

APPENDIX 'F'

CN WORK PERMIT APPLICATION



Design & Construction

Building B Floor 2
10229 127 Ave NW
Edmonton, Alberta
T5E 0B9

WORK PERMIT APPLICATION 2018

For Railway Use Only:

Mile: _____

Sub: _____

Location: _____

Valid: _____

Expiry: _____

START DATE OF PROPOSED WORK: _____

CONTENTS:

SECTION A:	INSTRUCTIONS & PERMIT FEES	2
	INSTRUCTIONS	2
	RATES & BILLING INFORMATION (2018)	3
SECTION B:	APPLICANT & WORK INFORMATION	4
SECTION C:	TERMS AND CONDITIONS	5
SECTION D:	SAFETY GUIDELINES FOR CONTRACTORS AND NON-CN PERSONNEL	7
SECTION E:	RIGHT OF ENTRY	12
	RIGHT OF ENTRY	12
	SCHEDULE A: INFORMATION	15
	SCHEDULE B: INSURANCE	16
SECTION F:	AGREEMENT AND AUTHORIZATION	18

SECTION A: INSTRUCTIONS & PERMIT FEES

Instructions

Definitions:

"CN" and "Railroad" refers to Canadian National Railway Company or such of its affiliates or associates (within the meaning ascribed to those terms under the Canada Business Corporations Act) to whose property this Authorization and Consent relates.

"Applicant" refers to public road authority, company or individual that is requesting authorization and consent to perform work on or adjacent to CN property and/or requesting flagging services.

"Contractor" refers to authorized employees, servants, agents, contractors or sub-contractors representing or working on behalf of the Applicant.

Complete the Work Permit Application as follows:

1. Complete Section B, "Applicant & Work Information" (page 3)
2. Read and initial each page of the Work Permit Application (page 1 to 18)
3. Provide signature in Section G, "Agreement and Authorization" (page 18)

Return the following:

1. Pages 1 through 18, of the completed Work Permit Application
2. Proof of Insurance, as per Paragraph 13 of Section E, "Right of Entry for Contractors"
3. Payment for the Permit Fee via cheque made payable to "Canadian National Railway." **Credit Card Payments are NOT accepted**
4. Please return all of the above to the following address:

Name: **Jennifer Kutcher**
Title: Crossing Coordinator
Phone: (780) 643-7622
Address: **CN Design & Construction**
Building B, Floor 2
10229-127 Ave NW
Edmonton, AB T5E 0B9

Email: **jennifer.kutcher@cn.ca**

Upon receipt of the signed documents, CN will provide contact names and numbers to the Applicant to arrange for required work.

Rates & Billing Information (2018)

Where applicable, HST/PST/GST will be added to the prices described on this page.

Application Fees* - CHEQUE TO BE SENT WITH APPLICATIONS –
Applications received without payment will NOT be processed.
Credit card payments are NOT accepted

Permit Fee	\$850.00 plus GST CN GST/HST Registration Number 10076 8779 RT0001 Cheque Payable to "Canadian National Railway"
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Flagging and Cable Locate/Protection Costs*

STANDARD - ZONE PRICING*		
Service	Hourly Rate	Daily Minimum
Flagging Services	\$ 184.00	4 hours
Cable Locate	\$ 184.00	4 hours

N.B. Travel time exceeding 1 hour to travel to and 1 hour to travel from the work site is recoverable and will be charged in addition to the time spent on site at the above rates.

The daily time invoiced per employee will be rounded up to the next full hour.

Disclaimer – The above rates are on a "per worker/ per day" basis.

Notification Delays

- CN requires 10 working days notice for flagging / signal protection services.
- CN requires 10 working days notice for cable locates.
- **CN requires two (2) business days' notice to cancel scheduled work. Notice must be given in writing via email. Cancellations received without the required notice will be invoiced at the minimum daily rates.**

Penalties/Additional Fees*

If work is performed without any CN flagman being present or without proper locates, an amount of \$5,000 per incident shall be billed to the Applicant as a penalty.

