COUNTERPART

No. 5 of 12

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INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of November 24, 1971

Between

NORTHWEST PROPERTIES CO., Seller

and

CHICAGO AND NORTH WESTERN RAILWAY COMPANY, Buyer

For Purchase of

11 DIESEL LOCOMOTIVES

AGREEMENT AND ASSIGNMENT

Dated as of November 24, 1971

Between

NORTHWEST PROPERTIES CO., Assignor

and

ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, Assignee

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ENTAL SECURITY AGREEMENT

of November 24, 1971

Between

WESTERN RAILWAY COMPANY

and

IONAL BANK AND TRUST COMPANY
CAGO

CONDITIONAL SALE AGREEMENT, dated as of November 24, 1971, by and between NORTHWEST PROPERTIES CO., a corporation organized under the laws of the State of Illinois, (hereinafter called the "Seller") and CHICAGO AND NORTH WESTERN RAILWAY COMPANY, a corporation organized under the laws of the State of Wisconsin (hereinafter called the "Railroad");

WHEREAS, the Seller has agreed to sell and deliver to the Railroad and the Railroad has agreed to purchase the railway equipment described in Schedule A hereto (hereinafter called the "Equipment");

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, the parties hereto do hereby agree as follows:

1. Sale. The Seller will sell and deliver to the Railroad, and the Railroad will purchase from the Seller and accept delivery of, and pay for, as hereinafter provided, each unit of the Equipment.

2. Delivery. The Seller will deliver the units of the Equipment to the Railroad ready for service and free of all liens, encumbrances and claims of any nature except as provided in this Agreement, with freight charges prepaid at such place or places and at such time or times as Railroad shall designate. Railroad shall not be bound to accept delivery of any unit after March 31, 1972, and any unit not delivered, accepted and settled for hereunder on or before that date shall not be included in the term "Equipment" as used in this Agreement. On delivery of each unit of the Equipment hereunder the Railroad will assume with respect thereto the responsibilities and risk of loss.

3. Purchase Price and Payment. The base price per unit of Equipment is set forth in Schedule A, and shall be subject to increase or decrease due to modification of specifications, additions, deletions or freight charges agreed upon in writing prior to delivery, and the term "Price" as used herein shall mean the base price as so increased or decreased as set forth in the invoice therefore delivered to the Railroad by the Seller. The Equipment delivered to and accepted by the Railroad hereunder shall be settled for on one or more Closing Dates (hereinafter defined) (the Equipment settled for on each Closing Date being hereinafter called a "Group").

The Railroad hereby promises to pay to the Seller at the office of the Seller or at such Bank in Chicago, Illinois as the Seller may designate, the Price of the Equipment delivered

to and accepted by the Railroad hereinunder, and interest, as follows:

(a) On the Closing Date with respect to each Group, an amount equal to twenty percent (20%) of the aggregate Price of all units of Equipment in such Group.

(b) An amount equal to eighty percent (80%) of the aggregate Price of all units of Equipment delivered to and accepted by the Railroad and settled for hereunder, in forty (40) quarterly installments payable on March 31, June 30, September 30, and December 31 of each year (such end-of-quarter dates being hereinafter called the "Payment Dates") commencing on June 30, 1972, and ending on March 31, 1982 (with the right to make prepayments of principal installments without penalty or premium).

(c) Interest, payable quarterly, on the unpaid balance of the aggregate Price of the units of Equipment in each Group, accruing with respect to each Group from the Closing Date for such Group at the rate for each quarter or fraction thereof of three-fourths of one percent (3/4 of 1%) over the prime rate in effect at the Continental Illinois National Bank and Trust Company of Chicago on the first day of that quarter, with payment thereof due on the Payment Date at the end of that quarter.

The term "Closing Date" with respect to a Group for which settlement is to be made shall mean such date (not later than March 31, 1972), not more than fifteen (15) days following presentation by the Seller to the Railroad of the invoice for such Group, as shall be fixed by the Railroad by written notice delivered to the Seller at least three (3) business days prior to the Closing Date designated therein.

Interest under this Agreement shall be determined on the basis of a 365-day year. The Railroad will pay interest at the rate of three fourths of one percent (3/4 of 1%) over the interest rate payable under and as determined in Section 3(c) of this Agreement on all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms of this Agreement.

4. Taxes. All payments to be made by the Railroad hereunder will be free of expense to the Seller in respect of taxes which expense the Railroad assumes and agrees to pay on

demand in addition to the Price of the Equipment. The Railroad will at all times keep each unit of the Equipment free and clear of all taxes and assessments.

