

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported):
August 25, 2021 (August 25, 2021)



NORFOLK SOUTHERN CORPORATION

(Exact name of registrant as specified in its charter)

Virginia
(State or other jurisdiction of incorporation)

1-8339
(Commission File Number)

52-1188014
(IRS Employer Identification Number)

Three Commercial Place
Norfolk, Virginia
23510-2191
(Address of principal executive offices, including zip code)

757-629-2680
(Registrant's telephone number, including area code)

No Change
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol	Name of each exchange on which registered
Norfolk Southern Corporation Common Stock (Par Value \$1.00)	NSC	New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 1.01. Entry into a Material Definitive Agreement.

See description under Item 2.03.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

On August 25, 2021, Norfolk Southern Corporation (the “Registrant”) completed its offering of \$600,000,000 aggregate principal amount of its 2.900% Senior Notes due 2051 (the “Notes”) pursuant to an Underwriting Agreement, dated August 16, 2021 (the “Agreement”), by and among the Registrant and Citigroup Global Markets Inc., Goldman Sachs & Co. LLC and U.S. Bancorp Investments, Inc., as representatives of the several underwriters named therein. The Notes were sold pursuant to the Registrant’s Automatic Shelf Registration Statement on Form S-3 (File No. 333-252723). The Agreement was initially filed as Exhibit 1.1 to the Registrant’s Current Report on Form 8-K filed on August 18, 2021. The description of the Agreement contained herein is qualified by reference thereto.

The Notes were issued pursuant to an indenture, dated as of February 28, 2018, as supplemented by a seventh supplemental indenture, dated as of August 25, 2021 (the “Seventh Supplemental Indenture”), each between the Registrant and U.S. Bank National Association, as trustee. The Notes will pay interest semi-annually in arrears at a rate of 2.900% per annum.

The Notes may be redeemed in whole at any time or in part from time to time, at the Registrant’s option, as described below.

If the Notes are redeemed prior to the date that is six months prior to the maturity date for the Notes, the redemption price for the Notes to be redeemed will be equal to the greater of (1) 100% of their principal amount or (2) the sum of the present value of the remaining scheduled payments of principal and interest on the Notes to be redeemed, to and including the date that is six months prior to the maturity date of the Notes (exclusive of interest accrued to, but not including, the date of redemption), discounted to the date of redemption on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at a specified rate, plus accrued and unpaid interest on the principal amount being redeemed to, but not including, the redemption date.

If the Notes are redeemed on or after the date that is six months prior to the maturity date for the Notes, the redemption price for the Notes to be redeemed will equal 100% of the principal amount of such Notes, plus accrued and unpaid interest to, but not including, the redemption date.

The Seventh Supplemental Indenture is filed herewith as Exhibit 4.1. The description of the Seventh Supplemental Indenture contained herein is qualified by reference thereto.

Item 9.01. Financial Statements and Exhibits.**(d) Exhibits**

The following exhibits are filed as part of this Current Report on Form 8-K:

Exhibit Number	Description
1.1	<u>Underwriting Agreement, dated August 16, 2021, among the Registrant and Citigroup Global Markets Inc., Goldman Sachs & Co. LLC and U.S. Bancorp Investments, Inc., is incorporated by reference to Exhibit 1.1 of the Registrant's Current Report on Form 8-K filed on August 18, 2021.</u>
4.1	<u>Seventh Supplemental Indenture, dated as of August 25, 2021, between the Registrant and U.S. Bank National Association, as trustee.</u>
5.1	<u>Opinion Letter of Vanessa Allen Sutherland, Executive Vice President and Chief Legal Officer of the Registrant regarding the validity of the Notes.</u>
5.2	<u>Opinion Letter of Skadden, Arps, Slate, Meagher & Flom LLP regarding the validity of the Notes.</u>
23.1	<u>Consent of Vanessa Allen Sutherland (included in Exhibit 5.1).</u>
23.2	<u>Consent of Skadden, Arps, Slate, Meagher & Flom LLP (included in Exhibit 5.2).</u>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

NORFOLK SOUTHERN CORPORATION
(Registrant)

/s/ Denise W. Hutson

Name: Denise W. Hutson

Title: Corporate Secretary

Date: August 25, 2021

NORFOLK SOUTHERN CORPORATION,

as Issuer

and

U.S. BANK NATIONAL ASSOCIATION,

as Trustee

SEVENTH SUPPLEMENTAL INDENTURE

Dated as of August 25, 2021

to

INDENTURE

Dated as of February 28, 2018

2.900% Senior Notes due 2051

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SEVENTH SUPPLEMENTAL INDENTURE dated as of August 25, 2021 (this “Seventh Supplemental Indenture”), by and between Norfolk Southern Corporation, a Virginia corporation, as issuer (the “Company”), and U.S. Bank National Association, as trustee (the “Trustee”).

WHEREAS, the Company executed and delivered the indenture, dated as of February 28, 2018, to the Trustee (the “Base Indenture”, as supplemented by this Seventh Supplemental Indenture, the “Indenture”), to provide for the issuance of the Company’s unsubordinated and unsecured debt securities to be issued in one or more series;

WHEREAS, pursuant to Section 9.01 of the Base Indenture, the Company desires to provide for the establishment of a new series of Securities under the Base Indenture to be known as its “2.900% Senior Notes due 2051” (the “Notes”), the form and substance and the terms, provisions and conditions thereof to be set forth as provided in the Base Indenture and this Seventh Supplemental Indenture;

WHEREAS, the execution and delivery of this Seventh Supplemental Indenture and the issuance of the Notes have been authorized by a Board Resolution and the Board of Directors has authorized the proper officers of the Company to execute and deliver any and all appropriate documents necessary or appropriate to effect such issuance;

WHEREAS, the Company requests that the Trustee execute and deliver this Seventh Supplemental Indenture; and

WHEREAS, all things necessary to make this Seventh Supplemental Indenture a valid agreement of the Company and the Trustee, in accordance with its terms, and to make the Notes, when executed by the Company and authenticated and delivered by the Trustee, the valid obligations of the Company, have been performed, and the execution and delivery of this Seventh Supplemental Indenture has been duly authorized in all respects.