If one or more trains are delayed, Applicant must pay to CN, under title of Damages of Liquid Assets and not under title of penalties, the following amounts depending on the situation:

- Passenger Trains: \$2,500 per delay + \$25 per minute of delay
- Freight Trains: \$200 per minute of delay
- Each train delay can lead to additional costs that you will be responsible to pay

**Fees are subject to yearly changes without notification*

CN Tax Registration Information

- CN GST/HST Registration Number 10076 8779 RT0001
- CN QST Registration Number 10000 43156 TQ0514

SECTION B: Applicant & Work Information (to be completed by Applicant)

COMPANY: _____
(“Applicant”)

BILLING ADDRESS: _____

CONTACT ADDRESS: _____

PHONE NO.: _____

FAX NO.: _____

EMAIL ADDRESS: _____

NAME OF SUB-CONTRACTOR: _____
(if applicable)

FIELD CONTACT: _____

MOBILE PHONE: _____

1. DESCRIPTION AND LOCATION OF WORK (including details of all excavations on or adjacent to the CN right-of-way):

WARNING - CN right-of-way contains buried communication, power and fibre optic lines. Cable locates by CN Signals and Communications personnel and implementation of appropriate protective measures are mandatory prior to all excavations.

DATE(S) WORK TO BE PERFORMED: from _____ to _____ .

N.B. Actual date(s) of work will be dependent upon availability of CN flagging and cable locates / protection.

If CN Project, the following information must be supplied:

CN Contact Name: _____
(CN Project Manager)

Project: _____

SECTION C: TERMS AND CONDITIONS

With reference to this submission, CN has no objections, in principle, to the proposed work subject to the following conditions.

Prior to the commencement of work:

1. The Applicant shall:
 - 1.1. Execute the attached Application and submit the required documentation and payments (including applicable taxes) as per Section A "Instructions & Permit Fees" of this application.
 - 1.2. Read and be aware of "CN Safety Guidelines for Contractors and Non-CN Personnel"
2. The Applicant's shall:
 - 2.1. A CN flagperson shall be present at all times when work progresses within the CN right-of-way, unless otherwise approved by CN. The presence of a flagperson in no way relieves the Applicant from liability for damage or disruption to CN property, infrastructure or operations caused by the actions of the Applicant, or the agent acting on its behalf.
 - 2.1.1. At least one (1) flagperson per day shall be available for a maximum eight (8)-hour Contractor working day, which may be reduced at the discretion of CN. Overtime and weekend work shall not be permitted, unless otherwise approved by CN.
 - 2.1.2. All personnel working within the CN right-of-way, including truck drivers, material supply drivers and service providers shall attend, record and acknowledge understanding of the daily briefing session with the CN flagperson prior to the commencement of any work within the right-of-way.
 - 2.1.3. Work may be ceased under the authority of the CN flagperson at any time to accommodate train movements.
 - 2.1.4. Once the installation is complete and the CN flagperson is discharged, the Applicant and its agents shall not be permitted on CN property for the purpose of collecting data for ground surface and subsurface monitoring. This monitoring shall be observed from outside the CN right-of-way.
3. The Applicant's site inspector shall:
 - 3.1. Be responsible to act on behalf of the Applicant. CN reserves the right, at its sole discretion, to assign a full time site representative of its choice at the Applicant's expense, notwithstanding the requirement of the Applicant to assign their own, qualified inspector.
 - 3.2. Any problems or issues related to the work description, including changes in subsurface conditions, shall be reported to CN immediately.
4. During work, the Applicant shall maintain positive drainage of Railway property (if Applicable). After construction is completed, the Railway's right-of-way shall be restored to its original condition and to the satisfaction of the Railway. Any fencing removed to facilitate construction shall be restored.
5. The Applicant shall be liable for all costs, direct and indirect, incurred by CN due to the settlement of track(s) or any other problems related to CN's operations, property or infrastructure, that occur as a result of this work, for a period of one (1) year from the date of completion of the work.
 - 5.1. Should CN be unable to maintain normal operating speed during installation or within a period of one (1) year from the date of completion of the work, the Applicant shall be responsible for the cost of train delays resulting from the train slow order, and shall be assessed a daily penalty as per the rates established in calculated according to the rates in Section A until such time as normal operating speed is resumed.

- 5.2. CN, at its option, may undertake the necessary measures to ensure safety, at the risk and expense of the responsible party.
- 5.3. The Applicant shall be responsible for the cost of flagging and cable locates / protection work. The cost of flagging and cable locates / protection work shall be based on actual time on site, calculated according to the rates in Section A.
6. Payment terms and conditions:
 - 6.1. Payments on invoice shall be made at CN's remittance address indicated on the invoice and is due 30 days after invoice date.
 - 6.2. CN reserves the right to charge and be paid interest on all sums due from the Customer at the rate of 12% per annum compounded monthly, calculated from the date upon which payment is due until the date upon which it is received. Invoices are payable in full without set-off retention or counterclaim.
 - 6.3. CN reserves the right to invoice Goods and Services upon delivery, regardless of whether other Goods or Services remain outstanding or not. The Applicant understands and accepts that failure to adhere to the payment terms and conditions may result in the termination of part or all services provided by CN, recuperation of goods sold, and escalated collection and legal procedures.
 - 6.4. The Applicant acknowledges and agrees that all decisions with respect to the extension, continuation and termination of credit shall be at the sole discretion of CN.
 - 6.5. Chargeable labour hours for CN personnel are tabulated through CN's time-keeping and payroll system, and are maintained electronically. The Applicant waives any right to acquire timesheets for labour hours charged.

