

AGREEMENT NO. 17-3518

CONSENT TO ASSIGNMENT AND ASSUMPTION OF AGREEMENT
BETWEEN THE CITY OF LOS ANGELES,
GENERAL ELECTRIC COMPANY,
AND GE TRANSPORTATION PARTS, LLC

THIS CONSENT TO ASSIGNMENT AND ASSUMPTION OF AGREEMENT NO. 17-3518 (hereinafter referred to as "Assignment") is entered into by and between the CITY OF LOS ANGELES, a municipal corporation ("City"), acting by and through its Board of Harbor Commissioners ("Board"), GENERAL ELECTRIC COMPANY, a New York corporation, acting through its GE TRANSPORTATION operating division, ("GE" or "Assignor") and GE TRANSPORTATION PARTS, LLC, a Delaware limited liability company ("GETP" or "Assignee").

WHEREAS, in September 2017, City entered into an agreement, Agreement No. 17-3518 ("Agreement"), with GE for the purpose of collaborating in the promotion of a port information data portal, said Agreement is attached hereto and incorporated by reference herein as Exhibit A; and

WHEREAS, in May 2018, GE and Wabtec announced an agreement to combine GE Transportation's business operations with WESTINGHOUSE AIR BRAKE TECHNOLOGIES CORPORATION ("Wabtec"), as further described in a letter dated September 25, 2018 from GE Transportation to the Harbor Department's Executive Director, said letter is attached hereto as Exhibit B; and

WHEREAS, GE seeks to assign the Agreement to GETP, GETP seeks to assume all rights and responsibilities pursuant to the assignment, and the City agrees to such assignment and assumption the "GE Assignment"); and

WHEREAS, following the GE Assignment, and as a result of the combination of GE Transportation's business operations with Wabtec, GETP will experience a change of control and will become an indirect wholly-owned subsidiary of Wabtec, and will no longer be affiliated with GE, and the City further agrees to such change of control (the "Wabtec Change of Control").

NOW THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. The Assignment and all rights, obligations, liabilities and provisions thereunder shall be subordinate to, and Assignee shall strictly comply with and not conflict with, all terms, covenants and conditions of the Agreement, or as hereinafter amended, which Assignor and Assignee agree that they have read. Assignee agrees to operate in accordance with and to assume all rights, obligations, operations, restrictions, limitations and liabilities associated with the Agreement.
2. Neither Assignor nor Assignee shall, by amendment or otherwise, alter the rights and obligations contained in the Agreement, approved by this Assignment, without the

prior written consent of the Department. Consent to one such change shall not be deemed to be consent to any subsequent change.

3. Assignee agrees to observe, obey and abide by the City of Los Angeles Charter and Administrative Code, and all applicable ordinances, rules and other regulations of the City.

4. Except for the Wabtec Change of Control, which is hereby permitted, Assignee shall not further assign, sell, or otherwise transfer its interest without the prior written consent of City pursuant to Section 18 of the Agreement, and any such consent shall not be deemed to be a consent to any other subsequent transfer of any nature to any other entity. Any transfer in violation of such Section 18 without City's prior written consent shall be voidable at City's option.

5. Merger. Assignee shall provide City not less than sixty (60) days prior written notice of any merger of Assignee with or into any other entity or of any dissolution of Assignee.

6. Amendments. The Agreement and this Assignment supersedes any and all agreements and understandings previously made between any of the parties hereto relating to the subject matter of the Agreement. The Agreement may only be modified, amended or altered in writing.

7. Successors and Assigns. The Agreement and this Assignment shall be binding upon and inure to the benefit or detriment of Department, Assignor and Assignee, their respective successors, assigns and legal representatives.

8. Governing Law. The Agreement and this Assignment shall be construed and enforced in accordance with the laws of the State of California and venue shall lie in the appropriate U.S. Federal Court or California Superior Court located in Los Angeles County.

9. Counterparts. This Assignment may be executed in counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one instrument.

/////

/////

/////

IN WITNESS WHEREOF, the parties hereto have executed this Assignment on the date to the left of their signatures.

THE CITY OF LOS ANGELES, by its Board of Harbor Commissioners

Dated: _____, 2018

By: _____
EUGENE D. SEROKA
Executive Director

Attest: _____
AMBER M. KLESGES
Board Secretary

GENERAL ELECTRIC COMPANY

Dated: _____

By: _____
Type Name: Jennifer Schopfer
Type Title: VP-Digital Ops., GE Transportation

Attest: _____
Type Name: Kimberley A. Riggins
Type Title: Executive Administrative Assistant

GE TRANSPORTATION PARTS, LLC

Dated: 10-22-18

By: _____
Type Name: James L. Winget
Type Title: Vice President and Secretary

Attest: _____
Type Name: Kirsten M. Hall
Type Title: Paralegal

APPROVED AS TO FORM AND LEGALITY

_____, 2018

MICHAEL N. FEUER, City Attorney
JANNA B. SIDLEY, General Counsel

By _____
Heather M. McCloskey, Deputy

EXHIBIT A

AGREEMENT NO. 17-3518

**REVENUE ALLOCATION AGREEMENT
BETWEEN
THE CITY OF LOS ANGELES AND
GENERAL ELECTRIC COMPANY**

THIS REVENUE ALLOCATION AGREEMENT (this "Agreement") is made and entered into as of _____, 2017, by and between the CITY OF LOS ANGELES, a municipal corporation ("City"), acting by and through its Board of Harbor Commissioners ("Board") and GENERAL ELECTRIC COMPANY, a New York corporation, acting through its GE Transportation operating division, with offices located at 500 West Monroe Street, Chicago, Illinois, 60661 ("GET").

