

TRANSPORTATION CORPORATION OF AMERICA
CAR LEASING AGREEMENT
MAY 14 1971 - 9 49 AM
INTERSTATE COMMERCE COMMISSION

THIS AGREEMENT, dated this 12th day of December, 1970,
by and between TRANSPORTATION CORPORATION OF AMERICA, an Illinois corporation,
(hereinafter called "Transportation"), and BURLINGTON NORTHERN INC., a corpora-
tion with its principal place of business at St. Paul, Minnesota, (hereinafter
called "Lessee"),

WITNESSETH:

By agreement dated June 28, 1968, Transportation leased to Northern
Pacific Railway Company (predecessor in interest to Lessee) certain cars des-
cribed as follows:

<u>Number of Cars</u>	<u>Type of Car</u>	<u>Monthly Rental Per Car</u>
5	66-foot "Center-Beam" Bulkhead flat cars with 100-ton capacity roller bearing trucks without tie-down equipment.	\$200

Said agreement has now expired by its own terms and it is desired
to modify said five cars and continue their possession by Lessee along with one
additional like car under the terms and conditions stated herein.

NOW, THEREFORE, it is mutually agreed:

Description of
Cars and Rental

1. Lessee shall deliver the five cars described
above to Transportation at Chicago Heights, Illinois,
for modifications including painting and stenciling,
said modification to be as indicated on Thrall Car
Manufacturing Company drawing 3F1-1997-2 Issue A 8-25-70
and/or as otherwise mutually agreed upon. Lessee shall
take delivery at Chicago Heights, Illinois, of an addi-
tional car essentially identical to the five described
above after modification. Until such time as the modi-
fication of the five cars is accomplished, Lessee shall
pay rental to Transportation and shall use said five
cars in accordance with the conditions of the June 28,
1968, agreement referenced to hereinabove. Upon com-
pletion of the modification of the five cars and upon
delivery of the additional car, Transportation hereby
leases to Lessee, and Lessee agrees to accept and use
exclusively upon the terms and conditions herein set
forth, the following described cars (hereinafter referred
to as "the cars"), and to pay Transportation for the use
of each of the cars the following rental:

<u>Number of Cars</u>	<u>Type of Car</u>	<u>Monthly Rental Per Car</u>
6	66-foot "Center-Beam" Bulkhead flat cars with 100-ton capacity roller bearing trucks.	\$240
<u>Car Nos.</u>	BN-623114, 624071, 624072, 624073, 624074 & 624075	
<u>Term of Lease</u>	2. The term of this lease shall commence upon acceptance of each car as provided in Paragraph 1 and 5 hereof and shall terminate in five (5) years.	
<u>Delivery and Use of Cars</u>	3. Transportation agrees to deliver the cars to Lessee at Chicago Heights, Illinois. Transportation's obligation as to such deliveries shall be subject to all delays resulting from causes beyond its control. Lessee agrees to use the cars exclusively in its service, and none of the cars shall be shipped beyond the boundaries of the United States or Canada, except with the prior written consent of Transportation.	
<u>Payment of Rental</u>	4. Lessee agrees to pay the monthly rental with respect to each of the cars from the date of delivery thereof and until such car is returned to Transportation upon the termination of this Agreement. Such monthly rentals shall be paid to Transportation at its principal office, 26th and State Streets, Chicago Heights, Illinois 60411, in advance of the first day of each month, prorating, however, any period which is less than a full month.	
<u>Cars Subject to Lessee's Inspections</u>	5. Each of the cars shall be subject to Lessee's inspection before loading, and the loading of each such car by Lessee or at its direction shall constitute acceptance thereof by Lessee, and shall be conclusive evidence of the fit and suitable condition thereof.	
<u>Marking of Cars</u>	6. Cars shall expressly remain the property of Transportation and shall, prior to delivery, be stenciled with the following legend: "Transportation Corporation of America, Owner and Lessor." Transportation agrees, however, to cause before delivery, each car to be marked by stenciling with Lessee's reporting marks.	
<u>Reports and Car Hire Earnings</u>	7. Lessee agrees that upon request it will furnish Transportation with such reports of the car movements as it may have available, including dates loaded and shipped, commodity, destination, and full junction routing, and all information which Lessee may receive from railroad companies or other sources which may be of use to Transportation. Lessee will operate the cars in such a manner as to make them qualified for time/mileage rather than mileage earnings, and Transportation agrees Lessee shall collect and retain all such car hire earned by the cars.	

Maintenance

8. Lessee shall promptly notify Transportation upon receipt by Lessee of knowledge of any damage to any of the cars. Repairs other than running repairs (as specified by the rules of the AAR) shall be at Transportation expense and this shall include any repairs necessary due to structural defects. Lessee agrees it will not perform repairs at Transportation expense without first receiving consent from Transportation. Lessee agrees to perform whatever maintenance may be necessary to conform to provision in Paragraph 17 pertaining to condition of cars upon return of cars to Transportation.