SECTION D: SAFETY GUIDELINES FOR CONTRACTORS AND NON-CN PERSONNEL

Introduction

This document is a condensed version of CN's mandatory safety training for Contractors and non-CN personnel. It should be noted that this document is not a substitute for the mandatory safety training for Contractors and non-CN personnel including eRailsafe or Contractor Orientation as the case may be. For the purposes of this document "Contractor" may also apply to individuals on CN property, whether under contract to CN or not.

Contractor's employees or subcontractors performing work within the CN right-of-way must familiarize themselves with CN's Contractor Safety Package, complete a Contractor Orientation Course and must be registered on the Contractor Completion Database which can be found at the following website: www.railroadcourses.com. If you have been contracted by CN and are completing work on behalf of CN, you are required to ensure anyone working on the project within CN right of way has completed eRailSafe. This can be found at the following website: www.erailsafecanada.com

These guidelines are not to be considered as a substitute for the applicable government regulations. These guidelines are the minimum requirement and must be exceeded where the hazard or government regulations warrant.

It is not possible to deal with every hazard in this one document. These guidelines are to be employed in conjunction with Government Acts, Regulations, local Ordinances, CN Safety and Operating Rules Standards, and good judgment to facilitate the safe completion of the work.

Additional information regarding safe work practices may be included in contract documents and specifications. In the event of a discrepancy between these guidelines and the contract, the contract shall govern.

GENERAL RULES AND INFORMATION

"Expect the movement of a train, engine, rail car or track unit at any time, on any track, in either direction. Protect yourself and others from the movement of trains, engines, railcars and track units and do not expect them to stop."

If any situation arises which affects the safe movement of trains, CN must be contacted immediately at:

1-800-465-9239.

Alternatively, contact CN's Network Operations Centre in Edmonton at:

1-800-661-3963.

Before any digging is performed on CN property, proper clearance and instructions must be obtained through the Information Technology Command Centre (ITCC Network Management Centre) at:

1-800-661-3687 or 1-800-NO1-FOTS.

In an emergency, any object waved violently by anyone on or near the track is a signal for trains to stop.

Violation of CN's mandatory Contractor Safety training or contravention of these guidelines may result in the immediate removal of the Contractor or the offending personnel from CN property.

Compliance with Government Regulations

Contractors shall follow all applicable Federal, Provincial, and Municipal Acts, Regulations, Laws and Codes, including but not limited to those related to the licensing of workers, occupational health and safety, transportation or handling of dangerous substances, inspection and certification of equipment. As CN is a federally regulated enterprise, Contractors are advised that work undertaken on CN right-of-way may be governed by Federal regulation.

The Contractor must become familiar with all applicable regulations and must ensure compliance by workers at the job site. Supplementary instructions may be issued by CN representatives from time to time.