5. Title to the Equipment. The Seller shall retain the full legal title to the Equipment delivered to the Railroad hereunder until the Railroad shall have made all of the payments hereunder. When and only when the Seller shall have been paid the full indebtedness in respect of the Price of all the Equipment, together with interest and all other payments as herein provided, absolute title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Seller, except that the Seller, if requested by the Railroad so to do, will execute a bill of sale or instruments in writing as may be necessary or appropriate to make clear upon the public records the title of the Railroad to the Equipment.

6. Marking of Equipment. The Railroad will cause each unit of the Equipment delivered to it to be kept numbered with its identifying number as set out in Schedule A hereto, and will cause each side of each such unit to be kept plainly, distinctly, permanently and conspicuously marked, in letters with the name of the Seller followed by the word "Owner" or other appropriate words designated by the Seller, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Seller to the Equipment and its rights under this Agreement. The Railroad will not place any unit of the Equipment which shall have been delivered to it hereunder in operation or exercise any control or dominion over any such unit unless each side of such unit shall have been so marked and will replace promptly any such marking, which may be removed, defaced or destroyed. The Railroad will not change the numbers of any such units except with the consent of the Seller and in accordance with a statement of new numbers to be substituted therefore, which statement previously shall have been filed with the Seller by the Railroad and shall promptly be filed and recorded by the Railroad with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act.

Except as above provided, the Railroad will not allow the name of any person, association or corporation to be

placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered "Chicago and North Western," or "C.N.W.", or may label the Equipment with the emblem, trademark, or slogan of the Railroad, or may letter the Equipment with the name or initials of any affiliated railroad company which is permitted to use such Equipment as hereinafter provided, or may letter it in some other appropriate manner for convenience of identification of the interest of the Railroad therein.

7. Lost, Destroyed or Damaged Equipment. In the event that any unit of the Equipment shall be worn out, lost, destroyed, or, in the opinion of the Railroad, irreparably damaged or otherwise rendered unsuitable or unfit for use from any cause whatsoever, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise (hereinafter called a "Casualty Occurrence") prior to full payment of the indebtedness and interest thereon, the Railroad shall notify the Seller within thirty days after it has determined that a unit has suffered a Casualty Occurrence.

The Railroad shall, within 30 days of such notification, deposit with the Seller an amount equal to the then unpaid indebtedness on the unit or units suffering a Casualty Occurrence to be applied at any time at the option of the Railroad (i) to the prepayment of installments of indebtedness without penalty or premium, as provided in Section 3(b) of this Agreement, or (ii) to the purchase of other railroad equipment (new or used), other than automobile racks, maintenance equipment, machines or other non-rolling stock equipment (unless otherwise approved in writing by the Seller) for substitution for units suffering a Casualty Occurrence. Equipment substitutions shall be of substantially as good construction, material and character as, and shall have an aggregate value as of the date of substitution not less than the aggregate fair value in good repaid as of the date of substitution of the units suffering a Casualty Occurrence. The fair value of any unit of Equipment in good repair as of the date of substitution, for purposes of this Section 7, shall be deemed to be the Price thereof less an amount representing depreciation to the date of substitution as determined by the method in use at the time in standard railroad practice, and shall be evidenced by a certificate signed by an officer of the Railroad and delivered to the Seller.

Title to such equipment substitutions for units suffering a Casualty Occurrence shall be vested in the seller free from all liens and encumbrances, and shall be subject to all the terms and conditions of this Agreement in all respects as

though part of the original equipment herein described.

Pending prepayment of indebtedness or purchase of substitute railroad equipment the Seller, shall, upon request and at the direction of the Railroad, invest monies received by it under provisions of this Section 7 in:

(a) Bills, notes, bonds, or other obligations for which the faith of the United States Government is pledged to provide for payment of interest and principal.

(b) Certificates of time deposit of commercial banks having an aggregate capital and surplus of $50,000,000 or more.

(c) Commercial paper rated prime by a national credit agency.

(d) Other investments if approved in writing by the Seller.

Any interest or gain produced by such investment shall accrue to and be paid to the Railroad. In the event that the market value of such investments should decline, the Seller may require Railroad to deposit additional monies equivalent to the difference between the cost and market value of the investments.

8. Maintenance and Repair. The Railroad will at all times maintain the Equipment in good order and repair at its expense.

9. Seller's Warranty of Material and Workmanship. The Seller warrants that the Equipment will be free from defects in materials and workmanship and that the Seller will replace any part or parts which shall fail under normal care and service within one (1) year after the date of delivery.

10. Compliance with Laws and Rules. During the terms of this Agreement the Railroad will comply in all respects with all applicable laws.

11. Inspections. The Seller shall have the right, by its agents, to inspect the Equipment and the Railroad's records with respect thereto.