WITNESETH:

WHEREAS, City and GET entered into Agreement No. 16-3425, effective on November 4, 2016, (the "Original Agreement") for the purpose of creating a port information data portal ("Data Portal"), and thereafter amended and restated the Original Agreement as of _____, 2017 (the "Primary Agreement"); and

WHEREAS, the Data Portal will improve ocean transportation cargo movement and supply chain efficiencies thereby supporting the City of Los Angeles Harbor Department's goal of decreasing cargo congestion and related environmental impacts; and

WHEREAS, City and GET desire to enter into a mutually beneficial relationship to collaborate in promoting the Data Portal for use at the Port of Los Angeles and at other ports or harbors accessible to seagoing ships; and

WHEREAS, City and GET desire to share certain portions of revenue derived from the sale of subscriptions to the Data Portal and other identified offerings directly integrated with the Data Portal;

NOW, THEREFORE, for and in consideration of the foregoing and of the mutual representations, promises, terms, and conditions contained herein, receipt of which is hereby acknowledged, and intending to be bound, City and GET agree as follows:

Section 1. Definitions.

For the purposes of this Agreement, the following terms shall have the following meaning (and all capitalized terms in this Agreement shall be defined according to these definitions).

"Charge Revenue" means the amounts actually received by the City, or a subdivision thereof, through fees or other charges.

"Commercialization" means direct marketing, distributing, offering to sell, or selling.

"Competing Product" means a data visibility application (1) having substantially all of its features intended for use at a port or harbor accessible to seagoing ships, (2) providing functionality not materially different from the Data Portal, and (3) competing directly with the Data Portal. For clarity, Smart Intermodal Terminal (SIMS), Transport Logistics and Asset Performance Management (APM) are specifically excluded from the definition of Competing Product.

"Confidential Information" of a party means all of that party's information and documentation disclosed to or accessed by the other party in connection with this Agreement that is marked (or, if disclosed other than in writing, designated at the time of disclosure) as "confidential" or with a similar designation. "Confidential Information" does not include information that: (1) is independently developed by the Receiving Party, as demonstrated by the Receiving Party's written records, without violating the Disclosing Party's proprietary rights; (2) is or becomes publicly known (other than through unauthorized disclosure); (3) is disclosed by the Disclosing Party to a third party free of any obligation of confidentiality; (4) is already known by the Receiving Party at the time of disclosure, as demonstrated by the Receiving Party's written records, and the Receiving Party has no obligation of confidentiality other than pursuant to this Agreement; or (5) is rightfully received by the receiving party free of any obligation of confidentiality.

"Data Portal" means the hosted, base data visibility application running on a cloud-based platform made available to the City under the Primary Agreement and having the following general features: data harvesting, curation and security, and accessibility through a user interface with custom views for each user. For clarity, this definition includes the base data visibility application as it exists on the Effective Date with the additional data, users and enhancements described in Exhibit A-1 of the Primary Agreement and any future patches, bug fixes or uniform updates across the user base. For additional clarity, the Data Portal does not include any (1) hosted operating system or platform, (2) future addition, modification or enhancement to the data visibility application not described in the preceding sentence, or (3) data, content or other information made available through the data visibility application.

"Data Portal Percentage" equals (1) for the Initial Term, ten percent (10%); and (2) for the Extended Term, five percent (5%).

"Effective Date" means the date on which the Executive Director of the Harbor Department signs this Agreement.

"Extended Term" means July 1, 2021 to June 30, 2023.

"GET Customer" means (1) ports or harbors accessible to seagoing ships, except for the Port of Los Angeles, and (2) entities using those ports or harbors including, but not limited to, container terminal facilities, chassis providers, beneficial cargo owners, shipping lines, trucking companies, railroads, freight forwarders and Non-Vessel Operating Common Carriers ("NVOCCs").

"GET POLA Customer" means any entity, including, but not limited to, chassis providers, beneficial cargo owners, shipping lines, trucking companies, railroads, freight forwarders and NVOCCs, but not including Port Customers, that owns, handles, transports or otherwise moves any container, or its contents, which enters or leaves the United States through the Port of Los Angeles.

"Initial Term" means July 1, 2018 to June 30, 2021.

"Net Revenue" means the net revenue actually received by GET minus any applicable Net Revenue Adjustments. GET will determine net revenue in accordance with standard accounting methods, consistently applied.

"Net Revenue Adjustments" include (1) credits or allowances, retroactive price reductions, or billing corrections; (2) taxes (including, sales, value-added or excise taxes), surcharges and other governmental charges incurred in connection with sale, delivery, or use; (3) discounts, refunds, rebates, charge backs, distribution fees, commissions to third parties and any other allowances which effectively reduce the net revenue; and (4) any reasonable adjustment similar in nature and character to those listed in this definition and directly related to the sale of subscriptions to the Data Portal or Pull-Through.