Contractor's Responsibility

1. Before entering upon CN right-of-way, the Contractor must have all documentation properly executed and available for review by CN personnel at the working site. (i.e. Permits, Licenses, Contract Documents, Contractor Safety Approved identification card and/or Waivers).
2. Daily briefings must be held at every work site to review the contents of these guidelines and any unique conditions at the site relating to safety. A record must be kept of such briefings by the Contractor's responsible person at the work site. Work site briefings must be updated regularly as the job conditions change
3. Unless explicitly permitted by CN, no equipment or vehicle may enter upon the operated right-of-way.
4. Unless explicitly permitted by CN, no work shall take place within thirty (30) feet of the nearest rail except in the presence of a CN Protecting Foreman. The CN Protecting Foreman is concerned only with the safe movement of trains and will not be responsible for the safety of the Contractor, the Contractor's personnel or the Contractor's equipment.
5. Contractor's personnel must not crawl under, climb over or pass through standing railway equipment.
6. Contractor's personnel must not cross a track within thirty (30) feet, of standing railway equipment.
7. CN has many power and/or communication cables buried within the CN right-of-way. The Contractor shall be sure of their location before making any excavation, driving stakes or otherwise penetrating the ground surface. In the event of any excavation work that strikes an underground cable adjacent to CN's track, the contractor must make immediate contact with CN
8. In accordance with CN's safety standards, Contractor's personnel must wear CN required personal protective equipment at all times while on CN right-of-way. Such equipment will include hard hats, safety glasses, reflective apparel, safety footwear (protective footwear shall meet or exceed CSA Z195 and/or ASTM F2413, shall cover and support the ankle and have a defined heel. In Canada, the defined heel must be a minimum of 9 mm (3/8 inch) and shall not exceed 25 mm (1 inch). In the US, the defined heel must be a minimum of 12 mm (1/2 inch and shall not exceed 25mm (1 inch). Boots must be equipped with laces, which must be laced to the top and tied. Hearing and respiratory protection and fall arrest equipment shall be worn where signs are posted or when a potential hazard exists.
9. No CN plant, signal, structure, equipment or property of any kind may be tampered with, modified or removed.
10. "Hi-rail" equipment shall only be operated on the track by personnel qualified in the latest version of the "Canadian Rail Operating Rules".
11. Horseplay, practical jokes, fighting or any other activity that may create a hazard will not be tolerated.
12. Contractor's personnel must immediately abide by instructions from CN personnel.

Approaching Train

1. On the approach of a train, the Protecting Person will communicate to the Contractor's Responsible Person, either by radio or by personal contact, that a train is approaching.
2. After receiving the train information from the Protecting Person, the Contractor's Responsible Person must ensure that all workers, equipment and materials are "Clear of the Track" (as defined in 5.3.5. below) then communicate this to the Protecting Person.
3. The Protecting Person will not authorize any trains through the working limits nor authorize cancellation of protection before receiving confirmation that all workers have been alerted, stopped working and the track is clear of workers and machinery.
4. After the train has passed, no one is to foul or occupy the track until the Protecting Person has given the authorization. Authorization will be communicated to the Contractor's Responsible Person.

Clear Of The Track

To be Clear of the Track shall be defined as:

1. All work has been stopped.
2. All workers are made aware of the approaching train and route to be followed.
3. All workers, equipment and material have been positioned beyond the clearance limits or at any other location deemed safe by CN. (at least 5 meters (15 feet) from the nearest rail of the track on which the train is to pass with additional allowances for curvature and super elevation).
4. All off-track equipment by special approval less than 5 (15 feet) meters of the nearest rail has stopped working and operators have left their equipment.
5. All off-track equipment more than 5 meters (15 feet) from the nearest rail has stopped working. Operators may remain in their cabs unless directed otherwise by the Contractor's Responsible Person. All equipment must be properly secured against unintentional movement
6. All on-track equipment has been moved into the siding or other track as per the Protecting Person's instruction. Operators will leave their equipment unless directed otherwise by the Contractor's Responsible Person. All unattended equipment must be properly secured against unintentional movement
7. Booms, cranes or other similar equipment have been immobilized and the boom is parallel to the railway track(s), and clear of the nearest rail be 5 meters (15 feet)
8. Provided there is no possible way for the worker to become unintentionally foul of a passing train, and at the discretion of the CN Supervisor, workers may continue working.

POLICY TO PREVENT WORKPLACE ALCOHOL AND DRUG PROBLEMS

Policy standards

The Contractor, subcontractors, employees, suppliers and visitors must remain free from any adverse effects of alcohol or other drugs and conduct themselves in an appropriate manner while on CN business or premises. The Contractor must ensure that all those having access to the site adhere to the following standards when on CN business or premises, including vehicles and equipment:

1. No use, possession, distribution or sale of illegal drugs or drug paraphernalia.
2. No use, possession, distribution or sale of beverage alcohol or any form of alcohol.
3. Responsible use of prescribed and over-the-counter medications.
4. No distribution, offering or sale of prescription medications.
5. To report for duty and remain during the entire period of duty free of the negative effects of alcohol and other drugs, including the after effects of such use.

Consequences of violation

Failure to meet these standards will be considered a breach of the contract. This may at CN's sole discretion, trigger the suspension or termination of the contract.

Policy violation procedures

Where CN has reasonable grounds to believe any individual in the employ of the Contractor or a supplier is on duty in an unsafe condition or otherwise in violation of the Policy, or where during the preliminary phase of any investigation such an

individual has been identified as being directly involved in the chain of acts or omissions leading up to an accident or incident:

1. CN will escort the individual(s) to a safe place.
2. CN will notify the Contractor or supplier.
3. The Contractor will investigate the situation.
4. The Contractor must satisfy CN that there has been no policy breach.
5. If a policy breach has occurred, the individual will not be allowed to continue providing services to CN without written permission from a CN official, and he/she will be required to adhere to any conditions governing his/her return.

