

TRAINING SERVICES AGREEMENT

THIS TRAINING SERVICES AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 20__, by and between **CAPE FEAR RAILWAYS, INC.**, a North Carolina corporation (“Cape Fear”) and _____ (“Military”).

WHEREAS, the Military desires to retain Cape Fear to provide certain training services to the Military; and

WHEREAS, Cape Fear desires to accept such engagement, upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. **Engagement of Cape Fear.** Cape Fear is hereby retained by the Military for the purpose of training Military personnel to load and secure on railroad cars the equipment described on Exhibit A. The training session is scheduled for _____, _____, 20____ and is estimated to be 1-1/2 hours. Cape Fear shall provide the required supplies to train the Military personnel, including the use of four (4) railroad cars. The parties agree to negotiate an additional fee for any railroad cars used in excess of four (4).
2. **Compensation.** For the training services rendered by Cape Fear, the Military shall pay to Cape Fear one hundred and no/100 dollars (\$100.00) per hour for each hour Cape Fear provides training services to Military personnel. In addition, Cape Fear shall receive one hundred and no/100 dollars (\$100.00) for training classes cancelled without prior written notice delivered to Cape Fear within twenty-four (24) hours of the scheduled training time. Payment for the training services is due within thirty (30) days of the date the training was provided.
3. **Independent Contractor.** The parties acknowledge that Cape Fear is an independent contractor hereunder.
4. **Indemnity.** The Military agrees to indemnify and hold Cape Fear and their respective officers, directors, employees, servants or agents (collectively the “Indemnified Parties”) harmless from and against all costs, claims, losses, fines, penalties or demands of whatever nature, including injuries or damages to persons or property, including the railroad cars or equipment, which may arise out of or in any way relate to the training services or the carrying out of its duties pursuant to this Agreement, including but not limited to, reasonable attorneys’ fees. This section shall survive the term of this Agreement.
5. **Warranties and Representatives.** THE MILITARY ACKNOWLEDGES THAT CAPE FEAR HAS NOT MADE ANY EXPRESS WARRANTIES OF ANY NATURE OR KIND WHATSOEVER CONCERNING THE TRAINING SERVICES PROVIDED BY CAPE FEAR. CAPE FEAR MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED CONCERNING THE QUALITY AND SCOPE OF ITS TRAINING SERVICES.
6. **Modification.** No Change or modification of this Agreement shall be effective unless such change or Modification is in writing signed by both the parties hereto.
7. **Interpretation.** This Agreement is made under and shall be governed, interpreted and construed in Accordance with the laws of the State of North Carolina.
8. **Binding Effect.** This Agreement shall be binding upon the parties hereto, their respective heirs, executors, legal representatives, administrators, and permitted successors and assigns.

9. Integration. This Agreement supersedes all other agreements previously made between the parties hereto relating to the subject matter hereof.

10. Nonwaiver. No delay or failure by either party in exercising any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right.

11. Notices and Communications. Any notice, request, instruction, or other document to be delivered under this Agreement shall be deemed sufficiently given if in writing and delivered by United States Certified Mail, postage prepaid, to:

If to Cape Fear:

Cape Fear Railways, Inc.
Attn. David Oswalt
9000 West 67th Street
Shawnee Mission, Kansas 66202

With a copy to:

Seaboard Corporation
Attn. Legal Affairs
9000 West 67th Street
Shawnee Mission, Kansas 66202

If to the Military:

Attn: _____
Fort Bragg, North Carolina 28310

Or to such other address as any party may provide to the other in writing.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed in their respective names and the Agreement shall be effective as of the date herein above first written.

CAPE FEAR RAILWAYS, INC.

By: _____
Name: _____
Title: _____

Unit: _____
Signature: _____
Name: _____
Rank: _____

EXHIBIT A

List of Equipment:



CAPE FEAR RAILWAYS

BUILDING 5-5519 HONEYCUTT
MARSHALLING YARD

P.O. BOX 70090

FORT BRAGG NC 28310

T: 910-396-7683

F: 910-396-7688

SUBJECT: RAIL TRAINING CLASS

**REFERENCE: TRAINING SERVICE AGREEMENT
MTMCEA PAMPHLET 55-19, 6TH EDITION**

LOCATION: CONTRACTED RAIL TRAINING CLASSES WILL BE CONDUCTED AT THE HONEYCUTT MARSHALLING YARD LOCATED AT KNOX STREET, BETWEEN GRUBER AND HONEYCUTT ROAD(S), FORT BRAGG NC.

PRIMARY INSTRUCTOR WILL BE PROVIDED BY CAPE FEAR RAILWAYS INC. UNITS NEED TO SCHEDULE 10-14 DAYS IN ADVANCE FOR ALL CLASSES TAUGHT BY CAPE FEAR RAILWAYS. UNITS DESIRING TO CONDUCT THEIR OWN CLASSES WILL COORDINATE WITH JIM TORPEY, AT ABOVE LISTED NUMBERS NLT THAN 3 DAYS PRIOR TO CLASS DATE.

THE FOLLOWING AREAS WILL BE ADDRESSED:

- ** MARSHALLING YARD UNIT INBRIEF.**
- ** RAILYARD SAFETY BRIEFING.**
- ** RAILCAR/UNIT EQUIPMENT INSPECTION.**
- ** EQUIPMENT LOADING - GROUND GUIDES & SPACING.**
- ** TIE DOWN PROCEDURES.**
- ** PRACTICAL EXERCISE.**
- ** INSPECTION.**
- ** CRITIQUE.**
- ** OFF-LOADING PROCEDURES.**

UNIFORM: DUTY, WITH KEVLAR HELMENT, AND WORK GLOVES.

CAPE FEAR RAILWAYS INC. WILL PROVIDE TOOLS.

UNITS MUST PROVIDE MILITARY VEHICLES FOR LOADING. SHACKLES MUST BE AFFIXED TO VEHICLES. UNITS MUST PROVIDE ONSITE MEDICAL COVERAGE.

POINT OF CONTACT (POC) IS THE UNDERSIGNED.

**JIM TORPEY
SUPERINTENDENT**



CAPE FEAR RAILWAYS

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MARSHALLING YARD

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To Whom It May Concern:

Subject: Payment Method for Rail Class.

Cape Fear Railways only accepts the Government Credit Card (I.M.P.A.C.) as payment for conducting rail training classes. Cape Fear Railways is a contractor and using the card requires the contractor coding (L) from the merchant category code table. The program coordinator, I.M.P.A.C. card, Director of Contracting can assist you with properly coding your card. They may be reached at 396-4362, extension 259.

There are two options available for paying for the rail training class. The first option being, if the unit's cardholder attends the class, he or she may come by our office, Building 5-5519 located in the rail yard upon completion of the class. The second option is; Cape Fear Railways will mail an invoice and a copy of the signed contract to the unit, of which payment is due within 30 days from the date of the invoice. Points of contact for this organization are the undersigned or Nick Darnell.

Thank You for your assistance.

Regards,

James F Torpey
Superintendent
Cape Fear Railways