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INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Between

THRALL CAR MANUFACTURING COMPANY

and

ILLINOIS TERMINAL RAILROAD COMPANY

Dated as of December 15, 1971.

For 100 - 4750 Cubic Feet 100 Ton Covered Hopper Cars
and
50 - 100 Ton Gondola Cars

AGREEMENT AND ASSIGNMENT

Between

THRALL CAR MANUFACTURING COMPANY

and

MERCANTILE TRUST COMPANY, NATIONAL ASSOCIATION

Dated as of December 15, 1971.

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THRALL CAR MANUFACTURING COMPANY

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MERCANTILE TRUST COMPANY, NATIONAL ASSOCIATION

Dated as of December 15, 1971.

THIS CONDITIONAL SALE AGREEMENT, dated as of December 15, 1971, by and between THRALL CAR MANUFACTURING COMPANY, a corporation organized under the laws of the State of Delaware, with an office and place of business in Chicago Heights, Illinois (hereinafter called the Manufacturer or Builder, as more particularly set forth in Section 11 hereof), as party of the first part, and ILLINOIS TERMINAL RAILROAD COMPANY, a corporation of the State of Delaware (hereinafter called the Buyer), as party of the second part;

WITNESSETH, THAT:

In consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

1. CONSTRUCTION, SALE AND DELIVERY. The Builder hereby agrees to construct, sell and deliver to the Buyer, and the Buyer hereby agrees to buy from the Builder and to accept delivery of as hereinafter provided, and to pay therefor as hereinafter set forth, the railroad equipment (hereinafter sometimes referred to as the Equipment), more particularly described as follows:

<u>Number of Units</u>	<u>Description</u>	<u>Base Price</u>
100	54'3" (inside length) 100 ton covered hopper cars, 4750 cubic feet capacity, to be identified with Buyer's car series numbers ITC 1650 to 1749, inclusive, at a base price of \$17,345 per unit	\$1,734,500
50	52'6" (inside length) 100 ton capacity gondola cars, to be identified with Buyer's car series numbers ITC 3600 to 3649, inclusive, at a base price of \$15,110 per unit	755,500
		<u>\$2,490,000</u>

The covered hopper cars are to be constructed in accordance with Builder's proposal of October 18, 1971, and specifications and drawings referred to therein except as said proposal, specifications and drawings are modified by Buyer's Order No. 58943 dated November 29, 1971. The gondola cars are to be constructed in accordance with Builder's proposal of January 4, 1972, and specification No. G.N.-100-52-151-C and drawings referred to therein except as said proposal, specifications and drawings are modified by Buyer's Order No. 59154 dated January 6, 1972.

Said specifications and drawings may, from time to time before or during construction of the Equipment, be modified by written agreement between the Builder and the Buyer's representatives designated in writing by the Buyer.

The design and quality of material and equipment in the Equipment shall conform on the date of completion of manufacture of each thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications for new equipment and to all standards recommended by the Association of American Railroads applicable to equipment of such kind.

(A) PURCHASE PRICE. The aggregate base purchase price for the Equipment is \$2,490,000. The base purchase price for each unit of the Equipment is the price set forth above in this Section 1 and the base purchase price is not subject to any escalation. If the Buyer and the Builder agree upon changes in specifications

which reduce or increase the cost for any unit of Equipment, the aggregate purchase price shall be correspondingly adjusted. The amount, if any, by which the aggregate purchase price exceeds \$2,490,000 shall be paid by the Buyer to the Builder on the Closing Date (as hereinafter defined) for the last Group (as hereinafter defined) of the Equipment. The aggregate purchase price of the Equipment delivered and accepted hereunder (not exceeding \$2,490,000) is hereinafter referred to in this Agreement as the deferred purchase price of the Equipment and shall be payable as provided in Section 2 hereof.

(B) DELIVERY. The Builder agrees to construct and to deliver, free of all liens, encumbrances and claims of any nature by or in favor of any other person, firm or corporation and subject only to the reservations of title by the Manufacturer in accordance with the provisions hereof, the Equipment to the Buyer at Chicago Heights, Illinois, during the months of January and February, 1972, or as delivery may be revised by mutual agreement of the

Buyer and the Builder, and, when delivered and accepted under and pursuant to this Agreement, the Equipment will become subject to the same terms and conditions as if delivered simultaneously with the execution and delivery hereof. The Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Section 1, any of the Equipment in respect of which settlement has not been made at a Closing Date (as hereinafter defined) on or before June 1, 1972, shall be excluded herefrom.

If any Equipment shall be excluded from this Agreement pursuant to the immediately preceding

paragraph, the Buyer and the Builder shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom. If the Builder's failure to deliver Equipment so excluded from this Agreement resulted from one or more of the causes set forth in the immediately preceding paragraph, the Buyer shall be obligated to accept such Equipment and pay the full purchase price therefor, determined as provided in this Agreement, if and when such Equipment shall be completed and delivered by the Builder, such payment to be in cash on the delivery of such Equipment, either directly or by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Buyer shall determine and as shall be reasonably acceptable to the Builder.

After inspection of each completed unit of Equipment by the Buyer and upon delivery of such unit, and if such unit meets specifications, the Buyer agrees to cause to be furnished and delivered to the Builder, in the Buyer's name, a certificate in four counterparts of any agent or agents it may designate for the purpose, stating that such unit, specified by number in such certificate, has been delivered to, inspected and accepted on its behalf by such agent or agents, and that such unit bears proper ownership markings as provided in Section 3 hereof.

The execution of such certificate of acceptance shall be conclusive evidence that such unit conforms to specifications and is acceptable to the Buyer in all details, provided, however, that such acceptance shall not constitute a waiver of the obligations of the Builder under Section 10 hereof.

(C) ASSUMPTION OF RISK. The Builder agrees to assume the responsibility and risk of loss in respect of each unit of Equipment only until delivery and acceptance thereof as herein provided.

2. PAYMENT OF DEFERRED PURCHASE PRICE. The Buyer hereby acknowledges itself to be indebted to the Manufacturer in the amount of the deferred purchase price of the Equipment, and hereby promises to pay to the Manufacturer, at such place as may be designated by the Manufacturer, the deferred purchase price of each Group (as hereinafter defined) of the Equipment in 20 consecutive semiannual installments (the last 19 installments of which shall be \$124,500 each and the first installment of which shall be determined as the amount which, when added to the total of the last 19 installments will result in the aggregate deferred purchase price), on April 1 and October 1 of each year commencing on October 1, 1972, together with interest on each unpaid installment from the

Closing Date (as hereinafter defined) in respect of such Group (without regard to any postponement thereof as provided in any assignment of this Agreement) to the maturity of such installment, at a rate per annum which shall be one percent (1%) above the prime interest rate which Mercantile Trust Company, N.A. shall have charged on ninety day commercial loans during such interest payment period and which interest rate shall fluctuate as and when said prime rate shall change. Such interest to be computed on the basis of a 360 day year of twelve, thirty day months. The first payment of such interest shall become due and payable on October 1, 1972, and subsequent payments of interest shall be due and payable semiannually thereafter on April 1 and October 1 of each year until the deferred purchase price of the Equipment shall have been paid in full.