Firearms

Firearms (loaded or empty) are not permitted on CN property, except for CN Police officers and other designated persons performing authorized work and when authorized to do so. In all cases, any firearms must be accompanied with a written authorization from the Chief of CN Police and the person should have in his possession all pertinent government permits.

Explosives

No explosives will be permitted on CN property without written CN approval.

Vehicles

Contractor's vehicles on the site must be in safe operating condition. Operators must observe all site speed limits. Unattended vehicles must not be left running unnecessarily. Where they must be left running, the parking brake must be applied. The operator is responsible for the safety of all passengers and the stability of materials being transported.

All vehicles will be parked in a pre-determined area and where required, a designated Contractor entrance shall be used.

Smoking in the Workplace

Smoking is not permitted in any CN interior workplace or motor vehicle.

Security

Contractor's personnel will proceed directly to the Contractor's work location. Contractor's employees must remain at their designated work site and must not wander about the site.

The Contractor shall not permit persons other than the Contractor's personnel to enter the site without the prior written authority of the CN representative.

Emergency Evacuation Procedures

Prior to commencing work, all Contractor's employees must be familiar with the emergency evacuation plan for that work site. The Contractor shall issue written emergency and rescue procedures to the Contractor's personnel and shall post such procedures on the job site.

Unsafe Conditions or Practices

Contractors shall correct or report any unsafe conditions or practices they observe. All such conditions or practices shall be reported to the CN representative at the work site as soon as practical.

Reporting Accidents/Incidents

All accidents/incidents occurring on CN property, that result in or had the potential of causing serious injury, lost work days, vehicle or property damage must be reported to the CN representative within twenty-four (24) hours. All such incidents will be fully investigated by the Contractor.

The Contractor shall subsequently provide a written report to CN (i.e. Company Officer assigned as Liaison to Contractor) within seven (7) days detailing the nature of the incident, the cause(s), regulatory authorities notified, and a specific action plan to prevent recurrence.

Treatment of Injured Personnel (Contractors)

Contractors shall ensure the following is provided for their personnel as required by CN and in accordance with applicable government regulations:

1. Adequate first-aid supplies and equipment.
2. Qualified personnel to render first-aid treatment.

Audio and Visual Recording Equipment

Cameras and audio-visual equipment are not permitted on CN property without prior approval. Use of personal electronic devices such as smart phones for the purpose of recording video, photographic or audio information is prohibited while on CN property.

Summary

In conclusion, CN requires the full cooperation of the Contractor and the Contractor's employees with these guidelines and all other applicable regulations. Should there be any doubt as to the meaning or interpretation of these guidelines, consult with the CN representative responsible for the worksite.

Contractor Acknowledgement

Contractor/Sub-contractor personnel must read and understand CN's "Safety Guidelines for Contractors and Non-CN Personnel". The Contractor/Sub-contractor must also follow the appropriate Contractor Safety training.