NOW THEREFORE, in consideration of the premises and the purchase and acceptance of the Notes by the Holders thereof and other valuable consideration, the receipt of which is hereby acknowledged by the Company, and for the purpose of setting forth, as provided in the Base Indenture, the form, terms and conditions of the Notes, the Company covenants and agrees with the Trustee for the benefit of the Holders of the Notes, as follows:

ARTICLE I

Definitions

SECTION 1.01 Definitions. Unless the context otherwise requires, capitalized terms used but not defined herein or in the recitals above have the respective meanings set forth in the Base Indenture. The following additional terms are hereby established for purposes of this Seventh Supplemental Indenture and shall have the meaning set forth in this Seventh Supplemental Indenture only for purposes of this Seventh Supplemental Indenture.

“Below Investment Grade Ratings Event” means, with respect to the Notes, on any day within the 60-day period (which period shall be extended so long as the rating of the Notes is under publicly announced consideration for a possible downgrade by any Rating Agency) after the earlier of (1) the occurrence of a Change of Control; or (2) public notice of the occurrence of a Change of Control or the intention by the Company to effect a Change of Control, the Notes are rated below investment grade by each and every Rating Agency. Notwithstanding the foregoing, a Below Investment Grade Ratings Event otherwise arising by virtue of a particular reduction in rating shall not be deemed to have occurred in respect of a particular Change of Control (and thus shall not be deemed a Below Investment Grade Ratings Event for purposes of the definition of Change of Control Repurchase Event hereunder) if the Rating Agencies making the reduction in rating to which this definition would otherwise apply do not announce or publicly confirm or inform the Trustee in writing at the Company’s request that the reduction was the result, in whole or in part, of any event or circumstance comprised of or arising as a result of, or in respect of, the applicable Change of Control (whether or not the applicable Change of Control shall have occurred at the time of the Below Investment Grade Ratings Event).

“Change of Control” means the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any “person” or “group” (as those terms are used in Section 13(d)(3) of the Exchange Act), other than the Company or its subsidiaries, becomes the beneficial owner (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more than 50% of the combined voting power of the Company’s Voting Stock or other Voting Stock into which the Company’s Voting Stock is reclassified, consolidated, exchanged or changed measured by voting power rather than number of shares.

“Change of Control Repurchase Event” means the occurrence of both a Change of Control and a Below Investment Grade Ratings Event with respect to the Notes.

“DTC” means The Depository Trust Company.

“Global Note” means a Security evidencing all or a part of a series of Securities, issued to the Depository for such series in accordance with Section 2.12 of the Base Indenture.

“Initial Issue Date” means August 25, 2021.

“Interest Payment Date” means, with respect to the payment of interest on the Notes, February 25 and August 25 of each year.

“investment grade” means, with respect to Moody’s, a rating of Baa3 or better (or its equivalent under any successor rating categories of Moody’s); with respect to S&P, a rating of BBB- or better (or its equivalent under any successor rating categories of S&P); and, with respect to any additional Rating Agency or Rating Agencies selected by the Company, the equivalent investment grade credit rating.

“Moody’s” means Moody’s Investors Service, Inc., a subsidiary of Moody’s Corporation, and its successors.

“Notes” has the meaning set forth in the recitals above.

“Rating Agency” means (1) each of Moody’s and S&P; and (2) if either of Moody’s or S&P ceases to rate the Notes or fails to make a rating of the Notes publicly available for reasons outside of the Company’s control, a “nationally recognized statistical rating organization” as defined in Section 3(a) (62) of the Exchange Act, selected by the Company (as certified by a Board Resolution) as a replacement agency for Moody’s or S&P, or both of them, as the case may be.

“S&P” means S&P Global Ratings, a division of S&P Global Inc., and its successors.

“Voting Stock” of any specified “person” (as that term is used in Section 13(d)(3) of the Exchange Act) as of any date means the capital stock of such person that is at the time entitled to vote generally in the election of the board of directors of such person.

The words “herein,” “hereof,” and “hereunder” and other words of similar import refer to this Seventh Supplemental Indenture as a whole and not to any particular Article, Section or other subdivision. The rules of construction set forth in Section 1.04 of the Base Indenture shall apply to this Seventh Supplemental Indenture.

ARTICLE II

Establishment of the Notes

SECTION 2.01 Designation and Establishment. Pursuant to the terms hereof and Section 2.01 of the Base Indenture, the Company hereby establishes a new series of Securities designated as the “2.900% Senior Notes due 2051”. The series of Notes may be reopened, from time to time, for issuances of additional Securities of such series. Any such additional Securities shall have the same ranking, interest rate, Stated Maturity and other terms as the Notes (other than the issue date, issue price and payment of interest accruing prior to the issue date of such additional Securities). Any such additional Securities, together with the Notes herein provided for, shall constitute a single series of Securities under the Indenture. If any such additional Securities are not fungible with the Notes issued on the Initial Issue Date for U.S. federal income tax purposes, such additional Securities will have a different CUSIP number from such Notes issued on the Initial Issue Date.