12. Possession and Use. The Railroad, so long as it shall not be in default under this Agreement, shall be entitled to the possession of the Equipment and the use thereof upon the lines of railroad owned or operated by the Railroad either alone or jointly with another and whether under lease or otherwise, and upon the lines of railroad owned or operated by any railroad company controlled by or under common control with the Railroad, or over which the Railroad has trackage rights, and also upon connecting and other railroads in the usual interchange of traffic.

13. Prohibition against Liens. The Railroad will satisfy and discharge any and all sums claimed by any party by, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien or a charge upon the Equipment, or any unit thereof, equal or superior to the title of the Seller thereto.

14. Railroad's Indemnities. The Railroad agrees to indemnify and save harmless the Seller from and against all losses, damages, injuries, liabilities, claims and damages whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of retention by the Seller of title to the Equipment or out of the use and operation thereof by the Railroad during the period when title thereto remains in the Seller. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect to the Price and the conveyance of the Equipment, as provided in Section 5 hereof, or the termination of this Agreement in any manner whatsoever.

The Railroad will bear the risk of, and shall not be released from its obligations hereunder in the event of any damage to or the destruction or loss of any unit of or all of the Equipment; provided, however, that the Seller shall not be relieved from its warranty covering material and workmanship hereinbefore in Section 9 set forth.

15. Patent Indemnities. Except in cases of design, articles and materials specified by the Railroad, the Seller agrees to indemnify and hold harmless the Railroad from and against any and all liability, charges and expenses, including royalty payments and counsel fees in any manner imposed upon or accruing against the Railroad or its assigns because of the use in or about the construction or operation of the Equipment, or any unit thereof of any device, apparatus, design, article or material which infringes, or is claimed to infringe, on any patent or other similar right.

The Seller agrees to, and hereby does to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to the Railroad every claim, right and cause of action which the Seller has or hereafter shall have against

the seller or sellers of any devices, apparatuses, designs, articles or materials purchased or otherwise acquired by the Seller for use in or about the construction or operation of the Equipment, or any unit thereof, on the ground that any such device, apparatus, design, article or material or operation thereof infringes or is claimed to infringe on any patent or other similar right.

16. Assignments. The Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or transfer the right to possession of any unit of the Equipment without first obtaining the written consent of the Seller. An assignment or transfer to a railroad company or other purchaser which shall acquire all or substantially all the lines of railroad of the Railroad and which, by execution of an appropriate instrument satisfactory to the Seller, shall assume and agree to perform each and all of the obligations and covenants of the Railroad hereunder, or an assignment by the Railroad to one of its wholly owned subsidiary companies, shall not be deemed a breach of this covenant.

All or any of the rights, benefits and advantages of the Seller under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Seller and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Seller from, any of the obligations of the Seller to construct and deliver the Equipment in accordance herewith or to respond to its guaranties, warranties and indemnities contained in Sections 9 and 15 hereof, or relieve the Railroad of its obligations to the Seller under Sections 2, 4 and 14 hereof, or any other obligation which, according to its terms and context, is intended to survive an assignment.

Upon any such assignment either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall by virtue of such assignment acquire all of the Seller's right, title and interest in and to the Equipment, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad of the

notification of any such assignment, all payments thereafter to be made by the Railroad hereunder shall, to the extent so assigned, be made to the assignee at the address of the assignee specified in the aforesaid notice.

The Railroad recognizes that it is the custom of manufacturers or sellers of railroad equipment to transfer or assign agreements of this character and understands that the transfer or assignment of this Agreement, or of some or all of the rights of the Seller hereunder, is contemplated. The Railroad expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Seller hereunder, and for the purpose of inducing such acquisition, that in the event of such transfer or assignment by the Seller as hereinbefore provided the rights of such assignee to the entire unpaid Price or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Seller in respect of the Equipment or the delivery, guaranty or warranty thereof, or in respect of any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Seller. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Railroad against and only against the Seller.

In the event of any such transfer or assignment, or successive transfers or assignments by the Seller, of title to the Equipment and of the Seller's rights hereunder in respect thereof, the Railroad will, whenever requested by such transferee or assignee, change the marking on each side of each unit of the Equipment so as to indicate the title of such transferee or assignee to the Equipment, such marking to bear such words or legend as shall be specified by such transferee or assignee, subject to requirements of the laws of the jurisdictions in which the Equipment shall be operated by the Railroad relating to such marking for use on equipment covered by conditional sale agreements with respect to railroad equipment. The cost of marking with respect to the first assignee of Seller's rights under this Agreement shall be

borne by the Railroad. Such costs with respect to any subsequent assignment will be borne by the subsequent transferee or assignee.

