

MEMORANDUM OF AGREEMENT made in duplicate this 18th day of June 1940, by and between the BOSTON AND MAINE RAILROAD, hereinafter called the "Boston & Maine", and the HOOSAC TUNNEL AND WILMINGTON RAILROAD COMPANY, hereinafter called the "Wilmington", both railroad corporations duly organized and existing under the laws of the Commonwealth of Massachusetts,

WITNESSETH:

That WHEREAS it is desired to make clear the rights and duties of the parties with respect to certain tracks used for interchange of carload freight and for turning locomotives at Hoosac Tunnel, Massachusetts,

NOW THEREFORE, in consideration thereof, the parties hereto mutually agree as follows:

The tracks covered by this agreement are shown upon a plan marked

"Boston and Maine Railroad  
Fitchburg Division Main Line  
TRACKS USED BY  
Hoosac Tunnel & Wilmington R. R.  
HOOSAC TUNNEL, MASS.  
C. S. Robinson,  
Asst. Chief Engineer  
Scale: 1" - 100' Oct. 1939",

blueprint copy of which is attached hereto and made a part of this agreement. The tracks marked B-C and C-F, partly on land of the Boston & Maine, and track D-E, all on land of the Boston & Maine, are the property of the Wilmington. All other tracks shown on said plan are the property of said Boston & Maine, provided, however, that upon payment of the sum of \$142.31 to the Boston & Maine, the agreed value of the trackage material in the section of track forming the northwesterly leg of the wye easterly from the insulated joints shown between the letters A and B on the attached blueprint, said track shall become the property of the Wilmington.

The Boston & Maine hereby gives to the Wilmington the right to own, maintain and operate the tracks owned by it on the property of the Boston & Maine during the term of this agreement. It further agrees that upon the termination of this agreement the Wilmington may within a reasonable time remove all the rails, ties and other materials in said tracks from the property of said Boston & Maine.

The Boston & Maine gives to the Wilmington, subject to the conditions and limitations hereinafter set forth, the right to operate upon the tracks shown on said plan for the purpose of delivering and receiving carload freight in interchange on the so-called middle track shown by the letters G-H on the attached blueprint, also for the purpose of turning its engines.

The Wilmington agrees that the Boston & Maine may operate on tracks of the Wilmington for the purpose of turning engines, and further agrees to go no greater distance westerly of the East Portal tower in its operations upon tracks of the Boston & Maine than is necessary for the purposes of making its movements to and from the interchange track and turning its engines. It further agrees to make all such movements under the direction and control of an operating representative of the Boston & Maine and subject to the operating rules of said Boston & Maine. The Wilmington further agrees to conform with the rules of the Interstate Commerce Commission with respect to inspection of steam locomotives or any motive power used by it on any tracks belonging to the Boston & Maine.

The Wilmington agrees to qualify all its agents and employees used in operating engines and cars on said wye tracks and tracks of the Boston & Maine and to reimburse the Boston & Maine for the expense of examining and qualifying such men.

The Wilmington agrees to pay the Boston & Maine as rental for the use of its land under tracks owned by the said Wilmington the sum of Ten Dollars (\$10.00) per annum.

It is agreed that each Railroad shall be responsible for the maintenance and up-keep of the tracks owned by it.

The Wilmington agrees to indemnify and hold harmless the Boston & Maine, its successors or assigns, and its officers and employees, against any and all loss, cost, damage or expense and against any claims for loss or damage to property, personal injury or death, caused by or arising out of its use of Boston & Maine tracks, whether such loss or damage occurs to the Wilmington, its officers or employees, or to others, unless such loss or damage shall be due solely to the negligence of the Boston & Maine.

This agreement shall take effect as of the 28th day of November, 1938 and shall continue in effect for a period of one year and thereafter until terminated by either party by thirty days' written notice given to the other of intention to terminate.

Form Approved  
J. B. S.

Execution Approved  
J. B. S.

HOOSAC TUNNEL AND WILMINGTON  
RAILROAD COMPANY

By  
(sgd) S. M. Pinsky Pres.