SECTION 2.02 Form of the Notes. The Notes shall be issued in substantially the form set forth in Exhibit A hereto.

SECTION 2.03 Principal Amount of the Notes. The Notes shall be initially issued in an aggregate principal amount of \$600,000,000.

SECTION 2.04 Interest Rate; Stated Maturity.

(a) The Notes issued pursuant to this Seventh Supplemental Indenture shall bear interest (computed on the basis of a 360-day year consisting of twelve 30-day months) from August 25, 2021 at the rate of 2.900% per annum payable semiannually in arrears; interest payable on each Interest Payment Date shall include interest accrued from August 25, 2021, or from the most recent date to which interest has been paid or duly provided for; the Interest Payment Dates on which such interest shall be payable are February 25 and August 25, commencing on February 25, 2022; and the record date for the interest payable on any Interest Payment Date is the close of business on the February 10 or August 10, as the case may be, next preceding the relevant Interest Payment Date. The Notes shall have a Stated Maturity of August 25, 2051.

SECTION 2.05 No Sinking Fund. No sinking fund is provided for the Notes.

SECTION 2.06 Global Notes and Denomination of the Notes. Upon the original issuance, the Notes shall be represented by one or more Global Notes. The Company shall issue the Notes in minimum denominations of \$2,000 and in integral multiples of \$1,000 in excess thereof and shall deposit the Global Notes with the Trustee as Custodian for DTC in New York, New York, and register the Global Notes in the name of DTC or its nominee.

SECTION 2.07 Optional Redemption. The Notes are subject to redemption at the option of the Company as set forth in the form of Note attached hereto as Exhibit A.

SECTION 2.08 Change of Control Repurchase Event.

(a) If a Change of Control Repurchase Event occurs with respect to the Notes, unless the Company has exercised its right to redeem the Notes pursuant to paragraph 5 of the Notes, the Company will make an offer to each Holder of the Notes to repurchase all or any part (in integral multiples of \$1,000) of that Holder's Notes at a repurchase price (the "Repurchase Price") in cash equal to 101% of the aggregate principal amount of such Notes repurchased plus any accrued and unpaid interest on the Notes repurchased to, but not including, the Repurchase Date (defined below). Within 30 days following a Change of Control Repurchase Event or, at the Company's option, prior to a Change of Control, but after the public announcement of such Change of Control, the Company will mail, or cause to be mailed, a notice to each Holder of the Notes, with a copy to the Trustee, describing the transaction or transactions that constitute or may constitute the Change of Control Repurchase Event and offering to repurchase the Notes on the payment date specified in the notice (such offer the "Repurchase Offer" and such date the "Repurchase Date"), which Repurchase Date will be a Business Day that is no earlier than 30 days and no later than 60 days from the date such notice is mailed. The notice shall, if mailed prior to the date of consummation of the Change of Control, state that the Repurchase Offer is conditioned on a Change of Control Repurchase Event occurring on or prior to the Repurchase Date.

(b) The Company will comply with the requirements of Rule 14e-1 under the Exchange Act, and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control Repurchase Event. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control Repurchase Event provisions of the Notes, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control Repurchase Event provisions of the Notes by virtue of such conflict.

- (c) On the Repurchase Date following a Change of Control Repurchase Event, the Company will, to the extent lawful:
- (1) accept for payment all Notes or portions of Notes properly tendered pursuant to the Repurchase Offer;
 - (2) deposit with the Trustee, or with such Paying Agent as the Trustee may designate, an amount equal to the aggregate Repurchase Price for all Notes or portions of Notes properly tendered; and
 - (3) deliver, or cause to be delivered, to the Trustee the Notes properly accepted, together with an Officers' Certificate stating the aggregate principal amount of Notes being repurchased by the Company pursuant to the Repurchase Offer and that all conditions precedent to the repurchase by the Company of Notes pursuant to the Repurchase Offer have been complied with.
- (d) The Trustee will promptly mail, or cause the Paying Agent to promptly mail, to each Holder of Notes, or portions of Notes, properly tendered the Repurchase Price for such Notes, or portions of such Notes, and the Trustee will promptly authenticate and mail (or cause to be transferred by book-entry) to each Holder a new note equal in principal amount to any unpurchased portion of any Notes surrendered, as applicable; provided that each new note will be in a principal amount equal to \$2,000 and integral multiples of \$1,000 in excess thereof.
- (e) The Company will not be required to make a Repurchase Offer upon a Change of Control Repurchase Event if a third party makes such an offer in the manner, at the times and otherwise in compliance with the requirements for such an offer made by the Company and such third party purchases all Notes or portions of Notes properly tendered and not withdrawn under its offer.

ARTICLE III

Miscellaneous

SECTION 3.01 Application of Seventh Supplemental Indenture. Except as expressly provided herein, each and every term and condition contained in this Seventh Supplemental Indenture that modifies, amends or supplements the terms and conditions of the Base Indenture shall apply only to the Notes established hereby, and not to any other series of Securities established under the Base Indenture. Except as specifically amended and supplemented by, or to the extent inconsistent with, this Seventh Supplemental Indenture, the Base Indenture shall remain in full force and effect and is hereby ratified and confirmed.

SECTION 3.02 Effective Date of Seventh Supplemental Indenture. This Seventh Supplemental Indenture shall be effective upon the execution and delivery hereof by each of the parties hereto.