In the event of any such transfer or assignment prior to the completion of delivery of the Equipment, the Railroad will, in connection with each settlement for a unit or group of Equipment subsequent to such transfer or assignment, deliver to each assignee or transferee of any of the Equipment included in such group all documents required by the terms of such transfer or assignment to be delivered to such assignee or transferee in connection with such settlement.

17. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) The Railroad shall fail to pay in full, when due and payable hereunder, any sum payable by Railroad as herein provided in respect of the Price of the Equipment or for interest and such failure shall continue for more than fifteen (15) business days; or

(b) The Railroad shall, for more than thirty (30) days after the Seller shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement on its part to be kept or performed or to make provision satisfactory to the Seller for such compliance; or

(c) If a proceeding in reorganization, bankruptcy or insolvency be instituted by or against the Railroad or its property and the debtor in reorganization or any trustee or receiver appointed therein fails to adopt and become bound by the terms, provisions and conditions of this Agreement within sixty (60) days after such appointment or designation, or the Railroad makes an assignment for the benefit of its creditors;

(d) The Railroad shall make or suffer any unauthorized assignment or transfer of this Agreement

or any interest herein or any unauthorized transfer of the right of possession of any unit of the Equipment;

then at any time after the occurrence of such an event of default the Seller may, upon written notice to the Railroad and upon compliance with any legal requirements then in force and applicable to such action by the Seller, declare the entire unpaid portion of the Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of the Price and accrued and unpaid interest shall bear interest from the date of such declaration at the rate of three-fourths of one per cent (3/4 of 1%) over the interest rate payable under and as determined in Section 3(c) of this Agreement, to the extent legally enforceable, and the Seller shall thereupon be entitled to recover judgment for the entire unpaid balance of the Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated.

18. Remedies. If the Railroad shall make default as hereinbefore provided, then at any time after the entire indebtedness in respect of Price shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such default, the Seller, to the extent not prohibited by any mandatory requirements of law, may, upon such further notice, if any, as may be required for compliance with any mandatory requirements of law applicable to the action to be taken by the Seller, take or cause to be taken by its agent or agents immediate possession of the Equipment, or any unit thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Section 18 expressly provided, and may remove the same from possession and use of the Railroad and for such purpose may enter upon the Railroad's premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad, with or without process of law.

In case the Seller shall rightfully demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the lines of the Railroad for the delivery of the Equipment to the Seller,

the Railroad shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points on its lines as shall be designated by the Seller and shall there deliver the Equipment or cause it to be delivered to the Seller; and, at the option of the Seller the Seller may keep the Equipment on any of the lines of railroad or premises of the Railroad until the Seller shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Seller reasonably convenient to the Railroad. This agreement to deliver the Equipment and to furnish facilities for its storage as herinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Seller shall be entitled to a decree against the Railroad requiring specific performance hereof.

If the Railroad shall make default as hereinbefore provided, then at any time thereafter during the continuance of such default and after the entire indebtedness in respect of purchase price shall have been declared immediately due and payable as hereinbefore provided, the Seller (after retaking possession of the Equipment as hereinbefore in this Section 18 provided) may at its election, to the extent not prohibited by any mandatory requirements of law then in force and applicable thereto, retain the Equipment as its own and make such disposition thereof as the Seller shall deem fit (including, if the Seller so elects, the leasing of the Equipment on such terms as it shall deem fit), and in such event all the Railroad's rights in the Equipment will thereupon terminate; provided, however, that, if the Railroad, within twenty (20) days of receipt of notice of the Seller's election to retain the Equipment for its own use, as hereinafter provided, shall pay or cause to be paid to the Seller the total unpaid balance of the indebtedness in respect of the Price of all the Equipment which the Railroad has agreed to purchase hereunder, together with interest thereon accrued and unpaid and all other payments due by the Railroad under this Agreement, then in such event absolute right to the possession of, title to and property in such Equipment shall pass to and vest in the Railroad; or the Seller, with or without retaking possession thereof, may at its election sell the Equipment, or any unit thereof, free from any and all claims of the Railroad, or of any other party

claiming by, through or under the Railroad, at law or in equity, at public or private sale and with or without advertisement as the Seller may determine, all subject to and in compliance with any mandatory requirements of law then in force and applicable to such sale; and the proceeds of such sale, less the attorney's fees and any other expenses incurred by the Seller in taking possession of, removing, storing and selling the Equipment, shall be credited on the amount due to the Seller under the provisions of this Agreement. Written notice of the Seller's election to retain the Equipment for its own use may be given to the Railroad by telegram or registered mail addressed to the Railroad as provided in Section 23 hereof, at any time during a period of thirty (30) days after the entire indebtedness in respect of Purchase Price shall have been declared immediately due and payable as hereinbefore provided; and if no such notice shall have been given, the Seller shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Section 18.