BOSTON AND MAINE RAILROAD

By  
(sgd) J W Smith  
Vice President & Gen. Manager.

AGREEMENT made in duplicate this 13th day of Sept., 1951, by and between BOSTON AND MAINE RAILROAD, a corporation duly organized by law, hereinafter called the "Maine", and the MOOSAG TUNNEL AND WILMINGTON RAILROAD COMPANY, a corporation duly organized by law, hereinafter called the "Wilmington".

WITNESSETH:

That WHEREAS the Maine is a subscriber to the Association of American Railroads Code of Rules Governing the Condition Of, And Repairs To, Freight and Passenger Cars, hereinafter called the "Code of Rules", and

WHEREAS the Wilmington is a non-subscriber to said Code of Rules, and

WHEREAS the Maine and the Wilmington interchange cars at Moosag Tunnel, Massachusetts, and mutually desire to set forth on whom the loss, damage or destruction of cars shall fall when such cars are in the possession of the Wilmington,

NOW, THEREFORE, in consideration of the foregoing, their mutual desires, and of the following, the parties hereto mutually agree as follows:

1. When a car of private ownership which has been delivered in interchange to the Wilmington by the Maine is damaged or destroyed on the tracks of the Wilmington or upon a private industrial track served by the Wilmington, the Wilmington shall immediately notify the Maine of such damage or destruction and shall pay over to the Maine, upon demand by the Maine, the amount of money the Maine may be obligated to pay to the owner of the car for such damage or destruction by reason of the Code of Rules.

When a car owned or controlled by a railway company has been delivered in interchange to the Wilmington by the Maine and is damaged or destroyed on the tracks of the Wilmington or upon a private industrial track served by the Wilmington, the Wilmington shall immediately notify the Maine of such damage or destruction and shall pay over to the Maine, upon demand by the Maine, the amount of money the Maine may be

obligated to pay to the owner of the car for such damage or destruction by reason of the Code of Rules, provided, however, that in the case of a car owned by the Maine so damaged or destroyed the Wilmington shall upon demand by the Maine pay to the Maine an amount of money equal to the damage sustained by the Maine by reason of such damage or destruction of the car.

In furtherance of the two foregoing paragraphs of this section numbered "1", but not by way of limitation thereof, the Wilmington shall and hereby agree to indemnify and save harmless the Maine from and against any and all loss, cost, damage or expense and from and against any and all claims or suits for property damage arising out of or in any way attributable to any loss, damage or destruction of any car delivered by the Maine to the Wilmington in interchange when such loss, damage or destruction occurs while such car is on the tracks of the Wilmington or upon a private industrial track served by the Wilmington. The provisions of this paragraph will be satisfied in the event of damage to equipment if the Wilmington shall make adequate repairs acceptable to the Maine in lieu of payment therefor.

2. This agreement shall take effect on the 13th day of Sept., 1951, and shall continue in effect until terminated on any day by either party hereto by giving thirty (30) days' written notice to the other of intention to terminate; provided, however, that if not sooner terminated this agreement shall in any event terminate simultaneously with the termination of an agreement dated June 18, 1940, made by and between the parties hereto and covering the maintenance and use of certain tracks of the Maine and certain tracks of the Wilmington at Hoesac Tunnel, Massachusetts.

IN WITNESS WHEREOF the Maine has caused these presents to be signed in its name and behalf by F. W. Bourke, its V.P.-Operations, thereunto duly authorized, and the Wilmington has caused its corporate seal to be hereto affixed and these presents

to be signed in its name and behalf by E. W. Finsky, its President, thereto duly authorized, all in duplicate on the day and year first above written.

**BOSTON AND MAINE RAILROAD**

By (Sgd.) F. W. Bourke  
Title: VICE PRESIDENT-OPERATIONS

**MOOSAG TUNNEY AND WILMINGTON RAILROAD COMPANY (SEAL)**

By (Sgd.) E. W. Finsky  
Title: Pres.

Form approved:

GLE DSD

Execution approved:

DSD

COPIES OF THIS DOCUMENT