SECTION 3.03 Counterparts. This Seventh Supplemental Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument. The words “execution,” “signed,” “signature,” and words of like import in this Seventh Supplemental Indenture or in any other certificate, agreement or document related to this Seventh Supplemental Indenture or the Notes shall include images of manually executed signatures transmitted by facsimile or other electronic format (including, without limitation, “pdf”, “tif” or “jpg”) and electronic signatures provided by DocuSign, AdobeSign or such other digital signature provider as specified in writing to the Trustee by an authorized representative of the Company. For the avoidance of doubt, any written communication to the Trustee hereunder may be signed manually and transmitted by facsimile or other electronic format (including, without limitation, “pdf”, “tif” or “jpg”) or signed by way of an electronic signature provided by DocuSign, AdobeSign or such other digital signature provider as specified in writing to the Trustee by an authorized representative of the Company. The use of electronic signatures and electronic records (including, without limitation, any contract or other record created, generated, sent, communicated, received, or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code. The Company agrees to assume all risks arising out of the use of digital signatures and electronic methods to submit communications to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

SECTION 3.04 Trustee Not Responsible for Recitals. The recitals herein contained are made by the Company and not by the Trustee, and the Trustee assumes no responsibility for the correctness thereof. The Trustee makes no representation as to the validity or sufficiency of this Seventh Supplemental Indenture.

SECTION 3.05 Governing Law. This Seventh Supplemental Indenture and the Notes shall be construed in accordance with and governed by the laws of the State of New York.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have caused this Seventh Supplemental Indenture to be duly executed as of the date first written above.

NORFOLK SOUTHERN CORPORATION

By: /s/ Christopher R. Neikirk
Name: Christopher R. Neikirk
Title: Vice President & Treasurer

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: /s/ Christopher J. Grell

Name: Christopher J. Grell

Title: Vice President

[FORM OF FACE OF NOTE]

[For Global Notes, include the following legend:

THIS NOTE IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITARY NAMED BELOW OR A NOMINEE OF THE DEPOSITARY. THIS NOTE IS NOT EXCHANGEABLE FOR NOTES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITARY OR ITS NOMINEE EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE, AND NO TRANSFER OF THIS NOTE (OTHER THAN A TRANSFER OF THIS NOTE AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY) MAY BE REGISTERED EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

[Add the following if the Depositary is DTC: UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), NEW YORK, NEW YORK, TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO., OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.]]

[FORM OF FACE OF NOTE]

No. _____

[Include for Global Notes: Up to] \$_____

2.900% Senior Note due 2051

CUSIP No. 655844 CL0

NORFOLK SOUTHERN CORPORATION, a Virginia corporation, promises to pay to [*include* “Cede & Co.” *for a Global Note*], or registered assigns, the principal sum of \$_____ [*include for a Global Note*: adjusted as set forth on the Schedule of Increases or Decreases in Global Note annexed hereto] on August 25, 2051.

Interest Payment Dates: February 25 and August 25, commencing on February 25, 2022.

Record Dates: February 10 and August 10.

Additional provisions of this Note are set forth on the other side of this Note.

IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed.

NORFOLK SOUTHERN CORPORATION

By _____
Name:
Title:

TRUSTEE’S CERTIFICATE OF
AUTHENTICATION

Dated:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee, certifies that this is one of
the Notes referred to in the Indenture.

By: _____
Authorized Signatory

[FORM OF REVERSE SIDE OF NOTE]

2.900% Senior Note due 2051

1. Interest

NORFOLK SOUTHERN CORPORATION, a Virginia corporation (such corporation, and its successors and assigns under the Indenture hereinafter referred to, being herein called the “Company”), promises to pay interest on the principal amount of this Note at the rate per annum shown above. The Company will pay interest semiannually in arrears on February 25 and August 25 of each year, commencing February 25, 2022. Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from August 25, 2021. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. The Company shall pay interest on overdue principal at the rate per annum borne by the Notes, and it shall pay interest on overdue installments of interest at the rate per annum borne by the Notes to the extent lawful.

2. Method of Payment

The Company will pay interest on the Notes (except defaulted interest) to the Persons who are Holders at the close of business on the February 10 or August 10, as the case may be, next preceding the Interest Payment Date even if Notes are canceled after the record date and on or before the Interest Payment Date. Holders must surrender Notes to a Paying Agent to collect principal payments. The Company will pay principal and interest in money of the United States of America that at the time of payment is legal tender for payment of public and private debts. Payments in respect of the Notes represented by a Global Note (including principal, premium, if any, and interest) will be made by wire transfer of immediately available funds to the accounts specified by the Depository. The Company will make all payments in respect of a definitive Note (including principal, premium, if any, and interest) by mailing a check to the registered address of each Holder thereof; provided, however, that payments on the Notes may also be made, in the case of a Holder of at least \$1,000,000 aggregate principal amount of Notes, by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 30 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion).

3. Paying Agent and Registrar

Initially, U.S. Bank National Association, a national banking association (the “Trustee”), will act as Paying Agent and Registrar. The Company may appoint and change any Paying Agent or Registrar without notice. The Company or any of its domestically incorporated Wholly Owned Subsidiaries may act as Paying Agent or Registrar.

4. Indenture

The Company issued the Notes under an Indenture, dated as of February 28, 2018, as supplemented by the Seventh Supplemental Indenture, dated as of August 25, 2021 (together, the “Indenture”), between the Company and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939 (15 U.S.C. §§ 77aaa-77bbb) as in effect on the date of the Indenture (the “TIA”). The Notes are subject to all such terms, and Holders are referred to the Indenture and the TIA for a statement of those terms. Terms defined in the Indenture and not defined in this Note have the meanings ascribed thereto in the Indenture.

