

BNSF Railway Company
MAJOR INSURANCE REQUIREMENTS

For Completion of:

Industrial Track Agreement (ITA)
Lease of Land for Construction / Rehabilitation of Track (CL)
Contractor's Right of Entry Agreement (CROE)
Industry Track Lease Agreement (TL)

Industrial Track Agreement (ITA)

ITA required as a prerequisite to BNSF service on a privately owned spur track. Agreement outlines ownership, operation and maintenance responsibilities of parties relative to a private spur track. Other agreements may be required depending on the specific circumstances.

- 1) Commercial General Liability Insurance - \$1MM per occurrence & \$2MM aggregate – Section 5a
- 2) 50' Endorsement - Insurance covers incidents within 50 feet of railroad property – Section 5a
- 3) Workers Compensation - \$500,000 each accident – Section 5b
- 4) Insurance Company must have a Best's Guide Rating of A- and Class VII or better – Section 5
- 5) Certificate of Insurance shall be furnished to BNSF which outlines above – Section 5

Lease of Land for Construction / Rehabilitation of Track (CL)

Required in conjunction with an Industry Track Agreement and in all situations where Industry will own, maintain or rehabilitate track located on BNSF property, even if there is a corresponding land lease or track lease.

Basic Requirements:

- 1) Commercial General Liability Insurance (GL) - \$1MM per occurrence & \$2MM aggregate – Section 12a
- 2) 50' Endorsement - Insurance covers incidents within 50 feet of railroad property – Section 12a
- 3) Workers Compensation - \$500,000 each accident – Section 12b
- 4) Insurance Company must have a Best's Guide Rating of A- and Class VII or better – Section 12
- 5) Certificate of Insurance shall be furnished to BNSF which outlines above – Section 12

Construction Requirements

(A) Industry performing construction

(B) Industry hiring contractor to perform construction

(A) Construction Requirements: Industry Performing Construction (Exhibit C applies)

- 1) Commercial General Liability Insurance (GL) - \$5MM per occurrence & \$10MM aggregate – Section 1a
- 2) 50' Endorsement - Insurance covers incidents within 50 feet of railroad property – Section 1a
- 3) The employee and workers compensation related exclusions shall not apply to Railroad employees – Section 1a
- 4) Business Automobile Insurance - \$1MM per occurrence – Section 1b
- 5) Workers Compensation - \$500,000 each accident – Section 1c
- 6) Railroad Protective Liability Ins. (RPLI) - \$5MM per occurrence & \$10MM aggregate – Section 1d****
- 7) Waiver of Subrogation in favor of BNSF Railway – Section 2
- 8) BNSF Railway and Staubach Global Services must be added as an Additional Insured – Section 2
- 9) Any coverage afforded to the additional insured, BNSF Railway, is primary and non-contributory.
- 10) Insurance Company must have a Best's Guide Rating of A- and Class VII or better – Section 2
- 11) Certificate of Insurance shall be furnished to BNSF which outlines above – Section 2

(B) Construction Requirements: Industry Hiring Contractor to Perform Construction

If Industry hires a contractor to perform construction, Industry must comply with the Basic Requirements:

- 1) Commercial General Liability Insurance (GL) - \$1MM per occurrence & \$2MM aggregate – Section 12a
- 2) 50' Endorsement - Insurance covers incidents within 50 feet of railroad property – Section 12a
- 3) Workers Compensation - \$500,000 each accident – Section 12b
- 4) Insurance Company must have a Best's Guide Rating of A- and Class VII or better – Section 12
- 5) Certificate of Insurance shall be furnished to BNSF which outlines above – Section 12

Contractor must comply with requirements for Contractor's Right of Entry.

Contractor's Right of Entry Agreement (CROE)

CROE required if a private contractor is engaged to construct or rehabilitate any track that is located on BNSF property.

- 1) Commercial General Liability Insurance (GL) - \$5MM per occurrence & \$10MM aggregate – Section 4a
- 2) 50' Endorsement - Insurance covers incidents within 50 feet of railroad property – Section 4a
- 3) The employee and workers compensation related exclusions shall not apply to Railroad employees – Section 4a
- 4) Business Automobile Insurance - \$1MM per occurrence – Section 4b
- 5) Workers Compensation - \$500,000 each accident – Section 4c
- 6) Railroad Protective Liability Ins. (RPLI) - \$5MM per occurrence & \$10MM aggregate – Section 4d****
- 7) Waiver of Subrogation in favor of BNSF Railway – Section 4
- 8) BNSF Railway and Staubach Global Services must be added as an Additional Insured – Section 4
- 9) Any coverage afforded to the additional insured, BNSF Railway, is primary and non-contributory.
- 10) Insurance Company must have a Best's Guide Rating of A- and Class VII or better – Section 4
- 11) Certificate of Insurance shall be furnished to BNSF which outlines above – Section 4

**** Industry, or its contractor, has the opportunity to elect to participate in BNSF's blanket RPLI coverage.

Industry Track Lease Agreement (TL)

Track Lease is required prior to customer receiving service on a BNSF owned track. Agreement outlines operation and maintenance of track. A separate Land Lease will be required if the commodity loaded or unloaded is environmentally sensitive or if customer utilizes BNSF property for storage, parking or improvements.

- 1) Commercial General Liability Insurance – Section 14a
 - **Industry Track Lease (Form 302):** \$2MM per occurrence, \$4MM aggregate
 - **Track Lease for Switching of Cars (Form 304):** \$5MM per occurrence, \$10MM aggregate
- 2) The employee and workers compensation related exclusions shall not apply to railroad employees – Section 14a
- 3) 50' Endorsement - Insurance covers incidents within fifty (50) feet of railroad property – Section 14a
- 4) Business Automobile Insurance - \$1MM per occurrence – Section 14b
- 5) Worker's Compensation Insurance - \$500,000 each – Section 14c
- 6) Property Liability - Names BNSF Railway Co. as loss payee as per endorsement – Section 14d
- 7) Waiver of Subrogation in favor of BNSF Railway Co. – Section 14
- 8) BNSF Railway Co. and Staubach Global Services - RR, Inc. must be added as additional insured – Section 14

Industry Track Lease Agreement (TL) continued

- 9) Any coverage afforded to the additional insured, BNSF Railway Co., is primary and non-contributory – Section 14
- 10) Insurance Company must have a Best's Guide Rating of A- and Class VII or better – Section 14
- 11) Certificate of Insurance shall be furnished to BNSF which outlines above – Section 14

Multiple Agreements

Please note that in many circumstances more than one agreement may be required to cover all aspects of your project. Early identification of all uses that will require an agreement will help reduce the total amount of time involved in finalizing all agreements.

e.g., Track construction projects require both an Industry Track Agreement and a Lease of Land for Track Construction and Rehabilitation. If a private contractor will be hired to perform the track construction, then they will be required to execute a Contractor's Right of Entry Permit and provide insurance.

e.g., If any BNSF track and/or property is to be utilized, a corresponding Track Lease and/or Land Lease will be required. If utilities lines to serve the facility will cross BNSF owned track, then each such installation will require a separate permit to cover the specific utility involved. If the location involves the crossing of BNSF tracks, then a Private Crossing Agreement will be required.

NOTE: BNSF Railway Company will not execute any Track Agreements until all insurance documents have been received and approved.

- **Please provide this document and all agreement copies to your Risk Management Department, Insurance Agent or Insurance Underwriter, as soon as possible.**

- ***For questions regarding BNSF Railway's insurance requirements please contact a member of the BNSF Risk Management department: Jamie Johnson (817-352-3485), Vickie Barnett (817-352-2414) or Kevin Burrin (817-352-3477).***