with the BMWED Bylaws subject to the approval of the General President of the IBT. Such Departmental integrations shall be performed in a transparent and seamless manner. The salaries and benefits of all incumbent BMWED employees so integrated shall be no less than the salaries and benefits in effect immediately preceding such integration.

The IBT also shall provide office space in the IBT Headquarters Building for the BMWED Washington Office including the National Legislative Office; bear the expense for publishing the BMWED Journal six times each year; and subsidize BMWED expenses for outside legal counsel.

As provided in Section 3.7, the financial and administrative services and functions currently performed by the BMWED for itself and its U.S. affiliates relative to dues remittance, investments, expenses, benefits, insurance, payroll, governmental filings, etc., shall continue to be performed by the BMWED National Division. Should these financial and administrative services and functions be, at a future date, transferred by mutual agreement to the IBT or IBT Rail Conference, such transfers shall be performed in a transparent and seamless manner. For the BMWED, any decision to transfer these financial and administrative services and functions shall be approved in accordance with the BMWED bylaws.

SPECIFIC PROVISIONS

4.1. Continued Cooperation. IBT and BMWED will continue to cooperate during the approval/ratification process with respect to all matters of mutual interest including, but not limited to, negotiations, safety and education, legal, communications, legislation, organizing, representation and issues pending before the National Mediation Board.

4.2. Effective Date. The Merger shall become effective on January 1, 2005, and the BMWED Bylaws will become effective on that date.

4.3 BMWED Bodies. All System Divisions/Federations, Local Lodges, and other groups, who are affiliates of the Brotherhood of Maintenance of Way Employees, shall, on the effective date of the Merger, become part of and remain affiliated with the Brotherhood of Maintenance of Way Employees Division of the IBT Rail Conference.

4.4. Membership. On the Effective Date, all BMWED members will become and be considered IBT members.

4.5. Officers. All officers of all BMWED bodies (National Division, System Federations and Divisions, Local Lodges and State Legislative Boards) holding office immediately before the effective date of the merger shall thereafter continue in office and be elected in accordance with the applicable BMWED or System Federation/Division Bylaws.

4.6. Charters. All charters issued by BMWED will be considered as having been issued by IBT. IBT will issue replacement or duplicate charters upon request. IBT will issue charters to all BMWED System Federations and Divisions. The BMWED Bylaws will otherwise govern the issuance of charters within the BMWED and the IBT will issue charters for

subordinate bodies within the BMWED, provided that the issuance of such charters is consistent with the provisions of the applicable bylaws.

4.7. Transition to IBT Constitution. Except as otherwise provided by this Merger Agreement or in the BMWED Bylaws, the provisions of the IBT Constitution shall apply on and after the effective date of this merger.

4.8. Eligibility to Vote. The provisions of the IBT Constitution concerning eligibility to nominate, second and vote will become effective for the BMWED on January 1, 2006.

(NOTE: The IBT Constitution provides that members are eligible to nominate and vote only if, as of the date of nominations or election, they are members in good standing through the month prior to the nominations meeting or election. The issuance of unemployment cards or withdrawal cards by the BMWED does not satisfy the requirement to maintain member in good standing status under the IBT Constitution for the purpose of eligibility to vote.)

4.9. Eligibility to Run for Office (IBT "Continuous Good Standing" Rule). The provisions of the IBT Constitution concerning eligibility to run for office will become effective on January 1, 2006. For the purpose of determining eligibility to run for office only, all BMWED bodies will be treated as "newly chartered" on January 1, 2006 and the provisions of Article II, Section 4(b), of the IBT Constitution will be applied.