The Notes are unsubordinated, unsecured obligations of the Company. This Note is one of the series of Securities referred to in the Indenture, designated as the Company’s “2.900% Senior Notes due 2051” (the “Notes”) and initially issued in an aggregate principal amount of \$600,000,000. The Notes include such \$600,000,000 aggregate principal amount of Notes and an unlimited aggregate principal amount of additional Notes that may be issued under the Indenture. Such Notes and such additional Notes will be treated as a single series and class of Securities under the Indenture. The Indenture imposes certain limitations on the ability of the Company and its Restricted Subsidiaries to create or incur Liens, the Restricted Subsidiaries to create or incur Funded Debt and the Company to consolidate or merge with or into any other Person or sell, transfer, assign, lease, convey or otherwise dispose of all or substantially all of its assets to any Person.

5. Optional Redemption

The Notes will be redeemable as a whole at any time or in part from time to time, at the option of the Company as set forth in this paragraph 5. If the Notes are redeemed prior to the date that is six months prior to the Stated Maturity of the Notes, the Redemption Price of the Notes to be redeemed will be equal to the greater of (i) 100% of the principal amount of such Notes or (ii) the sum of the present values of the remaining scheduled payments of principal and interest thereon to and including the date that is six months prior to the Stated Maturity of the Notes (exclusive of interest accrued to, but not including, the Redemption Date) discounted to the Redemption Date on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Yield plus 20 basis points, plus in each case accrued and unpaid interest on the principal amount being redeemed to, but not including, the Redemption Date.

If the Notes are redeemed on or after the date that is six months prior to the Stated Maturity, the Redemption Price for the Notes to be redeemed will equal 100% of the principal amount of such Notes, plus accrued and unpaid interest to, but not including, the Redemption Date.

“Treasury Yield” means, with respect to any Redemption Date, (1) the yield, under the heading which represents the average for the immediately preceding week, appearing in the most recently published statistical release designated “H.15” or any successor publication which is published weekly by the Board of Governors of the Federal Reserve System and which establishes yields on actively traded United States Treasury securities adjusted to constant maturity under the caption “Treasury Constant Maturities,” for the maturity corresponding to the Comparable Treasury Issue (if no maturity is within three months before or after the date that is six months prior to the Stated Maturity of the Notes, yields for the two published maturities most closely corresponding to the Comparable Treasury Issue will be determined and the Treasury Yield will be interpolated or extrapolated from such yields on a straight line basis, rounding to the nearest month), or (2) if such release (or any successor release) is not published during the week preceding the calculation date or does not contain such yields, the rate per annum equal to the semi-annual equivalent yield-to-maturity of the Comparable Treasury Issue, calculated using a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price of such Redemption Date. The Treasury Yield will be calculated on the third Business Day preceding the Redemption Date.

“Comparable Treasury Issue” means the United States Treasury security selected by the Independent Investment Banker as having a maturity most comparable to the date that is six months prior to the Stated Maturity of the Notes, that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of a maturity comparable to the remaining term of the Notes.

“Independent Investment Banker” means one of the Reference Treasury Dealers appointed by the Company.

“Comparable Treasury Price” means (A) the average of five Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest Reference Treasury Dealer Quotations, or (B) if the Independent Investment Banker obtains fewer than five such Reference Treasury Dealer Quotations, the average of all such quotations.

“Reference Treasury Dealer” means each of (i) Citigroup Global Markets Inc., Goldman Sachs & Co. LLC and a Primary Treasury Dealer (as defined herein) appointed by U.S. Bancorp Investments, Inc.; and (ii) two other primary U.S. Government securities dealers in New York, New York (“Primary Treasury Dealers”) appointed by the Company and their respective successors; provided, however, that if any of the foregoing ceases to be a Primary Treasury Dealer or otherwise fails to provide a Reference Treasury Dealer Quotation, the Company will substitute therefor another Primary Treasury Dealer.

“Reference Treasury Dealer Quotation” means a quotation for a Comparable Treasury Issue provided by a Reference Treasury Dealer.

6. Sinking Fund

The Notes are not subject to any sinking fund.

7. Notice of Redemption

Notice of redemption will be mailed by first-class mail at least 30 days but not more than 60 days before the Redemption Date to each Holder of Notes to be redeemed at his or her registered address. Notes in denominations larger than \$2,000 may be redeemed in part but only in whole multiples of \$1,000. If the Company deposits with the Paying Agent money sufficient to pay the Redemption Price of and accrued interest on all Notes (or portions thereof) to be redeemed on the Redemption Date by 10:00 a.m. New York City time on the Redemption Date and certain other conditions are satisfied, on and after such Redemption Date interest ceases to accrue on such Notes (or such portions thereof) called for redemption.

8. Denominations; Transfer; Exchange

The Notes are in registered form without coupons in minimum denominations of \$2,000 and whole multiples of \$1,000 in excess thereof. A Holder may transfer or exchange Notes in accordance with the Indenture. Upon any transfer or exchange, the Company may require a Holder to cover any transfer tax or similar governmental charge payable in connection therewith. The Registrar need not register the transfer of or exchange any Notes selected for redemption (except, in the case of a Note to be redeemed in part, the portion of the Note not to be redeemed) or to issue, register the transfer of or exchange any Notes for a period of 15 Business Days prior to the mailing of a notice of redemption of Notes to be redeemed.

9. Persons Deemed Owners

The Holder of this Note may be treated as the owner of it for all purposes.

10. Unclaimed Money

If money for the payment of principal, premium, if any, or interest remains unclaimed for two years after such amount has become due and payable, the Trustee or Paying Agent shall pay the money back to the Company at its written request unless an applicable abandoned property law designates another Person to receive such money. After any such payment, Holders entitled to the money must look only to the Company, and not to the Trustee or Paying Agent, for payment.