SECTION E: RIGHT OF ENTRY FOR CONTRACTORS

Right of Entry

General Conditions

1. "Railroad" refers to Canadian National Railway Company or such of its affiliates or associates (within the meaning ascribed to those terms under the *Canada Business Corporations Act*) to whose property this Right of Entry relates.
2. This Agreement is entered into as described in Section G "Agreement and Authorization" of this document (page 18).
3. The Railroad, solely to the extent of its right, title and interest, without any warranty, expressed or implied, at law, under contract or otherwise, hereby grants to Company and its authorized employees, servants, agents or contractors, authorization and consent to enter upon the property described under Schedule "A" hereto (the "Railroad property") for the sole purpose described under Schedule "A" hereto. This Right of Entry shall only extend to such actions as are necessary or required to fulfill the purpose described under Schedule "A" hereto.
4. This Right of Entry shall terminate forthwith upon expiration of the term noted in Schedule "A" hereto, it being understood that Railroad shall have entire discretion to revoke this Right of Entry at any time prior to the expiration of the term, upon notice to that effect to the Company, which notice shall be effective forthwith upon receipt by the Company or at such later date indicated by Railroad in the aforesaid notice.
5. The Railroad grants this consent subject to the understanding that Company and its authorized employees, servants, agents or contractors who enter upon Railroad property will:
 - 5.1. See that any activities conducted on said Railroad property are done in a good workmanlike manner, in compliance with applicable laws, statutes, regulations, policies, directives, orders, approvals and other legal requirements and in such manner and at such time as not to obstruct or interfere with Railroad's operation, trains or the functioning of its signal and communications systems or any fiber optic cable system or unduly delay the safe passage of Railroad's trains;
 - 5.2. For the purposes hereof, the following expressions shall have the meanings hereinafter noted:
 - 5.2.1. "Applicable Laws" means the applicable and enforceable statutes, regulations, policies, directives, orders, approvals and other legal requirements of an Authority or of the common law in effect from time to time, including, without limitation, those, together with the guidelines of an Authority, relating to the protection, conservation or restoration of the natural environment;
 - 5.2.2. "Authority" means the federal, provincial, municipal, state, county and, generally local governments, the courts, administrative and quasi-judicial boards and tribunals and any other organizations or entities with the lawful authority to regulate, or having a power or right conferred at law or by or under a statute;
 - 5.3. Observe, abide by and comply with any and all guidelines, directives and policies adopted from time to time by Railroad including, without limitation eRailsafe, Contractor Orientation (as the case may be).
 - 5.4. Take due precautions against injury and damage to persons or property located upon said Railroad property; and
 - 5.5. Unless otherwise agreed to, return said Railroad property to the same condition, reasonable wear and tear excepted, as existed prior to such work, failing which Railroad, after providing written notice to Company, and allowing Company a reasonable amount of time to return the Railroad property to the same condition, may do so at Company's sole cost and expense.

Work

6. Any work carried out by Company shall be carried out at those locations described in Schedule "A" as the case may be, in the manner described therein.
7. Company agrees to advise Railroad's representative identified in Section "B" hereto (the "Representative") or such other representative designated from time to time by Railroad as to the dates and times when the work will be conducted on Railroad property and to provide him with at least ten (10) working days advance notice before entering upon Railroad property to commence any work or for any other purpose. Unless otherwise agreed to in writing, Company agrees to assume the costs of engineering services, Railroad's Representative's costs and its designee, signal locates, flagman, track labor and all other associated costs incurred by Railroad. Railroad shall, at its option, invoice Company directly for such costs or, if any of those services have been provided by a third party, Railroad may direct such third party to invoice directly Company, in which case Company undertakes and agrees to pay such third party forthwith upon receipt of (i) Railroad's direction to pay such third party; (ii) proper invoice for the relevant services.
8. The Railroad, its employees, agents or representatives shall have the right to view and inspect any activity or work on Railroad's property. If, in the sole opinion of Railroad, any activity or work is undesirable for any safety-related reason, Railroad shall notify Company, its authorized employees, servants, agents or contractors and if appropriate corrective action is not taken, Railroad shall have the right to terminate this Agreement at once.
9. Railroad shall have the right to restrict Company's activity on Railroad's property in any way that Railroad may deem necessary from time to time to assure normal railroad operations or for safety reasons and, after consultation with Company, shall also have the right to require Company, its authorized employees, servants, agents or contractors to comply with Railroad's instructions and take any safety precautions that Railroad may reasonably deem necessary from time to time. No work shall be performed or equipment located within thirty (30) feet of the centerline of the nearest railroad track without flagging protection being provided by Railroad, at the Company's expense or as otherwise agreed to in writing. Said work must be arranged no less than ten (10) business days in advance of starting work.
10. Company shall not suffer or permit any construction lien or similar lien to be filed or registered against Railroad property. If such a lien shall at any time be filed or registered, Company shall forthwith procure its discharge at its sole costs and expenses. Railroad shall have the right, if Company fails to forthwith procure such discharge, to discharge any lien filed or registered at any time against Railroad property, and any amount paid by Railroad in so doing together with all reasonable costs and expenses of Railroad including its legal fees and costs shall be paid to Railroad by Company on demand.

Confidentiality

11. Company covenants and agrees that any information of whatsoever nature (whether such information is written, verbal or otherwise), relating to Railroad, its operations, properties, business, assets, liabilities and financial condition (together with any and all memoranda, notes, reports, documents based upon and relating to such information, all copies and extracts thereof and all studies and data prepared on the basis of such information), is strictly confidential and Company represents and warrants that neither Company nor those for whom it is responsible at law will release the reports or any of the information contained therein (including to any Authority), without the express written consent of Railroad, and Company shall refuse all requests for such reports or information in the absence of Railroad's express written consent, unless compelled to do so by competent judicial or administrative authority and only to the extent that (i) Company gives Railroad timely notice of any proceeding and/or hearing related thereto; and (ii) Company has taken no action that would hinder Railroad from seeking a protective order to prevent such disclosure of its confidential information. Company further undertakes and agrees to share with Railroad, at no cost to Railroad, any and all conclusions, studies, reports or data incorporating, based upon or relying on any such information.