(NOTE: The IBT Constitution provides that members are eligible to run for election only if they are "in continuous good standing . . . and actively employed in the craft . . . for a period of twenty-four (24) consecutive months prior to the month of nomination" (IBT Constitution, Article II, Section 4(a)(1)). In general, "continuous good standing" means the timely payment of dues for each of the twenty-four months during the applicable period together with no interruptions in active membership during that period. Timely payment of dues is accomplished by actually paying dues for the month by the last business day of that month. This requirement is also satisfied if a member is on dues checkoff and has earnings during the month from which dues could have been deducted. In "newly chartered" affiliates, Article II, Section 4(b), of the IBT Constitution reduces the twenty-four month period to "at least half of the period of time since the [affiliate] was separately chartered."

As an example, for nominations held in September 2006 within the former BMWED, a member will be eligible to run only if he has maintained continuous good standing for four months (one-half the eight-month period from January 1, 2006, through August 2006) ending with the month before nominations. This means that the member must have paid his or her dues on time in May, June, July and August of 2006. The issuance of unemployment cards or withdrawal cards by the BMWED will not satisfy the requirement to maintain member in good standing status under the IBT Constitution for the purpose of eligibility to run for office.)

4.10. Elections. All elections within the former BMWED shall be conducted in accord with the procedures set forth in the applicable BMWED or System Federation/Division Bylaws. Effective for all nominations conducted after January 1, 2006, appeals concerning eligibility

shall be handled in accord with Article XXII, Section 5(a), of the IBT Constitution. All other appeals and disputes with respect to elections held within the BMWED shall be handled in accord with the applicable provisions of the BMWED or System Federation/Division Bylaws.

4.11. Eligibility of BMWED Local Lodge Secretary-Treasurers. All BMWED Local Lodge Secretary-Treasurers shall be required to pay full dues and assessments beginning January 1, 2006, and the provisions of Article II, Section 4(b), of the IBT Constitution will be applied. Nothing in this Merger Agreement or the IBT Constitution prevents the Local Lodge from reimbursing the Local Lodge Secretary-Treasurer a monthly amount equivalent to full dues and assessments, or a portion thereof, provided such reimbursement is approved in accordance with the BMWED Bylaws and is in compliance with applicable law. Provided that full dues and assessment are properly paid, Local Lodge Secretary-Treasurers holding office as of the effective date of the merger shall remain eligible to continue to run for and hold such office even though they may not be actively working at the craft.

4.12. Charges and Appeals. All internal union charges and appeals filed before the Effective Date will be handled under the provisions, rules and procedures in effect prior to the Merger. All internal union charges and appeals filed after the Effective Date will be handled under the provisions, rules and procedures established by the BMWED Bylaws and the IBT Constitution. For the purpose of applying the provisions of Article XIX of the IBT Constitution (Trials and Appeals) within the BMWED and unless otherwise appropriate, the initial hearing will be held by the Local Lodge or System Federation/Division within which the charge arises. The initial appeal shall be to the BMWED National Division regardless of the body who issued the decision for which appeal is taken. Time limits shall be as set forth in the BMWED Bylaws, except that the time limits provided in Article XIX shall apply with respect to appeals to the IBT General Executive Board and the IBT Convention. The IBT General Executive Board shall not entertain any appeal from any collective bargaining matter or administrative matter decided by the BMWED. On all other matters, appeals from the BMWED National Division shall be to the IBT General Executive Board and, if appropriate, to the IBT Convention as provided in the IBT Constitution. Decisions appealed to the IBT shall be sustained unless inconsistent with this Merger Agreement, the IBT Constitution or applicable law.

4.13. Trusteeships. During the 24-month period following the effective date of the merger, trusteeships may only be imposed on BMWED affiliated bodies with the consent of the National President of the BMWED. The BMWED will not be placed in trusteeship during this period. Upon expiration of the 24-month period, in the event that the IBT General President should determine that conditions exist that would warrant imposing a trusteeship on any BMWED affiliate he shall consult with the National President of the BMWED, as the case may be, and seek his assistance in resolving the problems before exercising his authority under Article VI, Section 5, of the IBT Constitution. This shall not prevent the IBT General President from taking immediate action where, in his discretion, the facts indicate the existence of a situation that is imminently dangerous to the BMWED affiliate, the BMWED, the IBT or any IBT affiliate. In such a situation the BMWED National

President shall be fully informed of the imposition of the trusteeship and the reasons such action was necessary.