The Equipment shall be divided into not more than three groups of units of the Equipment (each such group of units being herein called a Group), each Group to consist of units of the Equipment delivered to and accepted by the Buyer in respect of which the Builder shall have rendered in an invoice to the Buyer; provided, however, that, if by reason of delays due to causes beyond the Builder's reasonable control the Builder is prevented from delivering units of Equipment for a period of 15 days or more following the last date

of delivery of units of Equipment, such later delivered and accepted units shall constitute an additional Group for the purposes of settlement.

The term "Closing Date" with respect to any Group shall mean such date (not later than June 1, 1972) not more than 15 business days following presentation by the Builder to the Buyer of the invoice for such Group and the certificates of acceptance in respect thereof as shall be fixed by the Buyer by written notice delivered to the Manufacturer at least 5 business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and holidays.

The Buyer will pay, to the extent legally enforceable, interest at the per annum rate of 2% above prime computed as provided in Section 2 hereof upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof.

All payments provided for in this Agreement shall be made by the Buyer in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

The Buyer, at its option, on any deferred purchase price installment payment date, shall have the right to prepay, without penalty, any or all of the first 11 installments of principal in the inverse order of maturity by payment of the principal amount designated for prepayment and accrued

interest to date of prepayment; provided, however, that title to none of the Equipment shall pass to or vest in the Buyer until the entire purchase price of all Equipment, with accrued interest, and all other payments required to be made by the Buyer under this Agreement, shall have been paid in full and unless the Buyer shall have kept and performed all the covenants in this Agreement provided to be kept or performed by the Buyer. Notice of the Buyer's election to exercise its right of prepayment from time to time shall be given by registered mail to the Manufacturer not less than 30 days, but not more than 40 days, prior to the date upon which such prepayment shall be made. The last 9 installments of deferred purchase price may not be prepaid except as provided in Section 6 hereof.

3. TITLE TO THE EQUIPMENT. The Manufacturer shall, and hereby does, retain the full legal title to, and property in, any and all of the Equipment until the Buyer shall have made all of the payments and shall have kept and performed all of the covenants in this Agreement provided to be made, kept or performed by the Buyer, notwithstanding the delivery of the Equipment to, and the right to use thereof by, the Buyer as herein provided. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement. Notwithstanding

the foregoing, the Buyer, may, in connection with the normal use and operation of any unit of the Equipment, detach from said unit any accessories or special equipment added to such unit which are no longer required or useful in connection with the normal operation of such unit; and the Buyer may dispose of such accessories or special equipment in such manner as it may deem desirable.

The Buyer covenants and agrees that it will cause the Equipment and replacements thereof to be kept numbered with the proper road numbers, as set forth in Section 1 hereof, and will keep and maintain, plainly, distinctly and conspicuously marked on each side of each such unit, by appropriate stencils or markings, the name of the Manufacturer (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 Manufacturer to the Equipment and its rights under this Agreement), in letters not less than one-half inch in height, followed by the word "Owner" or other appropriate words designated by the Manufacturer, and the Buyer agrees that it will not place any unit of the Equipment in operation or exercise any control or dominion over any part thereof until said unit has been so marked. The Buyer covenants and agrees it will not change the number assigned to or placed on any unit of the Equipment, except with the consent of the Manufacturer and in accordance with a statement of new numbers which statement previously shall have been filed with the Manufacturer by the Buyer and shall promptly be filed and

recorded by the Buyer with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act.

The Buyer agrees not to place or permit to be placed upon any of the Equipment or any replacements thereof any marks, signs or words which might be interpreted as a claim of ownership of such Equipment by any person, firm or corporation other than the Manufacturer; except, however, the Buyer may cause each or any unit of the Equipment to be lettered "Illinois Terminal Railroad Company" or in some other appropriate manner for convenience of identification.

When and only when the Buyer has paid the full indebtedness in respect of the purchase price for all the Equipment, together with interest and any and all other payments as herein provided, and all of the Buyer's covenants and conditions herein contained have been performed by the Buyer, absolute right to possession of, title to and property in all of the Equipment shall pass to and vest in the Buyer without further transfer or action on the part of the Manufacturer; but the Manufacturer and the Manufacturer's successive assignees shall, if required by the Buyer so to do, execute and deliver to the Buyer a bill or bills of sale of all of the Equipment, transferring the title to and property in the Equipment to the Buyer free and clear of all liens and encumbrances created or retained hereby, and shall execute for record or for filing in all necessary public offices such instrument or instruments in writing requested by the Buyer as may be necessary or appropriate in order then to make clear upon the public records the title

of the Buyer to all of the Equipment. The Buyer hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or to file such certificate within a reasonable time after written demand of the Buyer.

4. EXPENSES AND TAXES. All payments to be made by the Buyer hereunder shall be free of expenses to the Manufacturer for collection or other charges, and of the amount of any local, State, Federal or foreign taxes (other than income, gross receipts, excess profits and similar taxes) or licenses levied or imposed upon, or measured by, this Agreement and/or upon any assignment of or participation in any assignment of this Agreement and/or upon any sale, use, payment, shipment, or delivery of the Equipment under the terms hereof, all of which expenses, taxes and licenses the Buyer assumes and agrees to pay or cause to be paid in addition to the indebtedness in respect of the purchase price of the Equipment. The Buyer shall also pay or cause to be paid promptly all taxes and assessments which may be imposed upon the Equipment or for the use thereof, or upon the earnings arising therefrom or the operation thereof, or upon the Manufacturer by reason of its ownership thereof, and agrees to keep or cause to be kept at all times all of the Equipment and every part thereof free and clear

of all taxes, assessments, liens, and encumbrances, except the lien of taxes not due and payable, or which, although due and payable, are not delinquent; provided, however, that the Buyer or any Affiliate may contest the validity of such tax assessments in good faith and in any reasonable manner which will not, in the opinion of the Manufacturer, affect the Manufacturer's title in and to the Equipment, and without impairment, however, of the Buyer's covenant to pay or cause to be paid all such taxes upon final determination of the amount thereof.

If any such expenses, taxes, assessments or licenses shall have been charged or levied against the Manufacturer directly and paid by the Manufacturer, the Buyer shall reimburse the Manufacturer on presentation of an invoice therefor; provided, however, that the Buyer shall not be obligated to reimburse the Manufacturer for any expenses, taxes, assessments or licenses so paid unless the Manufacturer shall have been legally liable in respect thereof, or unless the Buyer shall have approved the payment thereof.

5. COMPLIANCE WITH LAWS, RULES AND REGULATIONS. The Buyer covenants that it will comply, and will cause each Affiliate to comply, in all respects with all laws of the jurisdictions in which operations involving the Equipment may extend during the term of this Agreement, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive,

administrative, or judicial body exercising any power or jurisdiction over any unit of the Equipment, to the extent that such laws and rules affect the operation or use of the Equipment, and in the event that said laws or rules require the alteration of any of the Equipment, the Buyer agrees to conform therewith, at its expense, and to maintain the same or cause the same to be maintained in proper condition for operation under such laws and rules during the life of this Agreement; provided, however, that the Buyer or any Affiliate may, in good faith, contest the application of any such law or rule in any reasonable manner which will not, in the opinion of the Manufacturer, affect the Manufacturer's title in and to the Equipment.