Indemnity

12. Company shall indemnify and hold harmless Railroad from any losses, liens, damages, liability, and expenses ("Damages") incurred by Railroad arising from Company's, or its employees, agents, contractors or sub-contractors', breach of its obligations or warranties under this Right of Entry; any third party claims associated with or arising under this Right of Entry; or Company's access to Railroad's or Railroad's affiliates' premises. In the event that Railroad has incurred Damages, Railroad shall notify Company and Company shall indemnify Railroad for the Damages and defend and hold harmless Railroad against any third party legal claims associated with the Damages. No third party claim may be settled without the consent of Railroad, which consent shall not be unreasonably withheld.

Insurance

13. Company, its contractors or any sub-contractors shall each provide and keep in force and effect throughout the term of this Right of Entry such insurance, in amounts and for risks as Railroad may prescribe from time to time including, if applicable, the kinds and minimum amounts of insurance set out under Schedule "B" – "Insurance".
14. If Company, its contractors or any sub-contractors shall perform sub-surface work, Company, its contractors or any sub-contractors shall also provide and keep in force and effect throughout the term of this Right of Entry the additional insurance specified under Schedule "B" – "Insurance".

The Company, its contractors or any sub-contractors will not enter Railroad property without having obtained a certificate certifying that they have obtained all of the insurance coverage required hereunder. The Railroad may at any time require the Company to furnish said certificate and failure to so may result in removal from Railroad property, cancellation of agreement and other consequences including without limiting damages or consequential losses resulting from the non-completion of the work, as Railroad may determine. Said insurance shall state that no material changes will be made to the policies unless Railroad is given a prior written notice of thirty (30) days before such change or cancellation. Any insurance coverage required under the terms and conditions of this contract shall in no manner restrict or limit the liabilities assumed by Company nor shall they release Company from any of its obligations under this contract.

Exceptions

15. Any exception or variation to the terms and conditions of this Right of Entry shall be specifically identified in Schedule "A" hereto. No such exception or variation shall be binding upon Railroad unless Schedule "A" is properly initialed by Railroad's duly authorized representative(s).

Miscellaneous

16. Company shall not have the right to transfer and/or assign this Right of Entry or any of its rights hereunder without Railroad's prior written consent, which consent Railroad shall have entire discretion to withhold or delay.
17. All notices provided for under this Right of Entry shall be in writing and sent by pre-paid registered mail, fax or hand-delivered to the other party at the addresses herein first noted or at such other address as either party may notify the other from time to time.
Such notices, if given by mail, shall be deemed to have been received on the third business day following the postage thereof; if by fax or hand delivery, at the date and time the fax is sent or the hand delivery is made.
18. Either party's exercise or failure to exercise any rights under this Agreement shall not relieve the other party of any responsibility under this Agreement.
19. In the event of conflict between the terms hereof and the terms of any other agreement between Railroad and Company, the most stringent standards and conditions shall govern.
20. This Right of Entry shall be governed by the laws of the jurisdiction where Railroad property accessed under the authority hereof is located, as noted under Schedule "A" hereto.

Schedule A: Information (to be completed by Applicant)

Railroad Property

(Legal Land and/or
CN Subdivision and
Mileage of location
of proposed works)

Limited Access
Purpose

For the limited purpose
of: _____

(Description of work to be done within Right of Way)

Term

A term of _____
[number of days / months / **up to maximum of 1 year**] beginning on
[commencement date] _____ and terminating on
_____ [termination date], unless sooner
terminated as provided hereunder. (**ENSURE YOU ARE ADDING
EXTRA TIME ONTO THE TERM TO ALLOW FOR PROJECT
DISTRUPTIONS**)

**Exceptions/
Variations**
(Variation in
insurance coverage
requires prior
approval from Risk
Management
Department)

Schedule B: Insurance

General Requirements

To the extent Company carries out work on its behalf or on behalf of Railroad, the Contractors or the Sub-contractors shall, throughout the term of this Right of Entry agreement, maintain in force the following coverage:

- 1) **Commercial General Liability Insurance** in an amount no less than **\$10,000,000** per occurrence, or such greater amount as Railroad may from time to time reasonably require, covering liability for bodily injury, personal injury including death, property damage or destruction of property, contingent employers liability, sudden and accidental pollution, product and completed operations, broad form property damage, non-owned automobile, blanket contractual liability, and unlicensed vehicles on and off premises owned or controlled by the owner.