4.14. Ratification of Contracts. Collective bargaining agreements within the BMWED shall be ratified in accordance with the provisions of the BMWED Bylaws.

4.15. Joint Council Affiliation. BMWED System Federations and Divisions and other affiliates will not be required to be affiliated with IBT Joint Councils. Officers of BMWED System Federations and Divisions and other affiliates will be invited to attend meetings and other functions and events conducted by the Joint Council having jurisdiction over the geographic area in which the System Federations and Divisions or other affiliate is located. BMWED System Federations and Divisions and other affiliates may enter into agreements with the Joint Council having jurisdiction over the geographic area in which the System Federations and Divisions or other affiliate is located on mutually agreeable terms, subject to the approval of the BMWED President and the IBT General President.

4.16. Jurisdictional Disputes. Any jurisdictional dispute that arises within the BMWED shall be resolved in accord with the provisions of the BMWED Bylaws. Any jurisdictional dispute that may arise between any BMWED affiliate and any IBT affiliate will be handled as provided by Article XII, Section 21, of the IBT Constitution with one member of the panel appointed by the BMWED National President and two members appointed by the IBT General President. Notwithstanding the above, any jurisdictional dispute that may properly be submitted to the National Railroad Adjustment Board (NRAB) will not be subject to the provisions of Article XII, Section 21 of the IBT Constitution or this paragraph.

4.17. IBT General Executive Board. The BMWED National President will be considered by the IBT General President for any vacancy that may occur on the IBT General Executive Board. The President of the Rail Conference will attend all meetings of the IBT General Executive Board.

4.18. IBT Convention Delegates. For the purpose of allocating and electing delegates to the IBT Convention in accord with Article III, Section 2, of the IBT Constitution, BMWED/BMWED System Federations and Divisions shall be treated as Local Unions as provided in this paragraph. Each System Federation and Division having at least 100 active members shall be entitled to one (1) delegate to the IBT for up to the first thousand active members and to one additional delegate for each additional 750 active members or major fraction thereof. System Federations and Divisions with less than 100 active members shall be grouped into three geographic groups: (1) New York, New Jersey, Pennsylvania and the New England States; (2) Minnesota and all states west of the Mississippi River; and (3) the remaining states (Midwest and South). The active members in System Federations and Divisions with less than 100 active members within these designated geographic areas shall be consolidated for the purpose of electing delegates to the IBT Convention and shall be entitled to elect delegates according to the formula set out above and in the IBT Constitution as though they constituted a single Local Union. Delegates to the IBT Convention must satisfy the eligibility requirements set forth in the IBT Constitution and shall be elected in accord with the applicable provisions of the IBT Constitution and the

Rules governing the election. Elections for Delegates and Alternate Delegates to the 2006 IBT Convention shall be conducted within the BMWED in March 2006. One month of continuous good standing, the month immediately before nominations, will be required to be eligible to run for Delegate or Alternate Delegate for the 2006 IBT Convention. Five months of continuous good standing (January through May 2006) shall be required of BMWED members to be eligible to be nominated at the 2006 IBT Convention to run for International Union Office.

The BMWED National President shall be a delegate to the IBT Convention and any officers of the BMWED National Division shall be invited as guests at the IBT Convention.

(NOTE: Article III, Section 2, of the IBT Constitution provides that a Local Union is entitled to one delegate for the first 1000 members or less and one additional delegate for each additional 750 members or major fraction thereof. Delegates are elected at-large in a mail ballot election directly by the membership.

