

Lease Of Land Including New Track Construction (Construction Lease / CL)

A Lease of Land Including New Track Construction (CL) is required when BNSF owns or controls certain property on which the industry track lies. The CL allows the industry to occupy the railroad property in connection with its maintenance, operation and construction of the industry track on BNSF property. A CL outlines lease premises, maintenance responsibility, permitted uses and liability.

A Construction Lease is always used in conjunction with an Industry Track Agreement (ITA) if BNSF will be operating over industry-owned track constructed by the industry on BNSF property.

Prior to the industry working within BNSF right-of-way, a CL must be executed and all necessary insurance certificates and requirements need to be approved by BNSF Risk Management.

Major Requirements

✓	New Business Review (NBR) Approval
✓	Track Application
✓	Approved 100% Track Plans
✓	Insurance Requirements Met (see reverse side)
✓	Executed Industry Track Agreement (ITA)



Insurance Requirements

<p>General Liability Policy</p>	<ul style="list-style-type: none"> • Required limits of \$5M / occurrence; \$10M / aggregate (if the industry is performing construction activities) • Required limits of \$1M / occurrence; \$2M / aggregate (if contractor is performing construction with CROE) • BNSF Railway and Jones Lang LaSalle Brokerage should be listed as additional insured • Copy of the additional insured endorsement • Primary and non-contributory • Contractual liability for railroads – 50 foot endorsement – CG2417 10 / 01 must be provided if the general liability policy contains an exclusion for work within 50 feet of railroad property • Waiver of Subrogation
<p>Auto Liability Policy</p>	<ul style="list-style-type: none"> • Required limits of \$1M, any auto coverage type • BNSF Railway listed as additional insured • Primary and non-contributory • Waiver of subrogation • If the company does not own any vehicles, they must provide hired and non-owned auto coverage with a letter stating they do not own company vehicles
<p>Workers Compensation Policy for State Where Work is Being Performed</p>	<ul style="list-style-type: none"> • Required statutory limits • Waiver of subrogation • If employees are leased, an alternate employer endorsement will be required from the leasing company
<p>Railroad Protective Policy</p>	<ul style="list-style-type: none"> • Required limits of \$5M / occurrence; \$10M / aggregate • Limited seepage, pollution and contamination coverage endorsement • Evacuation expense coverage endorsement • Industry may participate in Lessor's Blanket Railroad Protective Liability Policy. The limits are the same as above and Jones Lang LaSalle will obtain the quote for the cost.

Additional Information

The named insured on the certificates must be the same name as listed on the contract.

Self-insurance: Allowed with prior permission from BNSF Railway. BNSF will require financial statement for a minimum of the last two years and may require additional documentation. The financials must be in the name of the company named on the contract. The statements will be reviewed by BNSF every three years thereafter.

Parental Guaranty: If the company requesting the lease cannot meet the financial requirements for self-insurance, but their parent company can, BNSF will propose the parent company enter into a parental guaranty for the financial obligations.

Insurance Carrier: If the insurance carrier does not meet the A- / VII AM Best rating or does not participate in AM Best, BNSF can review the lessee's financials to see if they meet the self-insurance assessment in order to obtain approval.