11. Discharge; Defeasance

Subject to certain conditions, the Company at any time may terminate certain or all of its Obligations under the Notes and the Indenture if the Company deposits with the Trustee money, U.S. Government Obligations or a combination thereof sufficient to pay and discharge each installment of principal of, premium, if any, and interest on the Notes on the dates such installments of interest or principal and premium are due. The Company may also satisfy and discharge the Indenture by delivering to the Trustee for cancellation all Notes that have theretofore been authenticated and delivered, subject to certain conditions.

12. Amendment, Waiver

The Indenture contains provisions permitting the Company and the Trustee, with the consent of the Holders of not less than a majority in principal amount of the Outstanding Notes affected, to amend or supplement the Indenture; provided, however, that no such amendment or supplement shall without the consent of each Holder of Notes (i) reduce the amount of Notes whose Holders must consent to an amendment, supplement or waiver; (ii) reduce the rate of interest on any Notes; (iii) reduce the principal amount of or the premium, if any, on any Notes or change the Stated Maturity of any Notes; (iv) change the place, manner, timing or Currency of payment of principal of, premium, if any, or interest on any Notes; or (v) make any change in the amendment and waiver provisions. The Indenture also contains provisions permitting the Holders of not less than a majority in principal amount of the Outstanding Notes affected thereby, on behalf of all of the Holders of Notes, to waive compliance by the Company with any provision of the Indenture or the Notes, provided that such waiver shall not affect the above provisions (i) – (v).

13. Defaults and Remedies

If an Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then Outstanding, by a notice in writing to the Company (and to the Trustee if given by Holders), may declare the unpaid principal of (premium, if any) and accrued interest on, if any, Notes to be immediately due and payable. Certain events of bankruptcy or insolvency are Events of Default.

Holders of Notes may not enforce the Indenture or the Notes except as provided in the Indenture. The Trustee may refuse to enforce the Indenture or the Notes unless it receives indemnity or security satisfactory to it. Subject to certain limitations, Holders of a majority in aggregate principal amount of the Notes may direct the Trustee in its exercise of any trust or power under the Indenture. The Holders of a majority in aggregate principal amount of the Notes then Outstanding, by written notice to the Company and the Trustee, may rescind and annul any declaration of acceleration and its consequences if the Company has paid or deposited with the Trustee a sufficient sum under the Indenture and all existing Events of Default, except nonpayment of principal, premium, if any, or interest on the Notes that has become due solely by such declaration of acceleration, have been cured or waived.

14. Trustee Dealings with the Company

Subject to certain limitations imposed by the TIA, the Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with and collect obligations owed to it by the Company or its Affiliates and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee.

15. No Recourse Against Others

A director, officer, employee or stockholder of the Company or the Trustee, as such, shall not have any liability for any Obligations of the Company under the Notes or for any Obligations of the Company or the Trustee under the Indenture or for any claim based on, in respect of or by reason of such Obligations or their creation. By accepting a Note, each Holder waives and releases all such liability. The waiver and release are part of the consideration for the issue of the Notes.

16. Successors

Subject to certain exceptions set forth in the Indenture, when a successor assumes all the Obligations of its predecessor under the Notes and the Indenture in accordance with the terms of the Indenture, the predecessor will be released from those Obligations.

17. Authentication

This Note shall not be valid until an authorized signatory of the Trustee (or an authenticating agent) manually signs the certificate of authentication on the other side of this Note.

18. Abbreviations

Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (=tenants in common), TEN ENT (=tenants by the entireties), JT TEN (=joint tenants with rights of survivorship and not as tenants in common), CUST (=custodian), and U/G/M/A (=Uniform Gift to Minors Act).

19. Governing Law

THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THE INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED THEREBY AND HEREBY.

20. CUSIP Numbers

Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and has directed the Trustee to use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

The Company will furnish to any Holder upon written request and without charge to the Holder a copy of the Indenture which has in it the text of this Note.

FORM OF ASSIGNMENT

For value received _____ hereby sell(s), assign(s) and transfer(s) unto _____ (Please insert social security or other identifying number of assignee) the within Note, and hereby irrevocably constitutes and appoints _____ as attorney to transfer the said Note on the books of the Company, with full power of substitution in the premises.

Dated:

Signature(s)

Signature(s) must be guaranteed by an Eligible Guarantor Institution with membership in an approved signature guarantee program pursuant to Rule 17Ad-15 under the Securities Exchange Act of 1934.

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The initial principal amount of this Global Note is \$_____. The following increases or decreases in this Global Note have been made:

<u>Date of Exchange</u>	<u>Amount of decrease in Principal Amount of this Global Note</u>	<u>Amount of increase in Principal Amount of this Global Note</u>	<u>Principal amount of this Global Note following such decrease or increase</u>	<u>Signature of authorized signatory of Trustee or Notes Custodian</u>
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Vanessa Allen Sutherland, Esq.
Executive Vice President and
Chief Legal Officer

August 25, 2021

Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510

RE: Norfolk Southern Corporation Notes Offering

Ladies and Gentlemen:

As Executive Vice President and Chief Legal Officer of Norfolk Southern Corporation, a Virginia corporation (the “Company”), I delivered to you an opinion letter dated February 4, 2021 (the “Opinion”), in connection with the Company’s Automatic Shelf Registration Statement on Form S-3ASR, File No. 333-252723 (the “Registration Statement”), filed with the Securities and Exchange Commission (the “Commission”) on February 4, 2021. The Registration Statement was filed for the purpose of registering under the Securities Act of 1933, as amended (the “Securities Act”), the Offered Securities (as defined in the Opinion).