"Port Customer" means any container terminal facility with a lease or permit with the City.

"Port Percentage" equals fifty percent (50%) for the Initial Term and the Extended Term.

"Promotion Activities" include the following activities reasonably requested by GET (1) identifying and connecting GET with potential customers; (2) attending meetings with GET and potential customers; (3) providing written or verbal recommendations in support of the Data Portal; (4) attending joint promotional events and issuing mutually agreed upon joint press releases with GET regarding the Data Portal; (5) allowing GET and potential customers to tour the Port of Los Angeles facilities upon reasonable notice and in a reasonable manner; (6) participation in user acceptance testing for future production releases and innovation testing opportunities; (7) provide ongoing feedback on possible product enhancements and user experience; (8) continue to assist with data harvesting at the Port of Los Angeles; and (9) assisting with other promotional and sales support activities.

"Pull-Through" means the following offerings to the extent they are directly integrated into the Data Portal at the request of a GET Customer, GET POLA Customer or POLA Customer: (1) additional application views (i.e. custom dashboards for the Data Portal that are not typically offered with the Data Portal), (2) truck appointment scheduling, (3) matchback / chassis pool management, (4) predictive and prescriptive analytic solutions utilizing port operational data within the Data Portal and intended for port operational improvement, and (5) empty container re-positioning. For clarity, the definition of Pull-Through expressly excludes: (1) the Data Portal itself, (2) RailConnect or ShipXpress Product Suites, (3) Predix APM, (4) stand-alone Predix platform sales, (5) customized development beyond dashboards, (6) systems or data integration, or (7) managed maintenance and support services.

"Pull-Through Percentage" equals (1) for the Initial Term, two percent (2%); and (2) for the Extended Term, one percent (1%).

"Territory" means ports or harbors accessible to seagoing ships other than the Port of Los Angeles.

Section 2. Exclusivity.

During the Initial Term and the Extended Term of this Agreement, neither the City nor GET will, without written consent of the other party, engage in the Commercialization of any Competing Product to Port Customers or GET Customers. For the avoidance of doubt, the foregoing provision only applies to the Transportation business unit of General Electric Company and does not apply to other business units.

Section 3. GET Revenue Allocation.

3.1 Data Portal. GET shall pay the City the Data Portal Percentage of any Net Revenue received by GET from GET Customers for any subscriptions sold to the Data Portal for use in the Territory. GET shall pay the City fifty percent (50%) of any Net Revenue received by GET from GET POLA Customers for any subscriptions sold to the Data Portal for use exclusively at the Port of Los Angeles.

Beginning on the first day of the Initial Term and thereafter through the Extended Term, GET shall, substantially consistent with any mutually agreed upon market strategy, collect charges in connection with any subscriptions sold to GET Customers and GET POLA Customers for access and use of the Data Portal.

3.2 Pull-Through. GET shall pay the City the Pull-Through Percentage of any Net Revenue received by GET from GET Customers and GET POLA Customers for any subscriptions sold to, or customization work for, any Pull-Through where the sale or customization occurs within thirty-six (36) months of the GET Customer or GET POLA Customer purchasing its initial subscription to the Data Portal. During both the Initial and Extended Terms, GET shall pay the City the Pull-Through Percentage of any Net Revenue received by GET from POLA Customers for any subscriptions sold to, or

customization work for, any Pull-Through where the sale or customization occurs during the Initial Term.

Section 4. City Revenue Allocation.

The City, or a subdivision thereof, shall pay GET the Port Percentage of the Charge Revenue received by the City, or a subdivision thereof, from Port Customers in connection with the access and use of the Data Portal.

Beginning on the first day of the Initial Term and thereafter through the Extended Term, the City, or a subdivision thereof, shall, substantially consistent with any mutually agreed upon market strategy, levy a fee or other charge on POLA Customers in connection with the access and use of the Data Portal.

Section 5. Suspension.

If, for any reason, GET or the City, or a subdivision thereof, cannot fulfill their obligations as described in Section 3 or Section 4, respectively, then the other party's obligations under Section 2 (Exclusivity), 3 (GET Revenue Allocation), 4 (City Revenue Allocation) and 7 (Promotional Activities), as applicable, shall be suspended for the duration of the event. In such event, the parties will engage in discussions to identify possible alternatives to the fees or other charges. Where the event lasts longer than one hundred eighty (180) days, the other party shall have the right to terminate this Agreement.

Section 6. Payment Mechanism.

6.1 GET Payments. On the thirtieth (30th) business day of each calendar quarter during the term of the Agreement and the calendar quarter immediately following the expiration or termination of the Agreement ("GET Report Date"), GET shall report the Net Revenues received by GET from GET Customers, GET POLA Customers or POLA Customers for subscriptions sold to the Data Portal or any Pull-Through, as applicable to each type of customer, for the preceding calendar quarter. Provided, however, that GET will only be required to report Net Revenue related to its obligations under Section 3 (GET Revenue Allocation) and will not be required to disclose any data or information in the report where the disclosure of such information would violate applicable law or GET's contractual obligations to a third parties. GET shall pay all amounts due under Section 3 within thirty (30) days of the GET Report Date.