To the extent permitted by any mandatory requirements of law then in force and applicable thereto, any sale hereunder may be held or conducted at such place or places and at such time or times as the Seller may specify, in one lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Seller may determine in compliance with any such requirements of law, provided that the Railroad shall be given written notice of such sale as provided in any such requirements, but in any event not less than ten (10) days prior thereto, by telegram or registered mail addressed to the Railroad as provided in Section 23 hereof. If such sale shall be a private sale permitted by such requirements, it shall be subject to the right of the Railroad to purchase or provide a purchaser, within ten (10) days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. To the extent not prohibited by any such requirements of law, the Seller may itself bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale without accountability to the Railroad (except to the extent of surplus money received as hereinafter provided in this Section 18), and in payment of the purchase price therefor the Seller shall be entitled to the extent not prohibited as aforesaid to have credited on account thereof all sums due to the Seller from the Railroad hereunder.

Each and every power and remedy hereby specifically given to the Seller shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Seller. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Seller in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein.

If, after applying all sums of money realized by the Seller under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Railroad shall pay the amount of such deficiency to the Seller upon demand, and, if the Railroad shall fail to pay such deficiency, the Seller may bring suit therefor and shall be entitled to recover judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Seller, there shall remain a surplus in the possession of the Seller, such surplus shall be paid to the Railroad.

The Railroad will pay all reasonable expenses, including attorneys' fees, incurred by the Seller in enforcing its remedies under the terms of this Agreement. In the event that the Seller shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Seller may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

In the event of assignments of interest hereunder to more than one assignee, each such assignee shall be entitled to exercise all rights of the Seller hereunder in respect of the Equipment assigned to such assignee, irrespective of any action or failure to act on the part of any other assignee

19. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any State, or which by any applicable law of any State would convert this Agreement into any instrument other than an agreement of

conditional sale, shall as to such State be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable State law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

20. Extension Not a Waiver. No delay or omission in the exercise of any power or remedy herein provided or otherwise available to the Seller shall impair or affect the Seller's right thereafter to exercise the same. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Seller's rights or the obligations of the Railroad hereunder. The Seller's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the obligations of the Railroad or the Seller's rights hereunder with respect to any subsequent payments or default therein.

21. Recording. The Railroad will cause this Agreement and any assignments hereof or of any interest herein, and any supplements hereto or thereto to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act; and the Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file and record any and all further instruments required by law or reasonably requested by the Seller for the purpose of proper protection, to the satisfaction of counsel for the Seller, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Seller certificates or other evidences of such filing and recording satisfactory to the Seller.

22. Payment of Expenses. The Railroad will pay all reasonable costs, charges, and expenses, except the counsel fees of the Seller and of assignees of this Agreement, and including stamp and other taxes, if any, incident to the printing or other duplicating, execution, acknowledgment, delivery, filing, registration or recording of this Agreement, of the first assignment by the Seller of this Agreement, of any instrument supplemental to or amendatory of this Agreement or such first

assignment and of any certificate of the payment in full of the indebtedness in respect of purchase price due hereunder. In addition, the Railroad will pay all reasonable costs, charges and expenses including stamp and other taxes, if any, of the first assignee of this Agreement and of any parties acquiring interests in such first assignment incurred in connection with such first assignment and payments to the Seller by such first assignee.

23. Notice. Any notice hereunder to the Railroad shall be deemed to be properly served if delivered or mailed to the Railroad at Chicago and North Western Railway Company, 400 West Madison Street, Chicago, Illinois 60606, or at such other address as may have been furnished in writing to the Seller by the Railroad. Any notice hereunder to the Seller shall be deemed to be properly served if delivered or mailed to the Seller at 400 West Madison Street, Chicago, Illinois 60606, or at such other address as may have been furnished in writing to the Railroad by the Seller. Any notice hereunder to any assignee of the Seller or of the Railroad shall be deemed to be properly served if delivered or mailed to such assignee at such address as may have been furnished in writing to the Railroad or the Seller, as the case may be, by such assignee.

24. Section Headings. All section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

25. Effect and Modification of Agreement. This Agreement exclusively and completely states the rights of the Seller and the Railroad with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Seller and the Railroad.

26. Definitions. The term "Seller", whenever used in this Agreement, means, before any assignment of any of its rights hereunder, Northwest Properties Co., and any successor or successors for the time being to its properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained and excluded from any assignment.

27. Execution. This Agreement may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of November 24, 1971 the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, all as of the day, month and year first above written.

NORTHWEST PROPERTIES CO.