As Executive Vice President and Chief Legal Officer, I am furnishing this opinion in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act with respect to the offer and sale of \$600,000,000 aggregate principal amount of the Company’s 2.900% Senior Notes due 2051 (the “Notes”) to be issued under the Indenture, dated as of February 28, 2018 (the “Base Indenture”), as supplemented by a seventh supplemental indenture, dated as of August 25, 2021 (together with the Base Indenture, the “Indenture”), by and between the Company and U.S. Bank National Association, as trustee (the “Trustee”).

In rendering the opinions stated below, I have, or an attorney working for me has, examined and relied upon the following: (i) the Registration Statement; (ii) the Indenture; (iii) the Prospectus dated February 4, 2021 (the “Prospectus”); and (iv) a Prospectus Supplement to the Prospectus dated August 16, 2021 (the “Prospectus Supplement”). I have, or an attorney working for me has, also examined originals or copies, certified or otherwise identified to my satisfaction, of such other documents, certificates and records as I have deemed necessary or appropriate as a basis for the opinions stated below.

In my examination, I have assumed the genuineness of all signatures, including electronic signatures, the legal capacity and competency of all natural persons, the authenticity of all documents submitted to me as originals, the conformity to original documents of all documents submitted to me as facsimile, electronic, certified or photocopied copies and the authenticity of the originals of such copies.

In making my examination of executed documents or documents to be executed, I have assumed that the parties thereto, other than the Company, had or will have the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, the execution and delivery by such parties of such documents and the validity and binding effect thereof on such parties. As to any facts material to the opinions stated below which I did not independently establish or verify, I have relied upon statements and representations of officers and other representatives of the Company and others and of public officials.

I am a member of the Bar of the Commonwealth of Virginia, and I do not express any opinion with respect to the laws of any jurisdiction other than the laws of the Commonwealth of Virginia and, to the extent that judicial or regulatory orders or decrees or consents, approvals, licenses, authorizations, validations, filings, recordings or registrations with governmental authorities are relevant, to those required under such laws (all of the foregoing being referred to as “Opined on Law”). I do not express any opinion with respect to the law of any jurisdiction other than Opined on Law or as to the effect of any such non-Opined on Law on the opinions stated below. The opinions stated below are based on laws in effect on the date hereof, which laws are subject to change with possible retroactive effect, and I disclaim any undertaking to advise you of any subsequent changes in the facts stated or assumed herein or of any subsequent changes in applicable laws.

Based upon the foregoing and subject to the limitations, qualifications, exceptions and assumptions stated herein, I am of the opinion that the Notes have been legally issued and constitute valid and binding obligations of the Company, entitled to the benefits of the Indenture and enforceable against the Company in accordance with their respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or similar laws relating to or affecting creditors’ rights generally and by general principles of equity including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing and the possible unavailability of specific performance or injunctive relief, regardless of whether considered in a proceeding in equity or at law and will be entitled to the benefits of the Indenture.

I hereby consent to the filing of this opinion with the Commission as Exhibit 5.1 to the Current Report on Form 8-K to be filed by the Company as of the date hereof. I also hereby consent to the reference to me under the caption “Legal Matters” in the Prospectus Supplement. In giving this consent, I do not thereby admit that I am included in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

Very truly yours,

By: /s/ Vanessa A. Sutherland

Name: Vanessa A. Sutherland

Title: Executive Vice President &
Chief Legal Officer

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

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TOKYO
TORONTO

August 25, 2021

Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510

RE: Norfolk Southern Corporation Senior Notes Offering

Ladies and Gentlemen:

We have acted as special United States counsel to Norfolk Southern Corporation, a Virginia corporation (the “Company”), in connection with the public offering of \$600,000,000 aggregate principal amount of the Company’s 2.900% Senior Notes due 2051 (the “Notes”) to be issued under the Base Indenture, dated as of February 28, 2018 (the “Base Indenture”), as supplemented by a seventh supplemental indenture, dated as of August 25, 2021 (the “Seventh Supplemental Indenture” and, together with the Base Indenture, the “Indenture”), between the Company and U.S. Bank National Association, as trustee (the “Trustee”).

This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act of 1933 (the “Securities Act”).

In rendering the opinion stated herein, we have examined and relied upon the following:

(a) the registration statement on Form S-3 (File No. 333-252723) of the Company relating to the debt securities and other securities of the Company filed on February 4, 2021 with the Securities and Exchange Commission (the “Commission”) under the Securities Act allowing for delayed offerings pursuant to Rule 415 of the General Rules and Regulations under the Securities Act (the “Rules and Regulations”), including the information deemed to be a part of the registration statement pursuant to Rule 430B of the Rules and Regulations (such registration statement being hereinafter referred to as the “Registration Statement”);

(b) the prospectus, dated February 4, 2021 (the “Base Prospectus”), which forms a part of and is included in the Registration Statement;

(c) the preliminary prospectus supplement, dated August 16, 2021 (together with the Base Prospectus, the “Preliminary Prospectus”), relating to the offering of the Notes, in the form filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations;

(d) the prospectus supplement, dated August 16, 2021 (together with the Base Prospectus, the “Prospectus”), relating to the offering of the Notes, in the form filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations;

(e) an executed copy of the Underwriting Agreement, dated August 16, 2021 (the “Underwriting Agreement”), among the Company and Citigroup Global Markets Inc., Goldman Sachs & Co. LLC and U.S. Bancorp Investments, Inc., as representatives of the several underwriters named therein (the “Underwriters”), relating to the sale by the Company to the Underwriters of the Notes;

(f) an executed copy of the Base Indenture;

(g) an executed copy of the Seventh Supplemental Indenture; and

(h) the global certificates evidencing the Notes executed by the Company and registered in the name of Cede & Co. (the “Note Certificates”), delivered by the Company to the Trustee for authentication and delivery.