6.2 City Payments. On the thirtieth (30th) business day of each calendar quarter during the term of the Agreement and the calendar quarter immediately following the expiration or termination of the Agreement ("City Report Date"), the City shall report the Charge Revenue received by the City, and its subdivisions, from Port Customers for the preceding calendar quarter in connection with the access and use of the Data Portal. Provided, however, that the City will only be required to report Charge

Revenue related to its obligations under Section 4 (City Revenue Allocation) and will not be required to disclose any data or information in the report where the disclosure of such information would violate applicable law or the City's contractual obligations to a third parties. The City, or a subdivision thereof, shall pay all amounts due under Section 4 within thirty (30) days of the City Report Date.

Section 7. Promotional Commitment.

The City agrees to use commercially reasonable efforts to support and cooperate with GET's promotion of the Data Portal to potential customers, including, but not limited to, the Promotion Activities.

Section 8. Publications.

8.1 Steering Committee. The parties will establish a steering committee consisting of three (3) members from each party for discussion of promotional activities and commercial strategy related to the Data Portal ("Steering Committee"). The Steering Committee will meet periodically on an as-needed basis, but in no case less than once annually. Meetings of the Steering Committee may be held by any means (including physically, by telephone or videoconference). The presence of two (2) members of each party shall be considered a quorum. The Steering Committee shall not have the authority to bind either party, except by written agreement executed by both parties. A party may change its representative on the Steering Committee by notice to the other party, which may be made electronically.

8.2 Promotional Materials. The Steering Committee will work to develop promotional materials for the Data Portal. All such materials shall be approved by both parties in writing prior to publication or use by either party, such approval not to be unreasonably withheld or delayed. Any such materials submitted for approval and not approved or rejected within seven (7) business days shall be deemed approved.

Section 9. Trademarks and Subscription.

9.1 Trademark. Neither party grants a trademark license to the other party and neither party grants the other any right to reproduce, display or use in any manner the other party's name or trademark for designating, promoting or selling the Data Portal. Any reproduction, display or use in any manner of a party's name or trademark must be approved in writing. If a party approves in writing and in advance of the distribution of a particular item or promotional material that includes that party's name or trademark, then such party hereby grants to the other party a non-exclusive, royalty-free, personal, non-assignable, non-transferrable right to reproduce and distribute such materials. Either party may terminate, at any time, such an authorization to use any particular item of material by written notice to the other party.

9.2 POLA Marks. The parties agree that the parties shall use POLA marks for promotional activities at the Port of Los Angeles.

9.3 Subscription. No less than ninety (90) days prior to the expiration of the Extended Term, the City may, at its option, provide written notice to GET of its desire to purchase a ten (10) year subscription to the Data Portal, which subscription will begin after the expiration of the Extension Term (the "Subscription"). GET will provide the Subscription (1) for an annual fee equal to one million two hundred and fifty thousand dollars (\$1,250,000), (2) with regular maintenance, updates, repairs, and technical support consistent with the support GET offers to its other customers for the Data Portal under similar circumstances, and (3) pursuant to GET's then-current terms and conditions for the Data Portal; provided, however, that such terms and conditions will not be substantially different from those contained in the Primary Agreement. City shall pay to GET fifty percent (50%) of all charges or fees collected by City, or a subdivision thereof, from Port Customers for use of the Data Portal during the Subscription term.

Section 10. Term and Termination.

10.1 Term.

(A) Unless otherwise terminated in accordance with Sections 10.2 or 10.3, this Agreement shall become effective as of the Effective Date and remain in full force and effect until the completion of the Initial Term and the Extended Term.

(B) Following the Effective Date, the parties intend to engage in good faith discussions regarding the then-current and future market for the Data Portal and mutually agree upon a market strategy for selling subscriptions or charging fees for access and use of the Data Portal.

(C) At least thirty (30) days prior to the end of the Initial Term, the parties intend to engage in good faith discussions regarding the then-current and future market for the Data Portal and the status of the relationship between the parties. For clarity, the purpose of the discussions will be to share information and neither party will be bound to take any action in connection with the discussions. In the absence of any agreement to modify or amend any terms, this Agreement shall remain in full force and continue unmodified as set forth herein.

10.2 Termination for Cause. During the Initial Term or the Extended Term, either party may, by written notice to the other party, terminate this Agreement for a material breach of this Agreement in the following time frames:

(A) Where the material breach is capable of being cured by the breaching party, the non-breaching party may terminate the Agreement if the breach remains uncured sixty (60) days following the non-breaching party's written notice of breach to the other party.

(B) Where the material breach is incapable of being cured by the breaching party, the non-breaching party may terminate the Agreement upon providing thirty (30) days written notice to the breaching party.

10.3 Termination or Expiration of the Primary Agreement. This Agreement shall terminate upon the expiration or termination of the Primary Agreement.