Cars Removed From Service

9. In the event any of the cars are totally damaged or destroyed, the monthly rental with respect to such car shall terminate upon receipt by Transportation of notification thereof. In such event, Lessee agrees to make prompt payment to Transportation for such car in the amount of car's value in accordance with the settlement basis provided by the rules of the AAR. Transportation agrees Lessee shall retain all reimbursement (under Association of American Railroads rule) from the railroad on whose lines the car was destroyed, and Lessee shall retain whatever salvage value may remain in the destroyed car. In the event any of the cars are reported to be bad ordered and Transportation elects to permanently remove such car from Lessee's service rather than have such car taken to a railroad or car shop for repairs, the monthly rental with respect to such car shall terminate upon receipt by Transportation of notification that such car was bad ordered. Transportation shall have the right, but shall not be obligated, to substitute for any such car another car of the same type and capacity and the monthly rental with respect to such substituted car shall commence upon delivery of such substituted car to Lessee.

Responsibility for Damage Resulting from Lading

10. In the event any of the cars, or the fittings, appliances or appurtenances thereto, shall become damaged by the commodity loaded therein or thereon, Lessee agrees to assume financial responsibility for such damage.

Responsibility for Lading

11. Transportation shall not be liable for any loss or damage to commodities, or any part thereof, loaded or shipped in or on the cars, and Lessee agrees to assume financial responsibility for, to indemnify Transportation against, and to save it harmless from any such loss or damage.

Responsibility for Removable Parts

12. Lessee, at its own expense, shall either replace or reimburse Transportation for the cost of replacing any appliance or removable part, if destroyed, damaged, lost, removed or stolen.

Indemnification

13. Lessee agrees to indemnify and hold Transportation harmless from and against any loss, liability, claim, damage or expense (including, unless Lessee assumes the defense, the reasonable cost of investigating and defending against any claim for damages) arising out of or in connection with the use of the cars during the term of

this agreement, excepting, however, any loss, liability, claim, damage or expense which accrues with respect to any of the cars while such car is in a repair shop undergoing repairs; which is attributable to the negligence or omission of Transportation, its agents or employees; or for which a railroad or railroads have assumed full responsibility, including investigating and defending against any claim for damages.

Lessee Not to Overload Cars

14. Lessee agrees not to load any of the cars in excess of the capacity stenciled thereon.

Assignment

15. Lessee shall make no transfer or assignment of its interest under this agreement in and to the cars without Transportation's prior written consent. No right, title or interest in any of these cars shall vest in Lessee by reason of this agreement or by reason of the delivery to or use by Lessee of the cars, except the right to use the cars in accordance with the terms of this agreement.

Remedies

16. If Lessee shall fail to perform any of its obligations hereunder, Transportation at its election may either (a) terminate this agreement immediately, or (b) withdraw the cars from the service of Lessee and deliver the same, or any thereof, to others upon such terms as Transportation may see fit.

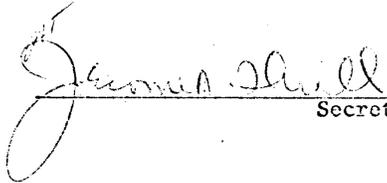
If Transportation shall elect to proceed in accordance with Clause (b) above, and if Transportation during the balance of the term of this agreement shall fail to collect for the use of the cars a sum at least equal to all unpaid rentals hereunder to the stated date of termination hereof plus an amount equal to all expenses of withdrawing the cars from service of Lessee and collecting the earnings thereof, Lessee agrees to pay from time to time upon demand by Transportation the amount of any such deficiency. It is expressly understood that Transportation at its option may terminate this agreement in the event that a petition in bankruptcy or a petition for a trustee or receiver be filed by or against Lessee or in the event that Lessee shall make an assignment for creditors.

Return of Cars

17. Upon the termination of this agreement, Lessee agrees, subject to the provisions of Paragraph 9 above, to return the cars to Transportation at Chicago Heights, Illinois, or at such other place or places as are mutually agreed to, in the same or as good condition as received, ordinary wear and tear excepted, free from all charges and liens which may result from any act or default of Lessee, and free from all accumulations or deposits from commodities transported in or on the cars while in the service of Lessee. If any of the cars are not returned to Transportation free from such accumulations or deposits, Lessee shall reimburse Transportation for any expense incurred in cleaning such car.

IN WITNESS WHEREOF, the parties have duly executed this agreement in two counterparts (each of which shall be deemed an original) the day and year first above written.

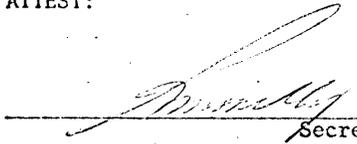
ATTEST:


Secretary

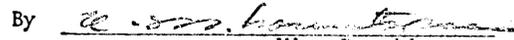
TRANSPORTATION CORPORATION OF AMERICA

By 
President

ATTEST:


Secretary

BURLINGTON NORTHERN INC.

By 
Vice President