6. MAINTENANCE AND REPLACEMENTS. The Buyer covenants and agrees that it will at all times after the delivery of the Equipment, maintain and keep, or cause to be maintained and kept, the Equipment in good order and repair, at its expense.

In the event that any unit of the Equipment shall be worn out, lost, destroyed or irreparably damaged from any cause whatsoever prior to the payment of the full indebtedness in respect of the purchase price of the Equipment, together with interest thereon and all other payments required hereby, the Buyer shall annually inform the Manufacturer in regard thereto. Whenever the total value of such units so worn out, lost, destroyed or irreparably damaged (excluding the value of any units payment for which shall theretofore have been made to the Manufacturer pursuant to this Section 6) shall

amount to \$50,000 or more, the Buyer shall promptly pay to the Manufacturer a sum equal to the total value of such units and the Manufacturer shall thereupon cease to have any interest in any material salvageable from any such unit. For all purposes of this Section 6 the value of any unit worn out, lost, destroyed or irreparably damaged shall be the greater of the actual cost of such unit and the cost of acquiring a similar unit at the time of such wearing out, loss, destruction or irreparable damage, less, in either case, depreciation at the rate (not in excess of 6% per annum) approved by the Interstate Commerce Commission accrued for such unit for the period elapsed since the Closing Date at which settlement for such unit was made to the date of its wearing out, loss, destruction or irreparable damage. The cost of acquiring a similar unit at the time of such wearing out, loss, destruction or irreparable damage, and the applicable rate of depreciation, shall be determined by a certificate of a Vice President or the Treasurer or an Assistant Treasurer of the Buyer filed with the Manufacturer at the time of the aforesaid payment.

Any money paid to the Manufacturer pursuant to the preceding paragraph of this Section 6 shall, as the Buyer may direct in writing, be applied, in whole or in part, to prepay indebtedness in respect of the purchase price of the Equipment hereunder or to or toward the cost of a unit or units of standard gauge railroad equipment (other than work equipment) to replace such unit worn out, lost, destroyed or irreparably damaged. In case any such money shall be applied to prepay

indebtedness, it shall be applied to the installments thereafter falling due in the inverse order of their maturities with interest (to be paid by the Buyer) to the date of payment. In case of replacement such money shall be applied by the Manufacturer to or toward the cost of such replacing unit or units, and the Buyer shall pay any additional cost of such unit or units.

Buyer may transfer or substitute as such replacement units any new or used Equipment owned by it and which at the time of transfer (1) is or becomes free and clear of the prior lien of Buyer's outstanding First Mortgage and all other liens and encumbrances and (2) is in good operating condition and certified by the Buyer to have a value at least equal to the then average depreciated value of all other units sold hereunder and then still in use.

Upon such certification, Buyer's obligation to pay to the Manufacturer under this Section 6 on account of worn out, lost, destroyed or damaged Equipment shall be credited by such value of substituted Equipment in lieu of cash payment and in the event cash payment has previously been made therefor, Buyer shall be reimbursed therefrom the amount of value of such substituted Equipment.

The Buyer will cause any replacing or substitute unit or units to be marked as provided in Section 3 hereof. Title to all such replacements or substitutes shall be vested in the Manufacturer by an agreement supplemental hereto, 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 delivered hereunder. The Buyer shall cause all such replacements or substitutes to be ones which are guaranteed and warranted in like manner as the original Equipment delivered hereunder, and the manufacturer of such replacements shall, if other than the Builder, duly consent to the subjection thereof to this Agreement and agree to be bound by all the terms and provisions contained herein in respect of such replacements in like manner as the Builder is in respect of the original Equipment delivered hereunder.

7. REPORTS AND INSPECTION. The Buyer hereby agrees to furnish to the Manufacturer at least once in every year on or before January 1 in such year, commencing with January 1, 1973, and more often if required by the Manufacturer, as long as this Agreement shall be in force, four copies of an accurate inventory of the Equipment in actual service and the condition thereof.

The Manufacturer shall have the right, but shall be under no obligation, to inspect the Equipment then covered hereby and the Buyer's records with respect thereto at any reasonable time or times during the continuance of this Agreement.

8. USE AND LOCATION. The Buyer, so long as it shall not be in default under this Agreement, shall, subject to the terms of this Agreement, be entitled to the possession of the Equipment and the use thereof upon the lines of railroad owned or operated by it or over which it has trackage rights and upon connecting and other carriers in the usual interchange of

traffic, from and after delivery of the Equipment by the Builder to the Buyer, but in any case only upon and subject to all the terms and conditions of this Agreement and only within the States of the United States of America or the District of Columbia or the Dominion of Canada.

9. PROHIBITION AGAINST LIENS. The Buyer hereby agrees to pay or satisfy and discharge or cause to be paid or satisfied or discharged any and all sums claimed by any person or party 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 Manufacturer thereto, but shall not be required to pay or satisfy or discharge or cause to be paid or satisfied or discharged any such claim as long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner which, in the opinion of the Manufacturer, will not affect the title of the Manufacturer in and to the Equipment.

10. INDEMNITIES AND GUARANTIES. The Buyer agrees to indemnify and save harmless the Manufacturer from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees arising out of retention by the Manufacturer of title to the Equipment, or out of the use and operation thereof by the Buyer during the period when title thereto remains in the Manufacturer. With respect to such losses, damages, injuries, claims and demands,

said covenant of indemnity shall continue in full force and effect notwithstanding the payment of the purchase price and the conveyance of the Equipment, as provided in Section 3 hereof, or the termination of this Agreement in any manner whatsoever.

Except as provided in clause (C) of Section 1 hereof, the Buyer 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 or all of the Equipment; provided, however, that the Builder shall not, as to any of the Equipment, be relieved from its obligations hereinafter in this Section 10 set forth.

Except in cases of designs, and articles and materials specified by the Buyer and not manufactured by the Builder, the Builder agrees to indemnify, protect and hold harmless the Buyer from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees in any manner imposed upon or accruing against the Buyer or its lessors or assigns because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, article or material which infringes, or is claimed to infringe, on any patent or other right; and the Buyer likewise will indemnify, protect and hold harmless the Manufacturer and/or the Builder from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon

or accrued against the Manufacturer and/or the Builder because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, article or material specified by the Buyer and not manufactured by the Builder which infringes, or is claimed to infringe, on any patent or other right. The Builder 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 Buyer every claim, right and cause of action which the Builder has or hereafter shall have against the seller or sellers of any designs, articles or materials specified by the Buyer and not manufactured by the Builder and purchased or otherwise acquired by the Builder for use in or about the construction or operation of the Equipment, or any unit thereof, on the ground that any such design, article or material or operation thereof infringes or is claimed to infringe on any patent or other right, and the Builder further agrees to execute and deliver to the Buyer, or its assigns, all and every such further assurance as may be reasonably requested by the Buyer, or its assigns, more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. The Builder will give notice to the Buyer of any claim known to the Builder from which liability may be charged against the Buyer hereunder, and the Buyer will give notice to the Builder of any claim known to the Buyer from which liability may be charged against the Builder hereunder.