10.4 Subscription Upon Termination. Upon termination of this Agreement for cause under Section 10.2 prior to the end of the Extended Term, the City and GET, shall at City's option, enter into a ten (10) year subscription for the City, Port Customers and GET POLA Customers to use and access the Data Portal within the Port of Los Angeles. GET will provide the subscription (1) with regular maintenance, updates, repairs, and technical support consistent with the support GET offers to its other customers for the Data Portal under similar circumstances, and (2) pursuant to GET's then-current terms and conditions for the Data Portal; provided, however, that such terms and conditions will not be substantially different from those contained in the Primary Agreement. City shall pay GET a subscription fee which amount shall be negotiated and agreed to in writing between the parties prior to the termination of the Agreement for cause under Section 9.2. One hundred percent (100%) of all charges or fees collected by City, or a subdivision thereof, from Port Customers for use of the Data Portal during the ten (10) year period under this Section 10.3 shall belong to the City.

10.5 No Default. The parties' respective obligations under Sections 2 (Exclusivity), 3 (GET Revenue Allocation), 4 (City Revenue Allocation), and 7 (Promotion Commitment) are contingent upon the other party not being in material breach of this Agreement or the Primary Agreement.

11. Audit.

Each party shall keep and maintain full, complete and accurate books of accounts and records relating to the reports provided by each party pursuant to Section 6 (Payment Mechanism), which books of accounts and records will be kept in accordance with generally accepted accounting principles, consistently applied. To the extent permissible under applicable law and contractual obligations to third parties, each party shall be allowed reasonable access to such books of accounts and records for the purpose of determining the accuracy of payments due or paid pursuant to Section 6 (Payment Mechanism).

12. Confidentiality.

12.1 Non-Disclosure and Non-Use. A party receiving Confidential Information (the "Receiving Party") will not directly or indirectly, at any time, without the prior written consent of the party disclosing such Confidential Information (the "Disclosing Party"), use or disclose the Confidential Information or any part thereof for any use other than necessary for the performance of the Receiving Party's obligations under this Agreement or as otherwise expressly permitted by this Agreement. The Receiving Party

will use reasonable efforts, but not less than those efforts it uses to protect its own information of a similar nature, to avoid disclosure, dissemination, or unauthorized use of the Confidential Information of the Receiving Party.

12.2 Compelled Disclosure. GET acknowledges that the City may be compelled to disclose Confidential Information pursuant to the California Public Records Act. Should the City be compelled, by public information request or otherwise, to disclose GET's Confidential Information, the City will provide written notice to GET and use reasonable efforts to disclose only the information legally required to be disclosed and to apply any applicable exceptions to the disclosure request.

12.3 Injunctive Relief. In addition to any other rights and remedies under this Agreement or at law, Receiving Party acknowledges and agrees that, due to the nature of the Confidential Information, its confidentiality obligations to Disclosing Party under this Agreement are of a unique character and agrees that any breach of such obligations may result in irreparable and continuing damage to Disclosing Party for which there may be no adequate remedy in damages and accordingly Disclosing Party will be authorized and entitled to seek injunctive or other equitable relief, without the necessity of posting a bond or other security, even if otherwise normally required.

12.4 Return of Confidential Information. Upon the termination or expiration of this Agreement, any and all Confidential Information of a Disclosing Party possessed in tangible form by the Receiving Party, its affiliates or any of their officers, directors, employees, agents or consultants shall, upon written request of the Disclosing Party, be immediately returned to the Disclosing Party (or destroyed if so requested) and not retained by the Receiving Party, its Affiliates or any of their officers, directors, employees, agents or consultants. Notwithstanding the foregoing, each Receiving Party may retain one (1) copy of any Confidential Information of the Disclosing Party in appropriately secure legal files solely for record-keeping purposes.

13. Notices.

In all cases where written notice is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States mail, postage prepaid. When so given, such notice shall be effective from the date of mailing of the same. For the purposes hereof, unless otherwise provided by notice in writing from the respective parties, notice to the City shall be addressed to the Executive Director, Los Angeles Harbor Department, P.O. Box 151, San Pedro, California 90733-0151, and notice to GET shall be addressed to it at the address set forth in the Preamble. Nothing herein contained shall preclude or render inoperative service of such notice in the manner provided by law.

14. Indemnification.

14.1 Indemnification. Subject to the limitations contained in Section 15 (Limitation on Liability) and except to the extent caused by the negligence or willful misconduct of the other party, or any of its officers, agents, employees, assigns and

successors in interest, each party undertakes and agrees to defend, indemnify and hold harmless the other party and any of its officers, agents, employees, assigns, and successors in interest from and against any third party suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's and cost of litigation (including all actual litigation costs incurred by the other party, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, arising in any manner by reason of the grossly negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement.

14.2 End User Terms of Use. GET agrees that it shall use commercially reasonable efforts to include third party protections, or their equivalent, for the benefit of the City, any of its boards, officers, assigns, and successors in interest as part of any End User Terms of Use Agreement for GET POLA Customers or POLA Customers using or accessing the Data Portal at the Port of Los Angeles. Such third party protections will be materially similar to those contained in Exhibit A hereto.