Company shall provide to Railroad a certificate of insurance evidencing the above and include:

- a) a waiver of subrogation in favour of CN and its subsidiaries;
 - b) name CN and its subsidiaries as additional insured;
 - c) contain a cross liability and severability of interest clause ;
 - d) specifically include liability for operations within or around railroads and railway tracks;
 - e) contain a clause stating that CN's interests will not be prejudiced in the event the First named insured breaches any warranty of the policy;
 - f) provide a 30 days written notice of cancellation, modification or material change in coverage.
- 2) **Automobile Liability Insurance** on all licensed vehicles owned, hired, leased to or operated by or on behalf of the Company's contractor in the amount of not less than **\$5,000,000** per occurrence. The certificate of insurance must include a waiver of subrogation in favour of CN and its subsidiaries; and name CN and its subsidiaries as additional insured.
 - 3) **Workers' Compensation** - if available in the jurisdiction(s) covered by this Agreement, Company must be compliant with statutory Worker's Compensation and hold the relevant clearance letter(s). Otherwise, Company must provide Employer's Liability Insurance in an amount no less than **\$5,000,000**.

WHERE APPLICABLE, THE FOLLOWING COVERAGES ARE TO BE PROVIDED IN ADDITION TO THE ABOVE

- **For professional advice or design (architects/engineers/inspectors/training, etc.)**
- 4) **Professional Liability Insurance/Errors and Omissions** (incl. Pollution Liability) with a limit of no less than **\$5,000,000**.
 - **For contractors using large machinery and equipment**
 - 5) **All Risks Contractor's Equipment Insurance** covering construction machinery and equipment used by the Contractor and Sub-Contractors for the performance of the Work, as any structures being built or assembled, shall be in a form acceptable to the Contractor and Railroad and shall not allow subrogation claims by the Insurers against the Contractor and Railroad. The policy shall be endorsed to provide the Contractor with no less than 30 days written notice in advance of cancellation, change or amendment restricting coverage.
 - **For building construction**
 - 6) **All Risk Builders Insurance / Course of Construction Insurance** must be provided if required, in order to cover the construction of the building, the building foundations, fixtures, machinery, equipment used to service the building, building materials and supplies, and debris removal in the event of a loss.

- **For construction projects estimated at \$5,000,000 and more (ex.: rail, bridges, roads, structures, buildings)**

7) **Project Wrap-Up Liability Insurance** subject to limits of not less than **\$25,000,000** per occurrence. Such insurance shall be in the joint names of the owner and contractor and name as additional insures all subcontractors and consultants. The Wrap-Up Liability insurance shall include, but is not limited to: bodily injury including death and property damage including loss of use; personal injury; contractual liability; premises and operations; products and completed operations liability coverage extension of twenty-four (24) months; contingent employers liability; shoring, blasting, excavation, underpinning, demolition, pile driving, caisson work and work below ground surface including tunnelling and grading; non-owned automobile; limited pollution coverage (Insurance Bureau of Canada Form 2313); non-cancellable or at least 120 days notice of cancellation, contingent medical malpractice; and fire fighting expense. This insurance policy shall be the primary insurance coverage in all cases for all risks of liability associated with the operations of this project. The policy shall be in force from commencement of work until substantial completion and include coverage for unfinished construction, maintenance and repair for a period of 12 months following substantial completion.

SECTION G: Agreement and Authorization (to be completed by Applicant)

This Agreement is entered into as of this _____ day of _____, _____ between CN, having its registered office at 935 de la Gauchetière West, Montreal, Quebec, H3B 2M9, and

_____ ("Applicant"),

having a place of business at

_____ [Applicant Address].

For a term of _____ (number of days, MAX 1 year term),
beginning on _____ (commencement date)
and terminating on _____ (termination date), unless sooner terminated as provided hereunder.

It is understood that this permit is not valid until signed by the CN Representative named below. Once approved, this permit MUST be available at all times while onsite during proposed work.

Once the permit is approved, work cannot commence until the Confirmation of Work Form has been completed and returned to the CN Representative named below.

If the approved permit and confirmation of work form cannot be supplied upon request, the work will stop immediately and all persons will be removed from CN Property until such time the approved permit and confirmation of work form can be supplied.

CN

(Signature) _____

Print Name: Jennifer Kutcher
Title: CN Crossing Coordinator – Design & Construction

APPLICANT (to be completed by Applicant)

(Signature) _____

Print Name: _____

Title: _____

APPLICANT'S INITIALS _____