The Builder warrants that the Equipment will be built in accordance with the specifications and drawings in respect thereof. The Builder warrants that the Equipment will be free from defects in material (except as to specialties incorporated therein which were specified by the Buyer and not manufactured by the Builder), workmanship and design (except as to designs specified by Buyer and not developed or purported to be developed by the Builder) under normal use and service; the Builder's obligation under this paragraph being limited to making good at its plant any part or parts of any unit of the Equipment which shall, within one year after the delivery of such unit hereunder, be returned to the Builder with transportation charges prepaid and which the Builder's examination shall disclose to its satisfaction to have been thus defective.

The foregoing warranty of the Builder is expressly in lieu of all other warranties expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and of all other obligations or liabilities on the part of the Builder, except for its obligations hereinabove specified in this Section 10 and its obligations under Section 1 hereof, and the Builder neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of the Equipment, except as aforesaid.

Builder agrees with Buyer that acceptance of any units of Equipment as provided in Section 1 hereof shall not be deemed a waiver or a modification by Buyer of its rights under this Section 10.

11. ASSIGNMENT OF INTEREST OF MANUFACTURER. The Buyer agrees that the Builder, and any successive assignee of the Builder, may at any time and from time to time transfer, assign, pledge or sell participations in this Agreement and its rights

hereunder, or any part thereof, and its title and ownership in and to the Equipment or any part thereof and its rights, powers, privileges and remedies hereunder, or any part thereof, on such terms and conditions as it may deem proper, and in any such event all rights, powers, privileges and remedies given to or vested in the Builder hereunder shall inure to the benefit of, vest in and may be exercised by and for the benefit of the transferee, assignee, pledgee or participant, or for the use and benefit of the proper parties in interest, to the extent specified in such transfer, assignment, pledge or participation; provided, however, that no such transfer, assignment, pledge or participation shall subject any such transferee, assignee, pledgee or participant to, or relieve the Builder from, any obligation as to the construction, delivery or warranty of the Equipment or any indemnity or any other duty, obligation or liability of the Builder hereunder.

In case of assignment of this Agreement by the Builder or other assignor, prompt written notice of such assignment shall be given by the Builder or the assignor to the Buyer, and the Buyer shall be protected by the Builder or the assignor in any payments made hereunder to the Builder or the assignor prior to notice of such assignment. Upon receipt of notice from the Builder or assignor of any such assignment, the Buyer will thereafter pay to the assignee specified in such notice, to the extent specified in such assignment, all amounts payable to the Buyer hereunder after receipt of such notice.

In the event of any assignment prior to the completion of delivery of all the Equipment, the Buyer will deliver to the assignee of the Equipment, at least five business days

prior to each Closing Date, in four counterparts (except for the bill of sale, an original and three conformed copies or reproductions of which may be delivered) all documents required by the terms of such assignment to be delivered to the assignee in connection with such settlement.

The Buyer expressly represents, for the purpose of assurance to any person, firm or corporation considering the purchase of all or any of the rights of the Manufacturer under this Agreement and for the purpose of inducing such purchase, that in the event of such purchase and of the assignment of this Agreement or of all or any of the rights of the Manufacturer hereunder, the rights of the assignee or assignees to the entire unpaid purchase price or such part thereof as may be assigned, together with interest thereon payable hereunder, as well as any other rights hereunder which may be so assigned, shall not be subject to any suit or action or to any defense, setoff, counterclaim or recoupment whatsoever, arising out of any breach of any obligation of the Builder in respect of the Equipment or the manufacture, construction, delivery, or warranty thereof, or in respect of any indemnity herein contained, nor subject to any suit or action or to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Buyer by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Buyer against and only against the Builder. The provisions of this paragraph may be relied upon by any such assignee or assignees as a continuing offer by the Buyer to waive any remedies which it

might otherwise have to enforce any and all such obligations of the Builder as against such assignee or assignees, which offer may be accepted by such assignee or assignees by payment to the assignor of the consideration for the purchase and assignment of this Agreement or of some or all of the rights hereunder and by giving notice of such assignment to the Buyer.

In the event of any such sale and assignment of title to any of the Equipment and of the Manufacturer's rights hereunder in respect thereof, the Buyer shall, whenever requested by such assignee, cause each unit of the Equipment to be marked on each side, by appropriate stencils or markings, so as to indicate title of the assignee to such unit, such marking to contain such words or legend as shall be specified by said assignee. The cost of such markings upon the first assignment shall be borne by the Builder, upon the first reassignment of all the Equipment shall be borne by the Buyer, and upon succeeding assignments shall be borne by the respective assignees.

The term "Manufacturer," whenever used in this Agreement, means, before any assignment of any of its rights hereunder, Thrall Car Manufacturing Company, and any successor or successors for the time being to its manufacturing 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; and the term "Builder," whenever used in this Agreement, means, both before and after any such assignment,

Thrall Car Manufacturing Company and any successor or successors for the time being to its manufacturing properties and business.

If this Agreement shall have been assigned by the Builder and the assignee shall not make payment to the Builder with respect to units of Equipment as provided in the instrument making such assignment, the Builder will promptly notify the Buyer of such event and if such payment shall not have been previously paid by the assignee, the Buyer will, not later than ninety days after the date such payment was due, pay or cause to be paid to the Builder, the aggregate purchase price of such units, together with interest from the date such payment was due to the date of payment by the Buyer at the lowest prime rate of interest charged by leading St. Louis, Missouri, banks on the date such payment was due.

12. SUCCESSORS TO, AND ASSIGNMENTS BY, THE BUYER.

The Buyer hereby represents and warrants that its execution of this Agreement and its assumption and undertaking of the obligations, duties, and liabilities hereof, have been expressly authorized and that all the obligations then existing or to accrue of the Buyer under this Agreement, shall be assumed by any person or corporation acquiring title to or possession of the railways and properties of the Buyer, and that upon any sale, lease, transfer, or assignment of said railways or properties, any person or corporation acquiring title thereto or possession thereof shall also, as a condition to such acquisition, be bound by all such obligations.

The Buyer shall not assign or transfer this Agreement or any of its rights hereunder or transfer or lease the Equipment or any unit thereof (except to a person or corporation acquiring title to or possession of substantially all the railways and properties of Illinois Terminal Railroad Company as provided in the next preceding paragraph), and shall not cause or permit any unit of the Equipment to be pledged or held for any debt or obligation owing by the Buyer or to be in any manner encumbered, without the written consent of the Manufacturer first had and obtained.

The term "Buyer," whenever used in this Agreement means, before any assignment or transfer of the rights of the Buyer hereunder as herein provided, the Buyer, its successors and assigns, and after any such assignment or transfer shall include any assignee or transferee thereof, except only insofar as the Manufacturer may specifically, in writing, relieve the Buyer or any such assignee or transferee from the obligations hereof.