15. Limitation on Liability.

Notwithstanding anything in this Agreement to the contrary, in no event shall either party be liable for loss of profit or revenues, lost business opportunities, loss of use of equipment or systems, loss of data, interruption of business, cost of capital, downtime costs, increased operating costs, any special, consequential, incidental, indirect, or punitive damages arising out of or relating to this Agreement or the subject matter hereof, or claims of City's customers for any of the foregoing types of damages, regardless of the form of action, and whether or not the party was or should have been aware of the possibility of these damages.

Notwithstanding anything in this Agreement to the contrary, each party's maximum aggregate liability in connection with, arising out of, with respect to or any way connected with this Agreement, shall be limited to, in the aggregate, any amount owed by the party to the other party under Sections 3 (GET Revenue Allocation) and 4 (City Revenue Allocation) of this Agreement, as applicable, for the quarter prior to the event giving rise to the liability. The limitations shall apply regardless of whether a claim is based in contract, warranty, indemnity, tort, extra-contractual liability (including negligence), strict liability or otherwise, and shall prevail over any conflicting terms, except to the extent that such terms further restrict the party's liability.

Notwithstanding the foregoing, the limitations on liability under this Section shall not apply to each party's obligations under Section 9.1 and 9.2 (Trademark), Section 12 (Confidentiality) and Section 14.1 (Indemnification).

16. Dispute Resolution.

Any dispute, controversy or claim arising out of or relating in any way to this Agreement, whether in contract, tort, common law, statutory law, equity, or otherwise, including any question regarding its existence, validity, or scope, shall be resolved in accordance with this Section 16. If a dispute is not resolved by negotiations, either

party shall, by giving written notice, refer the dispute to a meeting of appropriate higher management or to mediation, to be held within thirty (30) business days after the giving of notice, or such later date as may be mutually agreed. If the dispute is not resolved within the thirty (30) days of providing such notice, or within the mutually agreed-upon later time period, either party may commence arbitration or court proceedings.

EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY DISPUTE IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT KNOWINGLY, VOLUNTARILY, INTENTIONALLY, IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY DISPUTE.

Notwithstanding the foregoing, each party shall have the right at any time to immediately commence an action or proceeding in a court of competent jurisdiction, subject to the terms of this Agreement, to seek a restraining order, injunction, or similar order to enforce the confidentiality provisions set forth in Section 12.

To the extent that either party seeks Confidential Information in the course of any court or arbitration proceeding, the parties agree to enter into an appropriate protective order to ensure the confidential treatment of such information, and that, for highly Confidential Information, the protective order will allow for the production of such information on an "attorneys' eyes only" basis, or for review only by the arbitrator or arbitrators or the court.

17. Independent Contractor.

Nothing in this Agreement is intended, or shall be deemed to establish, a joint venture or partnership between the parties. Neither party shall have any express or implied right or authority to assume or create any obligations on behalf of, or in the name of, the other party, or to bind the other party to any contract, agreement or undertaking with any third party.

18. Assignment.

Neither party may assign this Agreement or any right or obligation hereunder (including by change in ownership or control, by operation of law or otherwise) without prior written notice to the other party. The non-assigning party shall have ninety (90) days to approve the assignment of the Agreement, which approval shall not be unreasonably withheld. Neither party may assign this Agreement or any right or obligation hereunder (including by change in ownership or control, by operation of law or otherwise) where such assignment would substantially impair the other party's ability to receive performance of the assigning party's obligations under this Agreement. Any assignment of this Agreement in violation of this provision shall be void and without effect.

19. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to the conflicts of law, rules and principles of such State. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State or Federal courts located in the County of Los Angeles, State of California, in the judicial district required by court rules.

20. Severability.

Should any part, term, condition or provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of law, public policy, or city charter, the validity of the remaining parts, terms, conditions or provisions of this Agreement shall not be affected thereby, and such invalid, illegal or unenforceable part, term, condition or provision shall be treated as follows: (a) if such part, term, condition or provision is immaterial to this Agreement, then such part, term, condition or provision shall be deemed not to be a part of this Agreement; or (b) if such part, term, condition or provision is material to this Agreement, then the parties shall revise the part, term, condition or provision so as to comply with the applicable law or public policy and to effect the original intent of the parties as closely as possible.

21. Entire Agreement.

This Agreement, the Primary Agreement, together with the exhibits hereto and thereto, contain the entire understanding and agreement between the parties hereto with respect to the matters referred to herein. In the event of a conflict or inconsistency between the terms in this Agreement and the Primary Agreement, the terms in the Primary Agreement shall control. No other representations, covenants, undertakings, or prior or contemporaneous agreements, oral or written, regarding such matters which are not specifically contained, referenced, and/or incorporated into this Agreement by reference shall be deemed in any way to exist or bind any of the parties. Each party acknowledges that it has not been induced to enter into the Agreement and has not executed the Agreement in reliance upon any promises, representations, warranties or statements not contained, referenced, and/or incorporated into the Agreement. THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS INTENDED TO BE, AND IS, AN INTEGRATED AGREEMENT.

//////

//////

22. Amendment.

This Agreement may be modified only by written agreement of all parties. Any such modifications are subject to all applicable approval processes required by, without limitation, City's Charter and City's Administrative Code.