Under the IBT election process, the elections for delegate and alternate delegate are conducted according to guidelines established by the IBT Election Supervisor. Under these guidelines, candidates are nominated and run separately for delegate and alternate delegate. In other words, a candidate must decide whether to run for delegate or for alternate delegate. Nominations may be made by mail and the election is conducted by mail ballot.)

4.19. BMW Assets. Notwithstanding the provisions of Article XX of the IBT Constitution, all properties, funds and assets, both real and personal, held by the BMWED or any BMWED affiliate shall remain the property, funds and assets of the BMWED or affiliate in the event of withdrawal.

4.20. BMW PAC Fund. BMWED will merge its Political Action Committee (Maintenance of Way Political League) into the IBT Political Action Committee (IBT D.R.I.V.E. - Democratic, Republican, Independent Voter Education). At least 85% of the funds contributed by BMWED members will be allocated per year for contributions to federal candidates whom the BMWED identifies as significantly affecting Rail Labor concerns of the BMWED membership.

4.21. Designated Counsel (FELA). BMWED National Division will retain exclusive authority to specify designated legal counsel to represent members within the BMWED under the Federal Employer's Liability Act (FELA).

4.22. Organizing. IBT commits to assist BMWED and their affiliates in campaigns to organize employees within the jurisdiction of the BMWED and, in particular, to bring within the jurisdiction of the BMWED all maintenance of way track and structures personnel within the United States.

4.23. System Federation/Division Bylaws. The Bylaws of the BMWED, and the Bylaws of the System Federation or Division, shall be applicable to all lodges within said federation or

division. Accordingly, local lodges within the BMW Division will not be required to adopt Bylaws. System Federation/Division Bylaws shall continue to be applicable, except that (a) any provisions concerning the trial and appeal of internal union charges shall be superseded by the provisions of Article XIX of the IBT Constitution as provided in paragraph 4.12 of this Merger Agreement; (b) any provisions allowing the recall or replacement of any elected officer during his term of office other than through the procedures of Article XIX of the IBT Constitution shall be without force or effect; (c) any provisions concerning eligibility to nominate, second or run for office, concerning approval of amendments to bylaws, and concerning affiliation with the BMW shall be governed by the applicable provisions of this Merger Agreement; (d) System Division/Federation secretary-treasurers will be responsible for fulfilling the duties set forth in Article XXIII and other provisions of the IBT Constitution; (e) System Federation/Divisions shall each designate three existing officers or Executive Board members not authorized to sign checks to fulfill the function of trustees as required by Article X, Section 8, of the IBT Constitution.

4.24. Mergers, Consolidations and Disbandments. Notwithstanding any provision of the IBT Constitution, there will be no mergers, disbandments or consolidations of any System Federations/Divisions or Local Lodges within the BMWED except as provided in the applicable BMWED or System Federation/Division Bylaws.

4.25. Strike Fund. The BMWED will continue to maintain its existing Strike Fund in accordance with the BMWED Bylaws and members within the BMWED will not be eligible for Out-of-Work Benefits from the IBT Strike and Defense Fund. BMWED members, the BMWED and BMWED affiliates will remain eligible for other appropriate assistance from the IBT Strike and Defense Fund. Accordingly, the IBT will rebate ten (10) percent of the per capita paid by BMWED.

4.26. Ratification. This Merger Agreement and the incorporated bylaws shall be subject to approval and ratification by the BMW and the IBT through the procedures set forth in their Constitutions. The parties shall promptly and expeditiously proceed to submit this Merger Agreement and the incorporated bylaws for approval through the procedures set forth in their respective Constitutions. IBT shall be permitted to address BMW members and officers with respect to this merger and throughout the approval procedure to the fullest extent permitted by the BMW Constitution.