13. DEFAULTS. In case the Buyer

(a) shall make default in the payment of any sum payable by the Buyer as herein provided for and shall remain in default for more than ten days after payment thereof shall have become due and payable; or

(b) shall make or suffer to be made any unauthorized assignment or transfer of this Agreement or of any interest herein or of its

rights or interest in any of the Equipment or any unauthorized lease thereof, or any thereof, or except as herein authorized shall part with the possession of the Equipment, and in any such event shall fail or refuse either to cause such assignment or transfer or lease to be cancelled effectually as to any such assignee, transferee or lessee and all others having any interest therein or to recover possession of such Equipment within 30 days after the Manufacturer shall have demanded in writing such cancellation or the recovery of possession of such Equipment; or

(c) shall fail or refuse, for more than 30 days after the Manufacturer shall have demanded in writing the performance thereof, to comply with any other of the terms and covenants of this Agreement to be kept and performed by the Buyer or to make provision satisfactory to the Manufacturer for such compliance;

then, in any such case (in this Agreement sometimes called events of default), the Manufacturer at its option may by notice in writing delivered to the Buyer, declare to be due and payable forthwith any indebtedness in respect of the purchase price of the Equipment; and thereupon the entire amount of such indebtedness shall become and shall be due and payable immediately without further demand together with interest thereon accrued and unpaid to such date of declaration,

and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest, from the date of such declaration, to the extent permitted by law, at the per annum rate of 2% above prime computed as provided in Section 2 hereof; and the Manufacturer shall thereupon be entitled to recover judgment for the entire amount so payable by the Buyer with interest thereon as aforesaid and to collect such judgment out of any property of the Buyer wherever situated. Any and all money so collected by the Manufacturer shall be applied by it as hereinafter in Section 14 of this Agreement provided.

14. REMEDIES. The Buyer covenants that, in case of the happening of any such event of default, the Manufacturer by its agents may also take possession of all or any of the Equipment wherever the same may be found and for that purpose enter upon the railroads and premises of the Buyer or any Affiliate and withdraw the same from said railroads and premises, using and employing in connection with such withdrawal any supplies, services and aids and any available trackage and other facilities or means of the Buyer or any Affiliate, with or without process of law, retaining all payments which up to that time may have been made hereunder for the Equipment and otherwise, and shall be entitled to collect, receive and retain all unpaid per diem, mileage or other charges of any kind earned by the Equipment or any thereof, and may lease the Equipment or any thereof, or, with or without retaking possession thereof (but only after making the declaration

provided for in Section 13 hereof), may sell the same or any thereof as far as may be necessary to realize the balance remaining to be paid by the Buyer under this Agreement, free from any and all claims of the Buyer at law or in equity, in one lot and as an entirety or in separate lots, at public or private sale, after at least 15 days prior written notice to the Buyer, and with or without any other notice or advertisement, for cash or upon credit, in its discretion, and may otherwise proceed to enforce its rights in the manner provided by this Agreement.

In case the Manufacturer shall rightfully demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the railroad of the buyer or any Affiliate, for delivery of the Equipment to it, the Buyer shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points on said railroad as shall be designated by the Manufacturer and shall there deliver the same or cause the same to be delivered to the Manufacturer; or, at the option of the Manufacturer, the Manufacturer, at its risk, may keep the Equipment on any of the lines of railroad or premises of the Buyer or any Affiliate until the Manufacturer shall have leased, sold or otherwise disposed of the same, and for such purpose the Buyer agrees to furnish without charge for rent or storage the necessary facilities at any point or points selected by the Manufacturer reasonably convenient to the Buyer. It is hereby expressly covenanted and agreed that the covenants in

this paragraph contained are of the essence of this Agreement and that upon application to any court having jurisdiction in the premises the Manufacturer shall be entitled to a decree against the Buyer requiring the specific performance thereof. The Buyer hereby waives any and all claims against the Manufacturer and its agents for damages of whatever nature in connection with any retaking of any unit of Equipment in any reasonable manner.

Any such sale or sales may be held or conducted at such place or places and at such time or times as the Manufacturer may specify, or as may be required by law, and in general in such manner as the Manufacturer may determine, but so that the Buyer may and shall have reasonable opportunity to bid at such sale.

In the event of a sale or other disposition of the Equipment or any thereof as herein provided it shall not be necessary to have the Equipment or any thereof present at such place or places where such sale or other disposition may be made. At any such sale or sales or other disposition, the Manufacturer may become the purchaser of the Equipment or any thereof, and in settlement for the purchase price shall be entitled to have credited on account thereof the sums then due to the Manufacturer by the Buyer under this Agreement.

Upon such taking possession or lease or sale of the Equipment the Buyer shall, unless it shall be the purchaser at such sale, cease to have any rights or remedies in respect of the Equipment under this Agreement, and all such rights and

remedies shall be deemed thenceforth to have been waived and surrendered by the Buyer, and no payments theretofore made by the Buyer for the Equipment or any thereof shall, in case of the happening of any such event of default and such taking possession, lease or sale by the Manufacturer, give to the Buyer, unless it shall be the purchaser at such sale, any legal or equitable interest or title in or to the Equipment or any thereof or any cause or right of action at law or in equity with respect to the Equipment against the Manufacturer. No such taking possession or lease or sale of the Equipment by the Manufacturer shall be a bar to the recovery by the Manufacturer from the Buyer of any unpaid balance of the purchase price of the Equipment, and the Buyer shall be and remain liable for the same, until such sums shall have been realized as with the proceeds of the lease or sale of any or all of the Equipment shall be sufficient for the discharge and payment in full of all sums payable by the Buyer under any of the provisions of this Agreement.

If in case of the happening of any such event of default the Manufacturer shall exercise any of the powers conferred upon it by this Agreement, all payments made by the Buyer to the Manufacturer under this Agreement after such event of default, and the proceeds of any judgment collected by the Manufacturer from the Buyer hereunder, and the proceeds of every lease or sale by the Manufacturer hereunder of any of the Equipment together with any other sums which may then be held by the Manufacturer under any of the provisions of this

Agreement, shall be applied by the Manufacturer in the order of priority following, viz.: (a) to the payment of all proper expenses (including counsel fees) incurred or advances made by the Manufacturer in accordance with the provisions of this Agreement, including the expense of any retaking of the whole or any part of the Equipment and all expenses of the custody and of any lease or sale thereof, and (b) to the payment of all sums of money due and payable to the Manufacturer under the provisions of this Agreement, including any taxes, assessments or governmental charges paid by or imposed upon the Manufacturer in respect of the Equipment. After all such payments shall have been made in full the title to any of the Equipment remaining unsold shall be conveyed by the Manufacturer to the Buyer, or otherwise as it may direct, free from any further liabilities or obligations to the Manufacturer hereunder. If, after applying as aforesaid all such sums of moneys realized by the Manufacturer, there shall remain any amount due to the Manufacturer under the provisions of this Agreement, the Buyer agrees to pay the amount of such deficit to the Manufacturer. If, after applying as aforesid all such sums of money realized by the Manufacturer, there shall remain a surplus in the possession of the Manufacturer, such surplus shall be paid to the Buyer, or otherwise as it may direct in writing.

The remedies in this Agreement provided in favor of the Manufacturer shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity.

The foregoing provisions, however, are subject to the condition that if, at any time after any indebtedness in respect of purchase price shall have been declared due and payable as provided in this Agreement, all arrears of installment payments with interest as hereinabove provided and the expenses of the Manufacturer and all other sums which shall have become due and payable by the Buyer under this Agreement (other than the unpaid installments which shall not at the time have matured according to their terms) shall have been paid by the Buyer before any lease or sale by the Manufacturer of any of the Equipment, and every other default in the observance or performance of any covenant or condition of this Agreement shall have been made good or secured to the satisfaction of the Manufacturer or provisions deemed by the Manufacturer to be adequate shall have been made therefor, then and in every such case the Manufacturer shall waive the default by reason of which the unpaid balance of the purchase price of the Equipment shall have been declared and become due and payable and shall waive the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

Neither such retaking possession or any lease or sale of the Equipment by the Manufacturer nor any action or failure or omission to act on the part of the Manufacturer against the Buyer or with respect to the Equipment nor any delay or indulgence granted to the Buyer by the Manufacturer shall affect the obligations of the Buyer under this Agreement.

The filing by the Buyer, or the creditors of the Buyer, of any petition for reorganization or debt adjustment affecting the obligations of the Buyer hereunder under Section 77 of the Bankruptcy Act or under any amendment or revision thereof or under any other provision of the Bankruptcy Act as now or hereafter existing or under any other statute, or any voluntary assignment or transfer of the Buyer's interest in and under this Agreement (except as specifically authorized hereby), or any involuntary transfer of such interest by bankruptcy or by the appointment of a receiver or trustee or by execution or by any judicial or administrative decree or process or otherwise, shall be deemed a breach of this Agreement and a default hereunder unless such petition shall be dismissed or such assignment, transfer, decree, or process shall be nullified, stayed or otherwise rendered ineffective (but then only so long as such stay or ineffectiveness shall continue), within 30 days from the filing or other effective date thereof or unless any such receiver or trustee shall within 30 days from the date of his appointment pursuant to due authority of the court appointing him duly assume and agree, in writing, to pay or perform each and all of the obligations and covenants of the Buyer hereunder in such manner that such obligation shall have the same status as obligations incurred by such receiver or trustee; and upon any such default the Manufacturer may elect to declare the entire unpaid balance of the purchase price immediately due and payable as hereinbefore provided and may thereupon forthwith retake possession of the Equipment or

any thereof and exercise and enforce any and all other remedies as provided by Section 13 hereof and this Section 14.

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

15. 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 remainig provisions of this Agreement. Where, however, the conflicting provisions of any applicable State law may be waived they are hereby waived by the Buyer 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.

Except as otherwise provided in this Agreement, the

Buyer, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell the Equipment, or any suit thereof, and any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Manufacturer's rights hereunder and any and all rights of redemption.

16. EXTENSION NOT A WAIVER. Any extension of time granted by the Manufacturer to the Buyer for the payment of any sum due under this Agreement, whether that extension be for an intermediate payment or for final payment, shall apply to the particular instance only, and shall not be deemed a waiver of the title of the Manufacturer reserved hereunder nor any of its rights and remedies hereunder or otherwise existing.

17. RECORDING. The Buyer with all convenient speed will cause this Agreement and all supplemental agreements which may be executed under the terms of this Agreement or any assignment hereof or thereof to be filed with the Interstate Commerce Commission for recordation in accordance with Section 20c of the Interstate Commerce Act, as amended, and the rules and regulations thereunder approved and prescribed by said Commission, and from time to time, in addition to such recordation, or in lieu thereof, in such other place or places as may be reasonably requested, or consented to, by the Manufacturer, so that this Agreement and all said other instruments may at all times be duly filed, registered, docketed

or recorded, in such manner and in such places as to comply with all applicable laws in order to publish notice of and to protect the Manufacturer's title to the Equipment, and from time to time will execute any and all further instruments that reasonably shall be requested by the Manufacturer for such publication and protection of title; and the Buyer will promptly furnish to the Manufacturer certificates, or other evidences satisfactory to the Manufacturer, of such filing, registration, docketing and recording.

18. PAYMENT OF EXPENSES. The Buyer shall pay all costs, charges and expenses (except counsel fees of the Builder) incident to the printing, execution, filing, registering, docketing and recording of this Agreement and of the first assignment of any interest of the Builder in this Agreement, and all such costs, charges and expenses in connection with any instrument supplemental hereto or amendatory hereof and of any declaration of the payment in full of the purchase money due hereunder. In addition, the Buyer will pay all reasonable costs and expenses of the first assignee of this Agreement incurred in connection with such first assignment and payments to the Builder by such first assignee.

19. EXECUTION OF COUNTERPARTS. This Agreement may be simultaneously executed in two or more counterparts, each of which so executed shall be deemed to be an original and, such counterparts together, shall constitute but one and the same agreement, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for

convenience as of December 1, 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.

20. SECTION HEADINGS. All section, paragraph, or division headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

21. MODIFICATION OF AGREEMENT. This Agreement of conditional sale constitutes the entire agreement between the Buyer and the Manufacturer with respect to the sale of 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 the duly authorized officers of the Manufacturer and Buyer.

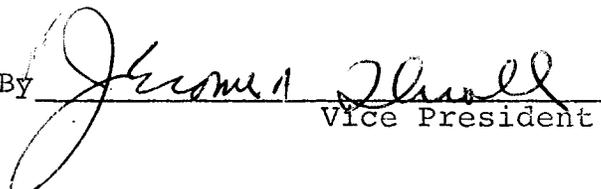
22. LAW GOVERNING. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Missouri; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

23. NOTICE. Any notice hereunder to the Buyer shall be deemed to be properly served if delivered or mailed to the Buyer at 710 North 12th Street, P. O. Box 7282, St. Louis, Missouri 63177, or at such other address as may have been furnished in writing to the Manufacturer by the Buyer. Any notice hereunder to the Builder shall be deemed to be properly served if delivered or mailed to the Builder at P. O. Box 218, Chicago Heights, Illinois 60411, with a carbon copy to Carroll, Connelly & Hartigan, 1 North LaSalle Street, Chicago, Illinois 60602, or at such other address as may have been furnished in writing to the Buyer by the Builder. Any notice hereunder to any assignee

of the Manufacturer or of the Buyer shall be deemed to be properly served if delivered or mailed in writing to such assignee at such address as may have been furnished in writing to the Buyer or the Manufacturer, as the case may be, by such assignee.

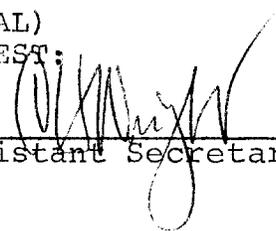
IN WITNESS WHEREOF, Thrall Car Manufacturing Company has caused these presents to be executed and its seal to be affixed by its duly elected and authorized officers pursuant to lawful resolutions; and Illinois Terminal Railroad Company has caused these presents to be executed and its seal to be affixed by its duly elected and authorized officers pursuant to lawful resolutions, all as of the day, month and year first above written.

THRALL CAR MANUFACTURING COMPANY

By 
Vice President

(SEAL)

ATTEST:

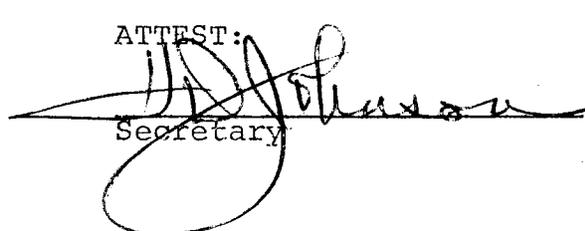

Assistant Secretary

ILLINOIS TERMINAL RAILROAD COMPANY

By 
Vice President

(SEAL)

ATTEST:


Secretary

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

On this 13th day of January, 1972, before me personally appeared Jerome A. Thrall, to me personally known, who in my presence executed the foregoing instrument on behalf of THRALL CAR MANUFACTURING COMPANY on this date and who being by me duly sworn, says that he is a Vice President of THRALL CAR MANUFACTURING 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.

(SEAL)

Denna L. Knez
Notary Public
My Commission Expires: 1/7/73

STATE OF MISSOURI)
) SS:
CITY OF ST. LOUIS)

On this 11th day of January, 1972, before me personally appeared Wm. A. Nelson, Jr., to me personally known, who in my presence executed the foregoing instrument on behalf of ILLINOIS TERMINAL RAILROAD COMPANY on this date and who being by me duly sworn, says that he is ^{Vice} President of ILLINOIS TERMINAL RAILROAD 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

(SEAL)

My Commission Expires December 28, 1974

AGREEMENT AND ASSIGNMENT, dated as of December 15, 1971, between THRALL CAR MANUFACTURING COMPANY, a corporation organized under the laws of the State of Delaware, with an office and place of business in Chicago Heights, Illinois (hereinafter called Thrall), and MERCANTILE TRUST COMPANY NATIONAL ASSOCIATION, a national banking association, with offices at 721 Locust Street, St. Louis, Missouri 63101 (hereinafter called the Assignee),

WITNESSETH:

WHEREAS, Thrall and Illinois Terminal Railroad Company, a corporation of the State of Delaware, hereinafter called the Buyer, entered into a Conditional Sale Agreement, dated as of December 15, 1971, hereinafter called the Conditional Sale Agreement, with respect to 100 new 100 ton covered hopper cars and 50 new 100 ton gondola cars, said cars being hereinafter together called the Equipment, all as more particularly described therein, a counterpart of the Conditional Sale Agreement being prefixed hereto,

NOW, THEREFORE, this Agreement and Assignment witnesseth that in consideration of the sum of \$1.00 and other good and valuable consideration paid by the Assignee to Thrall, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

(1) Thrall hereby sells, assigns, transfers and sets over to the Assignee, its successors and assigns, all the

right, title and interest of Thrall under Conditional Sale Agreement (except the right to manufacture the Equipment and the right to receive the payment specified in the fourth sentence of Section 1(A) and in the last paragraph of Section 11 thereof and reimbursement for taxes paid or incurred by the Builder as provided in Section 4 thereof), together with all Thrall's powers, privileges, immunities and remedies thereunder, and all the right, title and interest of Thrall in and to each unit of the Equipment when and as manufactured and delivered and accepted by the Buyer and upon payment by the Assignee to Thrall of the amounts required to be paid pursuant to Paragraph (7) hereof, and in and to any and all amounts which may be or become due and owing by the Buyer to Thrall under the Conditional Sale Agreement on account of the deferred purchase price of the Equipment and interest to be paid thereunder and in and to any other sums becoming due under the Conditional Sale Agreement (other than those hereinabove excluded), without any recourse, however, to Thrall for or on account of any failure of payment or compliance with any of the terms or provisions of said Agreement on the part of the Buyer. In furtherance of the foregoing assignment and transfer, Thrall hereby authorizes and empowers the Assignee, in such manner and at such times as the Assignee may deem advisable, in the name of Thrall or in the Assignee's own name or in the name of the Assignee's nominee, 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 Buyer with the terms and agreements on the part of the Buyer to be performed under the Conditional Sale Agreement, but without expense and liability to Thrall and for the sole benefit of the Assignee.

(2) Thrall warrants that at the time of delivery to the Buyer under the Conditional Sale Agreement it will have legal title to each unit of the Equipment and good right to sell the same and the title to such unit will be free of all claims, liens and encumbrances of any nature except only the rights of the Buyer under the Conditional Sale Agreement; and Thrall further agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by Thrall to the Buyer; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Buyer thereunder. Thrall agrees that it will not make delivery of any unit of the Equipment to the Buyer until the Conditional Sale Agreement and this Agreement and Assignment have been filed and recorded as provided in Paragraph (7) (d) (iii) hereof.

(3) Thrall agrees that this Agreement and Assignment will not transfer to or impose upon the Assignee or in any way affect or modify (a) Thrall's obligation to construct the Equipment in accordance with its specifications and drawings as set forth in Section 1 of the Conditional Sale Agreement, and as warranted in the Conditional Sale Agreement, or (b) Thrall's obligations to indemnify the Buyer against and

save and keep the Buyer harmless from loss and expense resulting from patent claims and other claims, all as set forth in Section 10 of the Conditional Sale Agreement, or (c) Thrall's assumption of risk with regard to the Equipment until delivered to and accepted by the Buyer, as set forth in Section 1 (C) of the Conditional Sale Agreement, the said obligations to be and remain enforceable against and only against Thrall as provided in the Conditional Sale Agreement.

(4) Thrall will indemnify the Assignee against and save and keep the Assignee harmless from all expense, loss or damage incurred or sustained by the Assignee by reason of any defense, setoff or counterclaim of the Buyer, based on any indebtedness or liability at any time owing to the Buyer by Thrall, in any suit or action brought by the Assignee under the Conditional Sale Agreement. Except in cases of designs, and articles and materials specified by the Buyer and not manufactured by Thrall, Thrall agrees to indemnify and save harmless the Assignee against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its successors or assigns because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, article or material which infringes, or is claimed to infringe, on any patent or other right. The Assignee will give notice to Thrall of any suit or proceeding by the Assignee herein described, and will move or take other appropriate action to strike any defense, setoff

or counterclaim asserted by the Buyer, and if the Court or other body having jurisdiction in such suit or proceeding denies such motion or other action and accepts such defense, setoff or counterclaim as a triable issue in such proceeding, the Assignee will notify Thrall thereof and Thrall will thereafter be given the right by the Assignee, at Thrall's expense, to settle or defend such defense, setoff or counterclaim.

(5) Thrall covenants and agrees that it will construct the Equipment in full and complete accordance with the

Conditional Sale Agreement and that it will deliver the same to the Buyer under and pursuant to the Conditional Sale Agreement free of all claims, liens and encumbrances and 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 performed and complied with by Thrall.

Thrall covenants and agrees that, at the time of delivery of each unit of the Equipment to the Buyer, there will be plainly and distinctly marked on each side thereof stencil or markings bearing the following words plainly and distinctly marked on each side of such unit in letters not less than one-half inch in height:

"Mercantile Trust Company, N.A., Owner."

(6) Thrall covenants and agrees with the Assignee, its successors and assigns, that, upon request of the Assignee, its successors and assigns, Thrall 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 Thrall therein or in the Equipment.