23. No Waiver.

A failure of any party to this Agreement to enforce the Agreement upon a breach or default shall not waive the breach or default or any other breach or default. All waivers shall be in writing.

24. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument.

25. State Tidelands Grant.

This Agreement is entered into in furtherance of and as a benefit to the State Tidelands Grant and the trust created thereby. Therefore, this Agreement is at all times subject to the limitations, conditions, restrictions and reservations contained in and prescribed by the Act of the Legislature of the State of California entitled "An Act Granting to the City of Los Angeles the Tidelands and Submerged Lands of the State Within the Boundaries of Said City," approved June 3, 1929 (Stats. 1929, Ch. 651), as amended, and provisions of Article VI of the Charter of the City of Los Angeles relating to such lands. Consultant agrees that any interpretation of this Agreement and the terms contained herein must be consistent with such limitations, conditions, restrictions and reservations.

//////


//////

//////

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date to the left of their signatures.

Dated: 9/20/17


THE CITY OF LOS ANGELES, by its Board of Harbor Commissioners

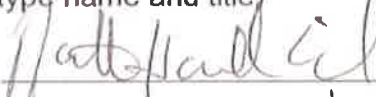
By 
EUGENE D. SEROKA
Executive Director

Attest: 
AMBER M. KLESGES
Board Secretary

Dated: 9/20/17

GENERAL ELECTRIC COMPANY

By 
Jennifer Schopf, VP GE Transport
(Print/type name and title)

Attest: 
Nawette Harrell, Sr. Dir. GE T
(Print/type name and title)

APPROVED AS TO FORM AND LEGALITY

August 17, 2017
MICHAEL N. FEUER, City Attorney
JANNA B. SIDLEY, General Counsel


By 
Heather M. McCloskey, Deputy

Exhibit A

End User Terms of Use Provisions

Disclaimer. THE HOSTED SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. GE AND THE CITY EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, DATA ACCACY, SYSTEM INTEGRATION AND FITNESS FOR A PARTICULAR PURPOSE, AS WELL AS WARRANTIES IMPLIED FROM A COURSE OF PERFORMANCE OR COURSE OF DEALING. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, GE AND THE CITY SPECIFICALLY DISCLAIM ANY REPRESENTATION OR WARRANTY THAT HOSTED SERVICES WILL OPERATE FREE FROM ERROR, INTERRUPTION, OR DISRUPTION DUE TO CYBER-ATTACKS, MALICIOUS OR OTHERWISE, OR FROM DISRUPTIONS IN INTERNET CONNECTIVITY (INCLUDING DELAYS OR PACKET LOSS).

IF YOU DOWNLOAD ANY CONTENT FROM THE HOSTED SERVICES, YOU DO SO AT YOUR OWN DISCRETION AND RISK. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH CONTENT. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM GE OR THROUGH OR FROM THE HOSTED SERVICES SHALL CREATE ANY WARRANTY OF ANY KIND. GE AND THE CITY DO NOT MAKE ANY WARRANTIES OR REPRESENTATIONS REGARDING THE USE OF THE CONTENT ON THE HOSTED SERVICES IN TERMS OF THEIR COMPLETENESS, CORRECTNESS, ACCURACY, ADEQUACY, USEFULNESS, TIMELINESS, RELIABILITY OR OTHERWISE. IN CERTAIN JURISDICTIONS, THE LAW MAY NOT PERMIT THE DISCLAIMER OF WARRANTIES, SO THE ABOVE DISCLAIMER MAY NOT APPLY TO YOU.

Limitation of Liability. YOU ACKNOWLEDGE AND AGREE THAT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NONE OF GE, GE'S AFFILIATES, THE CITY SUPPLIERS OR THIRD PARTY CONTENT PROVIDERS WILL BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR OTHER DAMAGES ARISING OUT OF OR IN ANY WAY RELATED TO THE HOSTED SERVICES, OR ANY OTHER SERVICE YOU ACCESS THROUGH THE HOSTED SERVICES OR FROM ANY ACTIONS WE TAKE OR FAIL TO TAKE AS A RESULT OF COMMUNICATIONS YOU SEND TO US, OR THE DELAY OR INABILITY TO USE THE HOSTED SERVICES, OR FOR ANY CONTENT OBTAINED THROUGH THE HOSTED SERVICES, GE'S REMOVAL OR DELETION OF ANY CONTENT SUBMITTED OR HOSTED ON THE HOSTED SERVICES, OR OTHERWISE ARISING OUT OF THE USE OF THE HOSTED SERVICES, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF GE, GE'S AFFILIATES, THE CITY OF LOS ANGELES, THE POLITICAL SUBDIVISIONS

OF THE CITY OF LOS ANGELES, OR ANY OF GE'S SUPPLIERS HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES.

YOU SPECIFICALLY ACKNOWLEDGE AND AGREE THAT NONE OF GE, GE'S AFFILIATES, THE CITY, OR GE'S SUPPLIERS SHALL BE LIABLE FOR ANY DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF ANY USER OF THE HOSTED SERVICES.