We have also examined originals or copies, certified or otherwise identified to our satisfaction, of such records of the Company and such agreements, certificates and receipts of public officials, certificates of officers or other representatives of the Company and others, and such other documents as we have deemed necessary or appropriate as a basis for the opinion stated below.

In our examination, we have assumed the genuineness of all signatures, including electronic signatures, the legal capacity and competency of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified or photocopied copies, and the authenticity of the originals of such copies. As to any facts relevant to the opinion stated herein that we did not independently establish or verify, we have relied upon statements and representations of officers and other representatives of the Company and others and of public officials, including the factual representations and warranties contained in the Underwriting Agreement.

We do not express any opinion with respect to the laws of any jurisdiction other than of the State of New York.

As used herein, “Transaction Documents” means the Underwriting Agreement, the Indenture and the Note Certificates.

Based upon the foregoing and subject to the qualifications and assumptions stated herein, we are of the opinion that when authenticated by the Trustee and issued and delivered by the Company against payment therefor in accordance with the terms of the Underwriting Agreement and the Indenture, the Note Certificates will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms under the laws of the State of New York.

The opinion stated herein is subject to the following qualifications:

- (a) we do not express any opinion with respect to the effect on the opinion stated herein of any bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer, preference and other similar laws and governmental orders affecting creditors’ rights generally, and the opinion stated herein is limited by such laws and governmental orders and by general principles of equity (regardless of whether enforcement is sought in equity or at law);
 - (b) we do not express any opinion with respect to any law, rule or regulation that is applicable to any party to any of the Transaction Documents or the transactions contemplated thereby solely because such law, rule or regulation is part of a regulatory regime applicable to any such party or any of its affiliates as a result of the specific assets or business operations of such party or such affiliates;
 - (c) except to the extent expressly stated in the opinion contained herein, we have assumed that each of the Transaction Documents constitutes the valid and binding obligation of each party to such Transaction Document, enforceable against such party in accordance with its terms;
 - (d) we do not express any opinion with respect to the enforceability of any provision contained in any Transaction Document relating to any indemnification, contribution, non-reliance, exculpation, release, limitation or exclusion of remedies, waiver or other similar provisions having similar effect that may be contrary to public policy or violative of federal or state securities laws, rules or regulations or to the extent any such provision purports to, or has the effect of, waiving or altering any statute of limitations;
 - (e) we do not express any opinion with respect to the enforceability of Section 6.12 of the Indenture;
 - (f) to the extent that any opinion relates to the enforceability of the choice of New York law and choice of New York forum provisions contained in any Transaction Documents, the opinion stated herein is subject to the qualification that such enforceability may be subject to, in each case, (i) the exceptions and limitations in New York General Obligations Law sections 5-1401 and 5-1402 and (ii) principles of comity and constitutionality; and
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- (g) we call to your attention that irrespective of the agreement of the parties to any Transaction Document, a court may decline to hear a case on grounds of forum non conveniens or other doctrine limiting the availability of such court as a forum for resolution of disputes; in addition, we call to your attention that we do not express any opinion with respect to the subject matter jurisdiction of the federal courts of the United States of America in any action arising out of or relating to any Transaction Document.

In addition, in rendering the foregoing opinions we have assumed that, at all applicable times:

- (a) the Company (i) was duly incorporated and was validly existing and in good standing, (ii) had requisite legal status and legal capacity under the laws of the jurisdiction of its organization and (iii) has complied and will comply with all aspects of the laws of the jurisdiction of its organization in connection with the transactions contemplated by, and the performance of its obligations under, the Transaction Documents;
- (b) the Company had the corporate power and authority to execute, deliver and perform all its obligations under each of the Transaction Documents;
- (c) each of the Transaction Documents had been duly authorized, executed and delivered by all requisite corporate action on the part of the Company;
- (d) neither the execution and delivery by the Company of the Transaction Documents nor the performance by the Company of its obligations thereunder, including the issuance and sale of the Notes: (i) conflicted or will conflict with the articles of incorporation or by-laws of the Company, (ii) constituted or will constitute a violation of, or a default under, any lease, indenture, agreement or other instrument to which the Company or its property is subject (except that we do not make the assumption set forth in this clause (ii) with respect to those agreements or instruments expressed to be governed by the laws of the State of New York which are listed in Part II of the Registration Statement or the Company's most recent Annual Report on Form 10-K), (iii) contravened or will contravene any order or decree of any governmental authority to which the Company or its property is subject, or (iv) violated or will violate any law, rule, or regulation to which the Company or its property is subject; and
- (e) neither the execution and delivery by the Company of the Transaction Documents nor the performance by the Company of its obligations thereunder, including the issuance and sale of the Notes, required or will require the consent, approval, licensing or authorization of, or any filing, recording or registration with, any governmental authority under any law, rule or regulation of any jurisdiction.
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We hereby consent to the reference to our firm under the heading “Legal Matters” in the Preliminary Prospectus and the Prospectus. In giving this consent, we do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the Rules and Regulations. We also hereby consent to the filing of this opinion with the Commission as an exhibit to the Company’s Current Report on Form 8-K being filed on the date hereof, and incorporated by reference into the Registration Statement. This opinion is expressed as of the date hereof unless otherwise expressly stated, and we disclaim any undertaking to advise you of any subsequent changes in the facts stated or assumed herein or of any subsequent changes in applicable laws.

Very truly yours,

/s/ Skadden, Arps, Slate, Meagher & Flom LLP

DJG