(SEAL)

By J. M. Butler
Vice President
J. M. Butler

ATTEST:

E. T. Marquardt
Asst. Secretary

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

(SEAL)

By J. M. Butler
Vice President
J. M. Butler

ATTEST:

E. T. Marquardt
Asst. Secretary

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 26th day of November, 19 71 before me personally appeared J. M. BUTLER to me personally known, who, being by me duly sworn, says that he is the Vice President of Northwest Properties Co., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of the Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.

F. J. Broj
Notary Public

(NOTARIAL SEAL)

My Commission expires:

May 19, 1974

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 26th day of November, 19 71, before me personally appeared J. M. BUTLER to me personally known, who, being by me duly sworn, says that he is a Vice President of the Chicago and North Western Railway Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

F. J. Broj
Notary Public

(NOTARIAL SEAL)

My Commission expires:

May 19, 1974

SCHEDULE A

DIESEL LOCOMOTIVES

C&NW Locomotive No.		Purchase Price
32		$ 47,250.00
33		47,250.00
34		47,250.00
35		47,250.00
36		47,250.00
37		47,250.00
38		47,250.00
39		47,250.00
407		122,000.00
408		122,000.00
409		122,000.00
	Total	$744,000.00

AGREEMENT AND ASSIGNMENT, dated as of November 24, 1971, by and between NORTHWEST PROPERTIES CO., a corporation organized under the laws of the State of Illinois, (hereinafter called the "Assignor"), and CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, (hereinafter called the "Assignee");

WHEREAS, the Assignor and CHICAGO AND NORTH WESTERN RAILWAY COMPANY, a Wisconsin corporation (hereinafter called the "Railroad"), have entered into a Conditional Sale Agreement dated as of this date, (hereinafter called the "Conditional Sale Agreement"), covering the sale and delivery, on the conditions therein set forth, by the Assignor and the purchase by the Railroad of the railroad equipment described in Schedule A to the Conditional Sale Agreement (said equipment being hereinafter called the "Equipment");

NOW, THEREFORE, this Agreement and Assignment Witnesseth that, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Assignee to the Assignor, the receipt of which is hereby acknowledged, as well as the mutual covenants herein contained:

1. The Assignor hereby sells, assigns, transfers and sets over unto the Assignee, its successors and assigns, all the right, title and interest of the Assignor in and to the Equipment and each unit thereof when and as delivered and accepted and upon payment to the Assignor of the amount required to be paid under Section 6 hereof, and (a) all the right, title and interest of the Assignor in and to the Conditional Sale Agreement (except the right to receive payment of the amounts required to be paid under Section 3(a) of the Conditional Sale Agreement and the right to receive payment or reimbursement for taxes paid or incurred by the Assignor as provided in Section 4 thereof), and in and to any and all amounts which may be or become due or owing by the Railroad to the Assignor under the Conditional Sale Agreement on account of its indebtedness in respect of the Price of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under the Conditional Sale Agreement, other than those hereinabove excluded, and (b) all of the Assignor's rights, powers, privileges and remedies under the Conditional Sale Agreement; without any recourse, however, against the Assignor for or on account of the failure of the Railroad to make any of the

payments provided for in, or otherwise comply with, any of the provisions of the Conditional Sale Agreement; provided, however, that this Agreement and Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the liability of the Assignor to deliver the Equipment in accordance with the Conditional Sale Agreement or any liability incidental to such delivery or in respect of its obligations contained in Sections 9 or 15 of the Conditional Sale Agreement, or relieve Railroad from its obligations to the Assignor under Sections 2, 4 and 14 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Agreement and Assignment, or any subsequent assignment pursuant to the provisions of Section 16 of the Conditional Sale Agreement, all obligations of the Assignor to the Railroad in respect of the Equipment shall be and remain enforceable by the Railroad, its successors and assigns, against and only against the Assignor. In furtherance of the foregoing assignment and transfer, the Assignor hereby authorizes and empowers the Assignee, in the Assignee's own name or in the name of the Assignee's nominee or in the name of and as attorney, hereby irrevocably constituted, for the Assignor, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Agreement and Assignment and compliance by the Railroad with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

2. The Assignor covenants and agrees that it will deliver the Equipment to the Railroad in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Agreement and Assignment, it will perform and fully comply with each and all the covenants and conditions of the Conditional Sale Agreement set forth to be complied with by the Assignor. The Assignor further covenants and agrees that it will warrant to the Assignee and the Railroad that at the time of delivery of any unit of the Equipment, it had legal title to such unit and good and lawful right to sell such unit and the title to such unit was free of all claims, liens and encumbrances of any nature except only the rights of the Railroad under the Conditional Sale Agreement; and the Assignor further covenants and agrees that it will defend the title to such units built by it against the demands of all persons whomsoever based on claims originated

prior to the delivery of such unit by the Assignor to the Railroad; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Railroad thereunder.