Indemnification. You agree to indemnify, defend and hold harmless GE, GE's Affiliates, the City, and each of their respective officers, directors, employees, contractors, agents, licensors, service providers, subcontractors and suppliers from and against any and all claims, losses, liabilities, expenses, damages and costs, including reasonable attorneys' fees and court costs, arising or resulting from (a) breach of these Terms of Service or violation of applicable law by you or any of your authorized users; (b) Your Content or the combination of Your Content with other applications, content, or processes, including any claim involving alleged infringement or misappropriation of third-party rights by Your Content or by the use, development, design, production, advertising, or marketing of Your Content; (c) a dispute between you and any of your authorized users; or (d) a third party claim for personal injury and/or property damage alleged to be caused by your use of Hosted Services.

EXHIBIT B



GE Transportation

Jennifer Schopfer
Vice President & General Manager

3475 Piedmont Road NE
Atlanta, GA 30305

M +1 203-583-2679
E jennifer.schopfer@ge.com

City of Los Angeles

Gene Seroka
Executive Director, Port of LA
425 South Palos Verdes Street
San Pedro, CA, USA 90731

RE: Contracts with GE Transportation

September 25, 2018

Dear Mr. Seroka,

As you know, on May 21, 2018, General Electric Company ("GE") and Westinghouse Air Brake Technologies Corporation ("Wabtec") announced a definitive agreement to combine GE's Transportation business operations with Wabtec. The combined entity will be a global transportation leader in rail equipment, software and services, with operations in more than 50 countries.

The combination will be implemented as follows: GE has entered into the Separation, Distribution and Sale Agreement dated as of May 20, 2018 with, among other parties named therein, Wabtec pursuant to which, among other things, (1) GE will sell, directly or indirectly, a portion of the assets of GE Transportation to Wabtec (the "Sale"), (2) GE will distribute to its shareholders at least 80% of the stock of Transportation System Holdings, Inc. ("SpinCo") which will own, directly and indirectly, the balance of the assets comprising GE Transportation (the "Distribution"), and (3) immediately following the Distribution, a subsidiary of Wabtec will merge with and into SpinCo and the shares of SpinCo will be converted into shares of Wabtec (the "Merger"). In furtherance of the Distribution and the Merger, GE is undertaking an internal reorganization pursuant to which it will transfer, directly or indirectly, substantially all of the assets and liabilities comprising GE Transportation, other than those to be sold pursuant to the Sale, to SpinCo (the "Internal Reorganization").

Our existing contracts with you will remain in place through the Merger. However, please note the following:

- Contracts currently held by **General Electric Company** will be transferred/assigned to **GE Transportation Parts, LLC**, a dedicated GE Transportation entity (one that is not utilized by other GE businesses). As part of the Internal Reorganization, this entity will be moved to be under the ownership of SpinCo in preparation for the Merger. Upon formal closing of the Merger, this entity will become a subsidiary of Wabtec, and will no longer be affiliated with General Electric Company.

Appendix A attached to this letter specifies our existing contracts and the necessary assignment information, where applicable. Where an existing contract will be assigned, both the assignee entity and the assignor GE entity are specified in the Appendix. Further, necessary information about the assignee entity (bank account, tax ID, etc.) will be available upon request. **The assignment of contracts where applicable, and subsequent change of control of the entities in the GE Transportation business, should be seamless and should have no impact on our business relationship or the performance of your contract(s).** Nonetheless, we are reaching out to request that you formally consent to the transfer of your contracts and ultimate change of control of the contracting entities in relation to the

Internal Reorganization, Sale and Merger described above. As part of your consent, you agree that upon formal closing of the Sale and Merger transaction, General Electric Company and its remaining subsidiaries and affiliates that are not part of such transaction shall be released and discharged from any and all liabilities and obligations under the applicable contracts. Please sign where indicated below to indicate such consent and acceptance.

If you need more information or have questions, please contact me.

We look forward to continuing our valued relationship with you. Thank you in advance for your support of GE Transportation and its strategic objectives, as we combine with Wabtec Corporation.



Jennifer Schopfer
Vice President & General Manager

M +1 203-583-2679
E jennifer.schopfer@ge.com

<p>Acknowledged and Agreed by</p> <p>City of Los Angeles</p> <p>Accepted by: _____</p> <p>Signature: _____</p> <p>Title: _____</p> <p>Date: _____</p>

Appendix A

City of Los Angeles

CONTRACTS REQUIRING ASSIGNMENT			
<u>Contract</u>	<u>Assigning GE Entity</u>	<u>Receiving/Assignee Entity</u>	<u>Timing</u>
Revenue Allocation Agreement ("Agreement") dated September 20, 2017	General Electric Company Tax ID# 14-0689340	GE Transportation Parts, LLC Tax ID# 31-1802128	Nov 01, 2018
Amended and Restated Agreement ("Agreement") dated September 11, 2017	General Electric Company Tax ID# 14-0689340	GE Transportation Parts, LLC Tax ID# 31-1802128	Nov 01, 2018

Note: The above list is intended to be comprehensive with respect to the contractual relationships between City of Los Angeles and the GE Transportation business operations. In the event any contract, agreement or purchase order has been inadvertently left off this list, the consent provided herein shall be deemed to be extended to such documents as well. All contract references include applicable amendments; Amendments are not listed separately.