(7) The Assignee will pay to Thrall on the Closing Date (as defined in the Conditional Sale Agreement) with respect to each Group (as defined in the Conditional Sale Agreement) an amount equal to the total deferred purchase price (as defined in the Conditional Sale Agreement) of such Group,

provided that there shall have been delivered to the Assignee at least five business days prior to the Closing Date with respect to such Group in four counterparts (except for the bill of sale for such Group, an original and three copies of which shall be delivered) the following documents, in form and substance satisfactory to the Assignee:

(a) A bill of sale from Thrall to the Assignee confirming in the Assignee title to the Equipment for which settlement is being made and warranting that, at the time of delivery to the Buyer under and pursuant to the Conditional Sale Agreement, said title was free and clear of all claims, liens and encumbrances of any nature, except only the rights of the Buyer under the Conditional Sale Agreement;

(b) A certificate or certificates of acceptance signed by an authorized representative of the Buyer stating that the Equipment for which settlement is being made has been delivered to and accepted by him on behalf of the Buyer as conforming in all respects to the requirements and provisions of the Conditional Sale Agreement, and further stating that there has been plainly and distinctly placed stencil or markings on each side of each unit of such Equipment, bearing the following words plainly and distinctly marked on each side of such unit in letters :

not less than one-half inch in height:

"Mercantile Trust Company, N.A., Owner."

(c) Thrall's invoice covering the Equipment for which settlement is being made accompanied by or having endorsed thereon a certificate by the Buyer as to the correctness of the price stated in such invoice;

(d) An opinion of counsel for the Buyer stating that (i) the Conditional Sale Agreement has been duly authorized, executed and delivered and is a valid and binding instrument enforceable in accordance with its terms, (ii) this Agreement and Assignment has been duly authorized, executed and delivered and is a valid and binding instrument enforceable in accordance with its terms, (iii) 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 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, (iv) the Assignee is vested with all the right, title and interest of Thrall in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Agreement and Assignment, (v) title to the Equipment for which settlement

is being made is validly vested in the Assignee, free of all claims, liens and encumbrances except only the rights of the Buyer under the Conditional Sale Agreement, (vi) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution and delivery of the Conditional Sale Agreement, and (vii) the Buyer is a duly organized and existing corporation in good standing under the laws of the state of its incorporation and has the power and authority to own its properties and carry on its business as now conducted;

(e) An opinion of counsel for Thrall stating that (i) Thrall is a duly organized and existing corporation in good standing under the laws of Illinois and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by Thrall and is a valid instrument binding upon Thrall and enforceable against Thrall in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights, (iii) this Agreement and Assignment has been duly authorized, executed and delivered by Thrall and

is a valid instrument binding upon Thrall and enforceable against Thrall in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights, (iv) the Assignee is vested with all the right, title and interest of Thrall in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Agreement and Assignment, and (v) title to the Equipment for which settlement is being made is validly vested in the Assignee, and that such Equipment, at the time of delivery thereof to the Buyer under and pursuant to the Conditional Sale Agreement, was free of all claims, liens and encumbrances except only the rights of the Buyer under the Conditional Sale Agreement.

It is understood and agreed that the Assignee shall not be required to make any payment (i) in respect of any Equipment excluded from the Conditional Sale Agreement pursuant to Section 1 thereof or (ii) at any time while an event of default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement would constitute an event of default, shall be subsisting under the Conditional Sale Agreement.

(8) It is mutually agreed that the Assignee and any assignee of the Assignee may assign, and/or sell participations

in, its rights, under the Conditional Sale Agreement, as a whole or in part or in respect of all or any one or more of the units of Equipment, including the right to receive any payments due or to become due to it from the Buyer thereunder in respect of such units. 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.

(9) Thrall hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed and delivered by it for a valid consideration, that it has no reason to believe that the Conditional Sale Agreement is not a validly existing agreement, binding upon the parties thereto in accordance with its terms, and that assuming valid authorization, execution and delivery by the Buyer, the Conditional Sale Agreement is, insofar as Thrall is concerned, a valid and existing agreement binding upon Thrall and the Buyer in accordance with its terms and that it is now in force without amendment thereto; and

(b) 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 perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

(10) This Agreement and Assignment 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 instrument. The Assignee agrees to deliver one of such counterparts to the Buyer. Although this Agreement and Assignment is dated for convenience as of December 15, 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.

(11) No delay in exercising, or failure to exercise or partial exercise of any of the rights of the Assignee under this Agreement and Assignment shall operate as a waiver thereof. In no event shall any notice to or demand on Thrall be deemed a waiver of any obligation of Thrall to comply without notice or demand with all the terms, conditions and agreements herein contained, or a waiver of any right of the Assignee to take further action as herein provided without notice or demand, nor in any event shall any waiver or consent on the part of

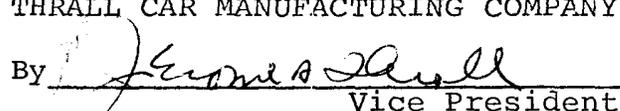
the Assignee be effective unless in writing, and then only with respect to the specific instance for which the same is given.

(12) Each reference herein to the Assignee shall in every instance, except where the context otherwise requires, be deemed to include its successors and assigns, in whose favor the provisions hereof shall likewise inure; and all provisions hereof shall be binding upon Thrall and its successors and assigns.

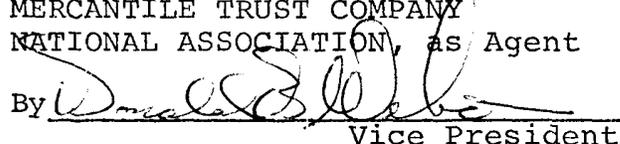
(13) The terms of this Agreement and Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Missouri; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

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

(SEAL)
ATTEST: 
Assistant Secretary

THRALL CAR MANUFACTURING COMPANY
By 
Vice President

(SEAL)
ATTEST: 
Assistant Secretary

MERCANTILE TRUST COMPANY
NATIONAL ASSOCIATION, as Agent
By 
Vice President

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

On this 13th day of January, 1972, before me personally appeared Jerome A. Thrall, to me personally known, who in my presence executed the foregoing instrument on behalf of THRALL CAR MANUFACTURING COMPANY on this date and who, being by me duly sworn, says that he is a Vice President of THRALL CAR MANUFACTURING 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.

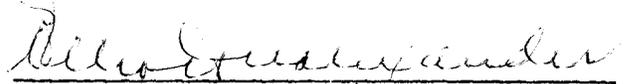
(SEAL)

Annal L. Brey
Notary Public
My Commission Expires: 11/7/73

STATE OF MISSOURI)
) SS:
CITY OF ST. LOUIS)

On this 13th day of January, 1972, before me personally appeared P. Paul B. Williamson, to me personally known, who in my presence executed the foregoing instrument on behalf of MERCANTILE TRUST COMPANY NATIONAL ASSOCIATION on this date and who, being by me duly sworn, says that he is a Vice President of MERCANTILE TRUST COMPANY NATIONAL ASSOCIATION, a national banking association, and that one of the seals affixed to the foregoing instrument is

the corporate seal of said association, that said instrument was signed and sealed on behalf of said association 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 association.



Notary Public
ELLIOTT W. ALEXANDER
Notary for the County of St. Louis
which adjoins the City of St. Louis

(SEAL)

My Commission Expires:

November 24, 1972

ACKNOWLEDGMENT OF NOTICE
AND CONSENT TO THE ASSIGNMENT

Illinois Terminal Railroad Company hereby acknowledges due notice of and consents to the foregoing Agreement and Assignment, a copy of which has been received by the undersigned as of December 15, 1971.

Dated: January 13, 1972.

ILLINOIS TERMINAL RAILROAD COMPANY

By W. A. Nelson
Vice President