3. The rights of the Assignee to the entire unpaid portion of the Price of said Equipment delivered to and accepted by the Railroad, and interest thereon as well as any other rights as may be so assigned hereunder, shall not be subject to any defense, offset, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Assignor, or the successors to its business, in respect of the delivery of the Equipment or under Sections 9 and 15 of said Agreement nor subject to any defense, offset, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to Railroad by the Assignor, or the successors to its business.

The Assignor will indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any device, apparatus, design, article or material which infringes, or is claimed to have infringed, on any patent or other right, except for any designs specified by the Railroad, or devices, apparatus, articles or materials specified by the Railroad and not manufactured by the Assignor.

4. The Assignor will cause each side of each unit of the Equipment to be plainly, distinctly, permanently and conspicuously marked in letters, the following legend:

"CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, OWNER."

5. Upon request of the Assignee, its successors and assigns, the Assignor will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Assignor therein or in the Equipment.

6. The Assignee, upon each Closing Date (as defined in Section 3 of the Conditional Sale Agreement) fixed as provided in said Section 3, or as otherwise hereinafter set forth, shall pay to the Assignor by certified or bank cashier's check in Chicago Clearing House funds, an amount equal to that portion of the aggregate Price, as fixed in said Section 3, of the unit or units of Equipment in the Group (as defined in the Conditional Sale Agreement) with respect to which the closing is held on said Closing Date not required to be paid pursuant to Section 3(a) of the Conditional Sale Agreement, provided that there shall have been delivered to the Assignee a notice fixing the Closing Date for the Group and three copies of the following documents in form and substance satisfactory to Assignee's counsel:

(a) Certificate of Acceptance by the Railroad with respect to the units of Equipment in the Group. Such certificate shall state that there was plainly, distinctly, permanently and conspicuously marked on each side of each of the units in the group at the time of delivery and acceptance, in letters, the following legend:

"CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, OWNER";

(b) A Bill of Sale from the Assignor to the Assignee, transferring to the Assignee title to the units of Equipment in the Group and warranting to the Assignee and to the Railroad that at the time of delivery to the Railroad the Assignor had legal title to such units and good and lawful right to sell such units and title to such units was free of all claims, liens and encumbrances of any nature except only the rights of the Railroad under the Conditional Sale Agreement;

(c) Invoice for the unit or units of the Equipment in the Group accompanied by or having endorsed thereon a certificate by the Railroad as to the correctness of the Price of such unit or units;

(d) A favorable Opinion of Counsel for the Railroad stating that (i) the Conditional Sale Agreement has been duly authorized, executed and delivered and is a legal, valid and binding

instrument enforceable in accordance with its terms, (ii) this Agreement and Assignment has been duly authorized, executed and delivered by the Assignor and is a legal, valid and binding instrument; (iii) the Assignee is vested with all the right, title and interest of the Assignor in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Agreement and Assignment, (iv) title to the units of Equipment in such Group is validly vested in the Assignee, free of all claims, liens and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement, (v) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution and delivery of the Conditional Sale Agreement or this Agreement and Assignment, and (vi) the Conditional Sale Agreement and this Agreement and Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and that no other filing or recordation is necessary for the protection of the rights of the Assignee in any state of the United States of America or the District of Columbia, (vii) the Railroad is a duly organized and existing corporation in good standing under the laws of the State of Wisconsin and has the power and authority to own its properties and to carry on its business as now conducted, (viii) there is no condition, restriction or requirement in the documents constituting the corporate charter of the Railroad relating to or affecting the execution and delivery by the Railroad of the Conditional Sale Agreement or the enforceability thereof in accordance with its terms or requiring any approval of its stockholders in respect thereof and (ix) neither the execution and delivery of the Conditional Sale Agreement and this Agreement and Assignment, nor the consummation of the transactions therein and herein contemplated, nor the fulfillment of the terms thereof and hereof will conflict with or result in a breach of any of the terms, conditions or provisions of any law, regulation, order, writ,

injunction or decree of any court or governmental instrumentality, domestic or foreign, or of any agreement or instrumentality to which the Railroad is now a party or constitute a default thereunder; and

(e) A receipt from the Assignor evidencing payment by the Railroad of the amount required to be paid by it pursuant to Section 3(a) of the Conditional Sale Agreement.

It is understood and agreed that the Assignee shall not be required to make any payment to the Assignor in respect of any Equipment not delivered by the Assignor and accepted by the Railroad within the time limits specified in Section 2 of the Conditional Sale Agreement and not included in the term "Equipment" as used in the Conditional Sale Agreement or in this Agreement and Assignment.

