

to be established in order to ascertain what would be a fair and equitable apportionment of such expenses, then and in that event, the question so in dispute, shall be submitted to arbitration by the parties hereto in the manner hereinafter provided.

Fifth: That the crews, servants and employees of the Railway Company while operating cars or other equipment upon the said tracks of the Greenville Company shall be governed by such reasonable rules and regulations as may be promulgated from time to time by the Greenville Company and shall be amenable to the orders and instructions of the Superintendent or other proper person or agent of the Greenville Company.

Sixth: That each party hereto shall have equal rights with the other in and to the use of said tracks of the Greenville Company to be jointly used hereunder as aforesaid, but shall use the same with due regard to the rights of the other party and in such manner as to cause the least practical interference with, interruption of, danger or delay to the operations of such other party upon the said tracks.

Seventh: That the operations of the Railway Company hereunder shall be confined to the tracks mentioned and described in the First Article of this agreement and shall in no event extend upon other tracks or portions of tracks of the Greenville Company.

Eighth: That the Railway Company shall have the right at any time during the term of this agreement upon giving to the Greenville Company six (6) months previous notice in writing either personally or by mail addressed to the Greenville Company at Greenville, S.C., to terminate and cancel the same, or the Railway Company may cancel this agreement to any one of the tracks of the Greenville Company without affecting the remainder, provided that the Railway Company in such event will not be liable for any rental on account of the track or tracks as to which this agreement is cancelled.

Ninth: That the responsibility of the parties hereto as between themselves for the defense or payment of any and all claims, demands, suits, judgements or sums of money to any person or party accruing for loss, injury or damage howsoever caused or resulting, either of or to person or estate and arising by reason of or in connection with the joint use by the parties hereto of the said tracks of the Greenville County, to be jointly used hereunder as aforesaid and which may be attributed to the acts, negligence or default of any person or persons employed by either of the parties hereto in connection with the use or maintenance of said tracks or the operation of locomotives, trains or cars thereon shall be assumed and disposed of by the parties hereto upon the following basis, to-wit:

- (a) When the proximate cause of any such damage shall be the negligence of anyone at the time employed in the sole service and for the sole benefit of either of the parties hereto, or defects in its equipment, then such party shall be solely responsible.
- (b) When the proximate cause of any such damage shall be negligence to which employees of both parties hereto have contributed, or the negligence of any employee in the performance of or omission to perform services, the benefit or other result of which would accrue to both parties hereto jointly, then each party hereto shall be solely responsible for and shall bear all loss incident to any injury of or damage to its own property, including foreign equipment in use by it, but all liability to employees or to third persons by reason of such concurrent negligence shall be liquidated by the parties hereto in equal contribution, share and share alike.
- (c) When the proximate cause of any such damage shall be inherent defects in or negligence in the maintenance of, any portion of the said tracks of the Railway Company so to be jointly used hereunder as aforesaid, then each party hereto shall be solely responsible for and -