4.27. Disputes. Any disputes concerning the application or interpretation of the terms of this Merger Agreement shall be initially submitted in writing to the National President of the BMWED and the General President of the IBT or their designated representatives, who shall meet within 10 days of written receipt to attempt to resolve the dispute. Any agreed-upon resolution will be subject to the approval of the BMWED Grand Lodge Officers and the IBT General Executive Board. If the dispute is not resolved within ten (10) days from receipt of the notice of the dispute, either party to the dispute may submit the dispute to final and binding expedited arbitration in accordance with the following procedures:

4.27.1. Arbitration Procedure. The following provisions shall apply for any disputes properly submitted to arbitration under the provisions of the above paragraph 4.27.

4.27.2. The party requesting arbitration (either the IBT General President or the BMWED National President) shall give written notice to arbitrate to the other which shall contain a clear statement of the question or dispute it proposes to be arbitrated. This notice to arbitrate must be submitted within twenty (20) days from receipt of the notice of the dispute as set forth above.

4.27.3. The IBT General President and the BMWED National President, or their designees, shall attempt to agree upon an arbitrator within ten (10) days of receipt of the notice to arbitrate. If the parties are unable to agree upon an arbitrator, then the parties will select an arbitrator from among the Article XX referees currently designated by the AFL-CIO. The parties will select from this list by alternating strikes until one arbitrator remains with the party requesting arbitration striking first.

4.27.4. The parties will request the arbitrator to hear this matter on an expedited basis, but in no event later than sixty (60) days after notification of the arbitrator of his/her appointment.

4.27.5. The arbitrator shall issue a written decision within thirty (30) days of the close of said hearing.

4.27.6. The decision of the arbitrator shall be final and binding on all parties.

4.27.7. The arbitrator's authority is limited only to decide the question submitted and in no event shall the arbitrator have the authority to add to, subtract from, or modify any terms of the Merger Agreement.

4.27.8. Each Party will pay one-half the cost of the arbitration, and the parties may extend the time limits by mutual written agreement between the BMWED National President and the IBT General President.

4.28. Withdrawal. Either IBT or BMWED may withdraw from this merger at any time within 24 months of the effective date of this merger agreement. BMWED may withdraw from this merger if (a) the Grand Lodge Officers of the BMWED National Division vote by a two-thirds majority to withdraw from the merger at any time during this period and (b) the withdrawal is subsequently approved by a majority of active members in good standing within the BMWED voting in a properly conducted referendum. For the purpose of conducting such a referendum, the parties will designate the American Arbitration Association and the costs will be borne equally between the parties. IBT may withdraw from this merger by action of its General Executive Board.

4.29. Savings Clause. The fact that any provision of this Merger Agreement is held illegal or unenforceable by a court or other tribunal of competent jurisdiction shall not affect the validity or enforceability of any other severable portion of this Agreement.

4.30. Correction of Inadvertent Errors. The parties shall have the power to correct any typographical, grammatical or punctuation errors in any of the documents involved in this

Merger, provided that any such change must be consistent with the spirit and intent of the provision involved.

4.31. Amendments. This Merger Agreement may only be amended with the approval by representative majority vote of the Delegates assembled at a BMWED Convention and subsequently approved by the IBT General Executive Board.

4.32. Headings and Notes. Headings and bracketed paragraphs identified as “NOTES” in this Merger Agreement are intended to explain the general operation of the provisions to which they refer. These headings and “NOTES” do not constitute enforceable provisions of the Merger Agreement and shall not modify the meaning of any provision of this Merger Agreement, the BMWED Bylaws, the IBT Constitution or the Bylaws of IBT Rail Conference.

CANADA

5.1. Approval of Transfer Agreement. The foregoing terms of this Merger Agreement are applicable to the BMWED and the IBT in the United States. BMWED and Teamsters Canada previously entered into a Transfer of Jurisdiction Agreement which transferred BMWED's jurisdiction in Canada to the Teamsters Canada Rail Conference – Maintenance of Way Employees Division (TCRC-MWED). It is the intent of the parties that this Merger Agreement shall be submitted to a vote of all active BMWED members in good standing as of the date of the referendum as required by the BMWED Constitution and Bylaws, that votes from members of BMWED affiliated bodies located in the United States and located in Canada shall be separately tallied, that approval of this Merger Agreement by the majority of members voting from BMWED affiliated bodies located in the United States shall approve this Merger Agreement with respect to the United States, and that approval by a majority of members voting from BMWED affiliated bodies in Canada shall approve and reaffirm the Transfer Agreement previously entered into between the BMWED and Teamsters Canada. Notwithstanding any other provision of this Merger Agreement, approval by a majority of members voting from BMWED affiliated bodies in Canada shall be effective immediately to approve and reaffirm the Transfer of Jurisdiction Agreement. Submitting this Merger Agreement for approval by active BMWED members in good standing is intended to insure compliance with the requirements of the BMWED Constitution and Bylaws and such approval is not intended to supersede or interfere with any provision or requirement of Canadian law or the decision of any Canadian governmental or judicial body of competent jurisdiction with respect to BMWED subordinate bodies or members in Canada.

5.2. General Terms. A copy of the Transfer Agreement is appended to and incorporated in this Merger Agreement. The Transfer Agreement generally provides for the transfer of BMWED jurisdiction in Canada to the Teamsters Canada Rail Conference – Maintenance of Way Employees Division (TCRC-MWED). Teamsters Canada has established the TCRC-MWED for this purpose and to insure that maintenance of way employees in Canada may exercise the right to select their own officers once all legal and other matters concerning

the transfer have been resolved and appropriate bylaws have been adopted. In general, the previously agreed upon Transfer Agreement provides:

5.2.1. The BMWWE transfers its jurisdiction over all of the Canadian territory to the TCRC-MWED and renounces any right to act in Canada in the recruitment of employees, representation of employees, representation of labour organizations or in any other way except as far as it is necessary to further the execution of the Transfer Agreement.

5.2.2. The transfer of jurisdiction includes the transfer of all bargaining rights and obligations that the BMWWE presently holds, either through certification or voluntary recognition; and all attached rights and obligations whether under a collective agreement or otherwise.

5.2.3. The BMWWE will transfer to TCRC-MWED all its files and employees attached to its Canadian operations including the files and employees of its affiliates and subordinate bodies.

5.2.4. For a mutually agreed upon transition period, the BMWWE will continue to pay all salaries and benefits and all expenses related to its Canadian operations including the salaries and benefits of its affiliates and subordinate bodies until the final transfer of assets and liabilities provided for in paragraph 5.2.7.

5.2.5. During the transition period, TCRC-MWED will maintain the structures along the lines of existing local lodges and system federations of the BMWWE to represent the members locally and these bodies will remain in place until the adoption of official bylaws.

5.2.6. BMWWE, Teamsters Canada and the TCRC-MWED will collaborate with respect to the execution, application and enforcement of the Transition Agreement.

5.2.7. BMWWE will transfer certain assets and liabilities of its Grand Lodge related to Grand Lodge operations in Canada, and all of the assets and liabilities of its Canadian subordinate bodies. The Presidents of the BMWWE and of Teamsters Canada will meet promptly to arrange the details of an orderly transfer of such properties, assets and liabilities to the TCRC-MWED, subject to ratification by the Brotherhood's Grand Lodge Officers, in accordance with the BMWWE Constitution and Bylaws.

5.2.8. If TCRC-MWED was to discover through due diligence accounting verifications or otherwise that the liabilities referred to in paragraph 5.2.7 exceed the value of the assets there mentioned, TCRC-MWED will retain the right to refuse the transfer of assets and liabilities.

5.2.9. The parties will collaborate for an easy and seamless execution of the Transfer Agreement including the necessary filing of successorship applications with the competent tribunals.

5.2.10. BMWWE authorizes TCRC-MWED to represent it before the Canada Industrial Relations Board and any other provincial labour commissions to give effect to the present Agreement.

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