7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due under it from the Railroad thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

8. The Assignor hereby represents and warrants to the Assignee, its successors and assigns,

(a) That the Conditional Sale Agreement was duly authorized and lawfully executed by it for a valid consideration and that it is binding upon the assignor in accordance with its terms, and that it is now so in force without amendment thereto,

(b) That this Agreement and Assignment has been duly authorized, executed and delivered by the Assignor and is a valid instrument binding upon the Assignor and enforceable against the Assignor in accordance with its terms, and

(c) That title to the Equipment delivered to the Railroad is, or will, upon delivery to the Railroad, be validly vested in the Assignee, free of all

claims, liens and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement.

The Assignor covenants and agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more particularly to confirm the rights, title and interests hereby assigned and transferred by it to the Assignee or intended so to be.

9. The terms of this Agreement and Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Illinois.

10. This Agreement and Assignment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitue but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. The Assignee agrees to deliver one of such counterparts, or a certificed copy thereof, to the Railroad. Although this Agreement and Assignment is dated for convenience as of November 24, 1971 the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date stated in the acknowledgements hereto annexed.

IN WITNESS WHEREOF, each of the Assignor and the Assignee have caused this instrument to be executed in their respective names by their respective officers, thereunto duly authorized, and their respective seals to be hereunto affixed, duly attested, as of the day and year first above written.

NORTHWEST PROPERTIES CO.

(SEAL)

By J M Butler
Vice President
J. M. Butler

ATTEST:

E. O. Marquardt
Assistant Secretary

CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO

(SEAL)

By _____
Vice President

ATTEST:

~~Assistant Cashier~~

COMMERCIAL BANKING OFFICER

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 26th day of November 1971, before me personally appeared J. M. BUTLER, to me personally known, who being by me duly sworn, says that he is a Vice President of Northwest Properties Co., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

_____
Notary Public
F. J. Broj

My Commission expires:

May 19, 1974

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 26th day of NOVEMBER, 1971 before me personally appeared C. O. NEWLIN, to me personally known, who being by me duly sworn, says that he is a Vice President of the CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrumen was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Stanley E. Evans
Notary Public

My Commission expires:

_____

CHICAGO AND NORTH WESTERN RAILWAY COMPANY hereby acknowledges due notice of the assignment made by the foregoing Agreement and Assignment.

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

By J. M. Butler
Vice President
J. M. Butler

(SEAL)

ATTEST:

E. O. Marquardt
Assistant Secretary

Supplemental Security Agreement
Supplementing Conditional Sale Agreement
Dated as of November 24, 1971

Supplemental Security Agreement dated as of November 24, 1971, by and between CHICAGO AND NORTH WESTERN RAILWAY COMPANY (hereinafter called the "Railway") and the CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO (hereinafter called the "Bank");

WHEREAS, Railway and Bank have entered into a Loan Agreement dated as of April 1, 1971 (hereinafter called the "Loan Agreement"); and

WHEREAS, pursuant to and as provided for in the Loan Agreement and in the Agreement and Assignment dated as of November 24, 1971, between NORTHWEST PROPERTIES CO. (hereinafter called the "Seller") and Bank, Bank has acquired Seller's interest in the Conditional Sale Agreement dated as of November 24, 1971, between Seller and Railway (hereinafter called the "Conditional Sale Agreement") providing for Railway's purchase of railroad equipment described in Schedule A thereto (hereinafter called the "Equipment"); and

WHEREAS, the Loan Agreement states that each unit of equipment financed under the Loan Agreement shall be security for all loans made thereunder, and Railway wishes

to grant to Bank a security interest to that effect in the Equipment;

NOW, THEREFORE, in consideration of the foregoing Railway does hereby grant to Bank a security interest in all of the Equipment for the purpose of securing the payment of all the indebtedness of Railway under the Loan Agreement and any conditional sale agreement, chattel mortgage or security agreement made pursuant thereto.

Except as supplemented hereby, the Conditional Sale Agreement shall remain unaltered and in full force and effect.

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

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

By M Butler
Vice President

ATTEST:

F. E. Marquardt
Assistant Secretary

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO

By C. F. Yeulin
Vice President

ATTEST:

Deanna J. Bruggeman
~~Assistant Cashier~~
COMMERCIAL BANKING OFFICER

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 26th day of November , 1971 , before me personally appeared J. M. Butler to me personally known, who, being by me duly sworn, says that he is Vice President of CHICAGO AND NORTH WESTERN RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

(NOTARIAL SEAL)

My Commission expires: May 19, 1974

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 26th day of NOVEMBER , 1971 , before me personally appeared C. O. NEWLIN to me personally known, who, being by me duly sworn, says that he is a Vice President of CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Stanley E. Evans
Notary Public

(NOTARIAL SEAL)

My Commission expires: