

CHICAGO AND



TRANSPORTATION COMPANY

BERNARD J. ALLE,
DIANE KOHLER-RAL
JOAN A. SCHRAMM
ASSISTANT SECRETARIES

8-12/1981
Date ~~MAY 1 1978~~
Fee \$ ~~50~~
CC Washington, D. C.

April 28, 1978

File No.: A-10615

RECORDATION NO. 9255 Filed & Recorded

RECEIVED
MAY 27 1978
CERTIFICATION UNIT

Interstate Commerce Commission
Washington, D.C. 20423
Attention: Mr. Robert L. Oswald, Secretary

MAY 1 1978-9 AM

INTERSTATE COMMERCE COMMISSION

Gentlemen:

Pursuant to Section 20c of the Interstate Commerce Act, as amended, attached for recordation are Counterpart Nos. 1 to 7, inclusive, of Lease Agreement and Assignment dated as of April 5, 1978, covering lease by this Company of 19 locomotives.

The names and addresses of the parties to the transaction are as follows:

Lease Agreement between Chicago and North Western Transportation Company, 400 W. Madison St., Chicago, Illinois 60606, Lessee and BameriLease, Inc., Lessor, 555 California St., San Francisco, CA 94104

Enclosed is our check for \$50.00 to cover your recording fee. Please return Counterpart Nos. 1 to 6, inclusive, showing your recordation data.

Very truly yours,

Diane Kohler-Rausch
Assistant Secretary

dmm
Enclosures

cc: Cheryl A. Knowles
Legal Dept.-Chicago
Bank of America
233 S. Wacker
Chicago, IL 60606

R. F. Guenther, Attn: J. James*
M. W. Payette
D. E. Stockham, Attn: R.S. Brenner*
AA& Co. Attn: G. Holdren*
J. D. O'Neill, Attn: H. Labno*

*w/copy of lease

Cheryl A. Knowles
Paul Angler

2 PAYEE

CHICAGO AND
NORTH WESTERN
TRANSPORTATION COMPANY

REMITTANCE REPORT

STOCK CODE 06310
REV. 12-75

No. 116903

VENDOR NUMBER

Interstate Commerce Commission 900 J. Foster Bldg

RECORDATION NO. 9355 Filed & Recorded

MAY 1 1978 -9 511 AM

INTERSTATE COMMERCE COMMISSION

Washington, D. C. 20423

PARTICULARS:

\$ 50.00
AMOUNT

*Rec for filing Lease Agreement w/ American
Natl Bk & Tr. Co. for 19 loans.*

MAY 1 1978-9 22 AM

No. 7 of 7

LEASE AGREEMENT

ILLINOIS COMMERCE COMMISSION

THIS LEASE AGREEMENT ("Lease") dated as of April 5, 1978, is between BAMERILEASE, INC., a California corporation, with its principal office at 555 California Street, San Francisco, California ("Lessor") and Chicago and North Western Transportation Company, a Delaware corporation, with its principal office at 400 West Madison Street, Chicago, Illinois ("Lessee").

Lessor agrees to acquire and lease to Lessee and Lessee agrees to hire from Lessor certain reconstructed railroad equipment (the "Units" and individually a "Unit") described in the Schedule (the "Schedule") attached hereto and made a part hereof, upon the terms and conditions hereinafter set forth:

Section 1. Procurement, Delivery and Acceptance.

1.1 Lessor will purchase the hulks to be reconstructed and leased hereunder pursuant to a Hulk Purchase Agreement dated as of April 5, 1978, between Lessor and North Western Leasing Company ("Hulk Purchase Agreement"), attached hereto as Exhibit I. Such equipment will be reconstructed by Lessee pursuant to the Equipment Reconstruction Agreement dated as of April 5, 1978, between Lessor and Lessee ("Reconstruction Agreement"), attached hereto as Exhibit II.

1.2 The obligation of Lessor to pay for each Unit is subject to the following conditions:

(a) Lessee shall have executed and delivered to Lessor on or before the Availability Date set forth in the Schedule a Certificate of Acceptance therefor in the form attached hereto as Exhibit III ("Certificate"), such Certificate to be dated as of the date such Unit is delivered to Lessee ("Delivery Date") for acceptance under the Lease. Such Certificate or Certificates shall be delivered to Lessor within five days of the Delivery Date for such Unit

and shall confirm that each Unit (i) has been accepted by Lessee as of such Delivery Date and (ii) has become subject to and governed by all the provisions of this Lease;

(b) Lessee shall have received all such governmental or regulatory approvals, licenses and authorizations which, with respect to Lessee's execution and performance of this Lease and all related documents, may be necessary or advisable in the reasonable opinion of the Lessor.

(c) Lessor shall have received a written report from the chief mechanical officer of North American Car Corporation, or such other recognized expert as approved by Lessor, in form and substance satisfactory to Lessor to the effect that (i) the estimated useful life of the Units is at least twenty-two (22) years, (ii) the estimated residual value of the Units at the end of seventeen (17) years shall be at least twenty (20) percent of the total aggregate Purchase Price thereof, not including in such value (A) any cost incurred in delivering possession of the Units to Lessor or (B) any increase or decrease for inflation or deflation, and (iii) the Units will be usable by parties other than the Lessee.

(d) There shall exist no Event of Default or any condition, event or act, which with notice or lapse of time or both, would become an Event of Default, which has not been remedied or waived.

If any of the foregoing conditions have not been met with respect to any Unit, Lessor shall assign, transfer and set over unto the Lessee all the right, title and interest of Lessor in and to such Unit and Lessee shall hold Lessor harmless from any obligations under the Hulk Purchase Agreement, the Reconstruction Agreement and any related agreements with respect to such Unit.

1.3 In consideration of the purchase by Lessor of the hulks to be reconstructed, Lessee agrees that interim rent for each hulk shall begin to accrue

on the date funds are advanced for that hulk by Lessor until, but not including, the Delivery Date of the applicable Unit at a rate per annum equal to 9-1/4% of the hulk purchase price of that Unit (as set forth in the Schedule) payable on the Delivery Date in respect of such Unit.

Section 2. Term, Rent and Payment.

2.1 The term of this Lease as to each Unit shall commence on the Date of Delivery in respect thereof and continue as specified in the Schedule.

2.2 The rental for each Unit shall be in the amount set forth in the Schedule and shall be payable at the times set forth in the Schedule.

2.3 Rent and all other sums due Lessor hereunder shall be paid at the principal office of Lessor set forth above.

2.4 This Lease is a net lease and Lessee shall not be entitled to any abatement or reduction of rent or any setoff against rent, whether arising by reason of any past, present or future claims of any nature by Lessee against Lessor or otherwise. Except as otherwise expressly provided herein, this Lease shall not terminate, nor shall the obligations of Lessor or Lessee be otherwise affected by reason of any defect in, damage to, loss of possession or use or destruction of any of the Units (except as such may be caused solely by act of Lessor), by the attachment of any lien, encumbrance, security interest or other right or claim of any third party to any Unit, by any prohibition or restriction of or interference with Lessee's use of the Unit by any person or entity, or by the insolvency of or the commencement by or against Lessee of any bankruptcy, reorganization or similar proceeding, or for any other cause, whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding. It is the intention of the parties that all rent and other amounts payable by Lessee hereunder shall be payable in all events in the manner and at the times herein provided unless Lessee's obligations in respect thereof have been terminated pursuant to the express provisions of this Lease.

Section 3. Warranties.

3.1 LESSEE ACKNOWLEDGES AND AGREES (a) THAT EACH UNIT IS OF A SIZE, DESIGN, CAPACITY AND MANUFACTURE SELECTED BY LESSEE, (b) THAT LESSEE IS SATISFIED THAT THE SAME IS SUITABLE FOR ITS PURPOSES, (c) THAT LESSOR IS NOT A MANUFACTURER THEREOF NOR A DEALER IN PROPERTY OF SUCH KIND, and (d) THAT LESSOR HAS NOT MADE, AND DOES NOT HEREBY MAKE, ANY REPRESENTATION OR WARRANTY OR COVENANT WITH RESPECT TO THE MERCHANTABILITY, CONDITION, QUALITY, DESCRIPTION, DURABILITY OR SUITABILITY OF ANY SUCH UNIT IN ANY RESPECT OR IN CONNECTION WITH OR FOR THE PURPOSES AND USES OF LESSEE. Lessor hereby assigns to Lessee, to the extent assignable, any warranties, covenants and representations to which it may be entitled with respect to any Unit, provided that any action taken by Lessee by reason thereof shall be at the sole expense of Lessee and shall be consistent with Lessee's obligations pursuant to Section 2 hereunder.

Section 4. Possession, Use and Maintenance.

4.1(a) Lessee shall not knowingly use, operate, maintain or store any Unit improperly or carelessly, nor permit any Unit to be removed from the location specified in the Schedule without the prior written consent of Lessor, and Lessee agrees, for the benefit of the Lessor, to comply in all respects (including without limitation, with respect to the use, maintenance and operations of each Unit) with all applicable laws of the jurisdictions in which its operations involving the Units may extend, 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 the Units and with all applicable interchange rules, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that, prior to the expiration of this Lease or any renewal thereof, such laws or rules require any alteration, replacement,

addition or modification of or any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Lessor, adversely affect the property or rights of the Lessor under this Lease.

(b) As long as Lessee shall not be in default under this Lease, Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease. Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance upon or with respect to any Unit, including any accession thereto, or the interest of Lessor or Lessee therein, and will promptly discharge any such lien, claim, security interest or encumbrance which arises, except that this covenant will not be breached by reason of any such lien, claim, security interest or encumbrance in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent; and, furthermore, the Lessee shall be under no obligation to discharge any such lien, claim, security interest or encumbrance so long as it is contesting the same in good faith and by appropriate legal proceedings and the failure to discharge the same does not, in the reasonable opinion of the Lessor, adversely affect the property or rights of the Lessor under the Lease.

(c) As long as Lessee shall not be in default under this Lease, the Lessee shall be entitled to sublease the Units, provided, however, Lessee shall give Lessor notice of any such sublease within thirty days of the date of execution of any such sublease, and Lessee shall not assign or permit the assignment of any Unit to service involving the regular operation and maintenance thereof outside the continental United States. All subleases shall be subject and subordinate to the

terms and provisions of this Lease and the interests of Lessee hereunder.

(d) Lessee shall have the right to assign or transfer its leasehold interest under this Lease to any railroad corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired or leased all or substantially all the lines of railroad of the Lessee; provided, however, that Lessee shall give Lessor 45 days prior notice of its intent to exercise its rights under this subparagraph (d) and such assignee, lessee or transferee will not, upon the effectiveness of such merger, consolidation, lease or acquisition be in default under any provision of this Lease and that such acquisition or lease of railroad lines of the Lessee shall not alter in any way the Lessee's obligation to the Lessor hereunder which shall be and remain those of a principal and not a surety.

(e) Any sublease or assignment by Lessee pursuant to the provisions of subparagraphs (c) and (d) of this paragraph 4.1 shall not in any way relieve Lessee of its obligations under the Lease.

4.2 Lessee shall at its sole expense at all times during the term of this Lease maintain the Units in good operating order, repair and condition.

4.3 Lessee shall not, nor permit any sublessee to, alter any Unit or affix or install any accessory, equipment or device on any Unit, if such alteration or addition will impair the originally intended function or use or reduce the value of any such Unit unless required to do so by a duly authorized governmental or regulatory agency. All repairs, parts, supplies, accessories, equipment and devices furnished, affixed, or installed to or on any Unit shall thereupon become the property of Lessor. If no Event of Default has occurred and is continuing, Lessee, or any such sublessee, may remove at its expense any such accessories, equipment and devices at the expiration of the term with respect to such Unit, provided that

such removal will not impair the originally intended function or use of such Unit.

4.4 Lessee will cause each Unit to be kept numbered with the identifying number set forth in Appendix A hereto, and keep and maintain, permanently, distinctly, and conspicuously marked on each side of each Unit in letters not less than one inch in height the words "Ownership Subject to a Lease Agreement filed under the Interstate Commerce Act, Section 20c" or other appropriate words designated by Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect Lessor's title to and property in such Unit and the rights of Lessor under this Lease. Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such legend shall have been so marked on both sides thereof and will replace promptly any such legend which may be removed, defaced or destroyed. Lessee will not change the identifying number of any Unit unless and until a statement of new number or numbers to be substituted therefor shall have been filed with the Lessor and filed, recorded and deposited by Lessee in all public offices where this Lease shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Units may be lettered with the names or initials or other insignia customarily used by Lessee or its sublessees.

4.5 Upon prior notice to Lessee, Lessor shall have the right at all times convenient to Lessee to inspect any Unit and observe its use on Lessee's property at Lessor's expense and liability, except that Lessee shall be liable in the case of gross negligence or the intentional act of Lessee or its employees or agents for any injury to or the death of any person exercising, on behalf of Lessor, the rights of inspection granted under this section. Lessee shall

obtain written permission from all sublessees for Lessor to inspect any Unit and observe its use on the property of any sublessee at Lessor's expense and liability, said permission to expressly state that sublessee shall be liable in case of gross negligence or intentional act of sublessee or its employees or agents for any injury to or death of any person exercising, on behalf of Lessor, the rights of inspection thereby granted.

Section 5. Taxes.

5.1 All payments to be made by Lessee hereunder will be free of expense to Lessor with respect to the amount of any local, state or federal taxes (other than any federal, state or city net income taxes or franchise taxes measured by net income based on such receipts, except any such tax which is in substitution for or relieves Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided) or license fees, assessments, charges, fines or penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties, together with any interest payable with respect thereto being hereinafter called "Impositions") hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which Impositions Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. Lessee will also pay promptly all Impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all Impositions which might in any way affect the title of Lessor or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any Impositions of any kind so long as it is

contesting in good faith and by appropriate legal proceedings such Impositions and the nonpayment thereof does not, in the reasonable opinion of Lessor, adversely affect the title, property or rights of Lessor hereunder. If any Imposition shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall pay the Lessor on presentation of an invoice therefor if, in the reasonable opinion of Lessor, Lessor shall have been legally liable with respect thereto or the Lessee shall have approved the payment thereof, and the Lessor agrees to give the Lessee written notice promptly after it first obtains knowledge of the making of such charge or levy, and agrees, after payment by Lessee in accordance with this paragraph, to take, at Lessee's expense, such other action as may reasonably be requested by the Lessee for the purpose of contesting payment or obtaining refund of all or a portion of such Imposition.

5.2 In the event any reports with respect to Impositions are required to be made, Lessee shall make such reports in such manner which in the reasonable opinion of Lessor shall be required.

Section 6. Risk of Loss and Obsolescence; Waiver and Indemnity.

6.1 In the event that any Unit shall be or become

(a) worn out, lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise, or

(b) in the opinion of Lessee, obsolete due to change in economic circumstances

(any such occurrence being hereinafter called a "Casualty Occurrence") during the term of this Lease, Lessee shall promptly and fully notify Lessor with respect thereto. On the rental payment date next succeeding such notice Lessee shall pay to Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as defined

in the Schedule) of such Unit as of the date of such payment as set forth in the Schedule. Upon the making of such payment by Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of loss, theft or complete destruction) Lessor shall be entitled, if it so elects, to recover possession of such Unit at its expense. Provided that Lessor has received the Casualty Value for any Unit, Lessee shall be entitled to the proceeds of any recovery in respect of such Unit from insurance or otherwise to the extent that they do not exceed the Casualty Value of such Unit, and any excess shall be retained by Lessor.

Except as hereinabove in this Section 6.1 provided, Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after the Date of Delivery with respect to such Unit.

6.2 Lessee hereby waives and releases any claim now or hereafter existing against Lessor on account of, and agrees to indemnify, reimburse and hold Lessor harmless from, any and all claims (including, but not limited to, claims relating to patent infringement and claims based upon strict liability in tort), losses, liabilities, demands, suits, judgments or causes of action, and all legal proceedings, and any costs or expenses in connection therewith, including attorneys' fees and expenses which may result from or arise in any manner out of the condition, use or operation of any Unit during the term hereof, or which may be attributable to any defect in any Unit, arising from the material or any article used therein or from the design, testing or use thereof, or from any maintenance, service, repair, overhaul or testing of any Unit regardless of when such defect shall be discovered, whether or not such Unit is in the possession of Lessee and no matter where it is located.

Section 7. Insurance.

The Lessee will, at all times prior to the return of the Equipment

to the Lessor, at its own expense, cause to be carried and maintained property insurance and public liability insurance in respect of the Units at the time subject hereto, in amounts (subject to customary deductibles) and against risks customarily insured against by railroad companies in respect of similar equipment, and, in any event, comparable in amounts and against risks customarily insured against by the Lessee in respect of similar equipment owned by it. If the Lessor shall receive any insurance proceeds or condemnation payments in respect of a Unit suffering a Casualty Occurrence, the Lessor shall, subject to the Lessee's having made payment of the Casualty Value in respect of such Unit, pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor. All insurance proceeds received by the Lessor from the Lessee's insurance coverage in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

Section 8. Default.

8.1 If, during the term of this Lease, one or more of the following events ("Events of Default") shall occur:

(a) Default shall be made by Lessee in the making of any payments to Lessor when due hereunder and such default shall continue for a period of ten days;

(b) Any representation or warranty of Lessee contained herein or in any document furnished to Lessor in connection herewith shall be untrue or incorrect in any material respect when made;

(c) Default shall be made in the observance or performance of any of the other covenants, conditions, agreements or warranties made by Lessee

hereunder and such default shall continue for thirty days after written notice thereof to Lessee or, if less, beyond any time period expressly set by any judicial or administrative body having jurisdiction over Lessee;

(d) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(e) Any other proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether

or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

then, in any such case, Lessor, at its option may:

(aa) proceed by appropriate court action or actions either at law or in equity, to enforce performance by Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(bb) by notice in writing to Lessee terminate this Lease, whereupon all rights of Lessee to the use of the Units shall absolutely cease and terminate, but Lessee shall remain liable as hereinafter provided; and thereupon Lessor may by its agents enter upon the premises of Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold the same free from any right of Lessee, its successors or assigns, but Lessor shall, nevertheless, have a right to recover from Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of

such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case by discounting at a rate equal to the then judgment rate of interest fixed under the law of the State of California, compounded at the same frequency as rentals are paid hereunder, from the respective dates upon which rentals would have been payable hereunder had the Lease not been terminated, and (ii) any damages and expenses in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty contained in this Lease other than for the payment of rental.

8.2 In the event at any action at law or suit in equity in relation to this Lease, Lessee in addition to all other sums which Lessee may be required to pay, will, if Lessor prevails in such action or suit, pay to Lessor a reasonable sum for its attorneys' fees and all other costs and expenses of such action or suit.

8.3 The remedies hereunder provided in favor of Lessor 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.

Section 9. Return of Units.

On or prior to the expiration of the term of this Lease (hereinafter "Expiration Date") the Lessee will, at its own cost and expense, at the request of the Lessor deliver possession of such Unit or Units to the Lessor upon such storage tracks of the Lessee as Lessor may designate or in the absence of sufficient storage on such tracks, then such closest tracks as practicable on the lines of Lessee, as Lessee designates. The Lessee shall pay rental at the rate of .03447% per day of the Purchase Price of any Unit not returned to the Lessor at the designated storage tracks on the Expiration Date. The Lessor shall pay

storage at the rate of .03447% per day of the Purchase Price on any Unit not removed from the said storage tracks within sixty (60) days of the commencement of such storage unless the delay in such removal has been occasioned by an act or omission of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable except in the case of gross negligence or intentional act of the Lessee or of its employees or agents and, for any injury to or the death of any person exercising, either on behalf of the Lessor or any prospective purchaser or Lessee, the rights of inspection granted under this sentence. The assembly, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Lessor pursuant to this Section 9 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, having at all times been maintained in accordance with Section 4 hereof, (ii) except as provided in Section 4 hereof have attached or affixed thereto any part affixed or installed by Lessee, (iii) meet the standards then in effect under lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body then exercising power or jurisdiction over the Units, to the extent such rules affect title, operation or use of the Units. If any Unit suffers a Casualty Occurrence during the first 60 days of storage provided for in this Section 9, or thereafter if removal by Lessor of such Unit was delayed due to an act or omission of the Lessee,

the Lessee shall pay to the Lessor the Casualty Value of such Unit as determined in accordance with Section 6 hereof.

Section 10. Assignment.

All or any of the right, title or interest of Lessor in and to this Lease, and the rights, benefits and advantages of Lessor hereunder, including the rights to receive payment of rental or any other payment hereunder, and title to the Units, may be assigned or transferred by Lessor at any time but Lessee shall be under no obligation to any assignee except upon written notice of such assignment from Lessor. Any such assignment or transfer shall be subject and subordinate to the terms and provisions of this Lease and the rights and interests of Lessee hereunder. Except as provided in Section 4 hereof, no assignment of this Lease or any right or obligation hereunder whatsoever may be made by Lessee or any assignee of Lessee without the prior written consent of Lessor, which shall not be unreasonably withheld.

Section 11. Further Assurances.

Lessee will, at its expense, do and perform any other act and will execute, acknowledge, deliver, file, register and record any further instruments which Lessor may reasonably request in order to protect Lessor's title to the Units, this Lease, and the rights and benefits thereof. This Lease shall be filed and returned by Lessee at its own expense with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act.

Section 12. Late Payments.

Lessee shall pay to Lessor, on demand, interest at the rate of ten percent per annum on the amount of any payment not made when due hereunder from the date thereof until payment is made.

Section 13. Effect of Waiver.

No delay or omission to exercise any right, power or remedy accruing to Lessor upon any breach or default of Lessee hereunder shall impair any such right, power or remedy nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein or of or in any similar breach or default thereafter occurring, nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of Lessor of any breach or default under this Lease must be in writing specifically set forth.

Section 14. Survival of Covenants.

All covenants of Lessee under Section 1, 2, 4, 5, 6, 8, 9 and 12 shall survive the expiration or termination of this Lease to the extent required for their full observance and performance.

Section 15. Applicable Law; Effect and Modification of Lease.

15.1 This Lease shall be governed by, and construed under the laws of the State of California, provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

15.2 This Lease exclusively and completely states the rights of Lessor and Lessee with respect to the leasing of the Units and supersedes all prior agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing.

Section 16. Financial Information.

Lessee shall keep its books and records in accordance with The Uniform

System of Accounts or such other system as may be prescribed by ICC from time to time during the term of the Lease. Lessee shall deliver to Lessor copies of its annual and quarterly reports to the ICC. Lessee shall further deliver to Lessor copies of its annual and quarterly financial statements prepared in accordance with generally accepted accounting principles, the annual report to stockholders of Lessee, certified by a firm of independent public accountants, and such other unaudited financial statements as may be reasonably requested by Lessor.

Lessee shall deliver to Lessor on or prior to December 1 of each year of the Lease an annual report as to the physical condition of the Units during the preceding year.

Section 17. Notices.

All demands, notices and other communications hereunder shall be in writing and shall be deemed to have been duly given when personally delivered or when deposited in the mail, first class postage prepaid, or delivered to a telegraph office, charges prepaid, addressed as follows:

To Lessor:

BameriLease, Inc.
P. O. Box 37070
San Francisco, California 94137
Attention: Documents Supervisor

To Lessee:

Chicago and North Western Transportation Company
400 West Madison Street
Chicago, Illinois 60606
Attention: Vice President-Finance

or at such other address as may hereafter be furnished in writing by either party to the other.

Section 18. Counterparts.

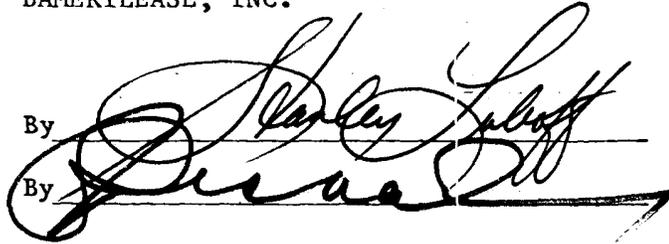
Eight counterparts of this Lease were executed by the parties hereto. One counterpart has been prominently marked "Lessor's Copy". One counterpart has been prominently marked "Lessee's Copy". Only the counterpart marked "Lessor's Copy" shall evidence a monetary obligation of Lessee.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above written.

BAMERILEASE, INC.

By

By



CHICAGO AND NORTH WESTERN TRANSPORTATION
COMPANY

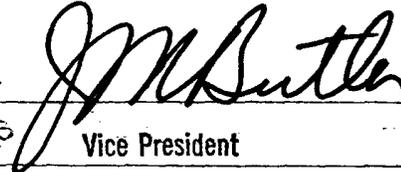
ATTEST:



ASSISTANT SECRETARY

By

JIS
By



Vice President

SCHEDULE

Section 1. Description of Units and Maximum Purchase Price.

<u>Description</u>	<u>Estimated Purchase Price</u>
	Hulk Price \$ <u>50,000 each</u>
19 Rebuilt GP-7 1500 HP and GP-9 Locomotives	\$ <u>950,000</u>
	Reconstruction Price \$ <u>130,000 each</u>
	\$ <u>2,470,000</u>
Total Estimated Purchase Price	\$ <u>3,420,000</u>

The aggregate actual Purchase Price of all Units shall not exceed \$3,762,000 without the prior written consent of Lessor.

Section 2. Term.

The lease term for each Unit shall commence on the Delivery Date in respect thereto and shall be not less than 144 nor greater than 150 months.

Section 3. Rental.

The rental for each Unit shall be paid in 24 consecutive semiannual instalments commencing 6 months after December 15, 1978. The first 12 semi-annual rental payments for each Unit shall each be in an amount equal to 5.0885% of the Purchase Price in respect thereto. The second 12 semiannual rental payments for each Unit shall each be in an amount equal to 6.2045% of the Purchase Price in respect thereto.

If the federal corporate income tax rate applicable to Lessor is changed from 48% between the date of this Lease and December 15, 1978, the aforementioned percentage of the Purchase Price shall be altered as of the rental payment date next following the effective date of such income tax rate change to the percentage of the Purchase Price set forth below opposite such new rate.

Federal Corporate Income Tax Rate

Percentage of the
Purchase Price

Payments 1-12 Payments 13-24

47%	5.129	6.244
46%	5.167	6.284
45%	5.206	6.3215
44%	5.244	6.359
43%	5.280	6.398

Section 4. Availability Date.

December 27, 1978.

Section 5. Location.

Continental United States.

Section 6. Casualty Value.

The Casualty Value of each Unit as of each rental payment date in respect thereto shall be that percentage of the Purchase Price of such Unit as is set forth below opposite the number of rental payments in respect of such Unit which would have become due to and including such date.

<u>Rental Payment No.</u>	<u>Percentage</u>	<u>Rental Payment No.</u>	<u>Percentage</u>
1	120.74	13	96.01
2	120.52	14	87.45
3	120.12	15	83.77
4	119.51	16	79.91
5	118.71	17	75.85
6	112.64	18	71.61
7	111.53	19	67.17
8	110.24	20	62.57
9	108.76	21	57.76
10	102.08	22	52.80
11	100.19	23	47.65
12	98.18	24	42.36

Section 7. Tax Indemnification.

7.1 This Lease has been entered into upon the assumption that:

(a) The Lease will constitute a true lease for federal income tax purposes.

(b) The Lessor shall be entitled to such deductions, credits and other tax benefits as are provided by federal, state and local law to an owner of property ("Tax Benefits") including, without limitation:

(i) The investment credit allowed by Section 38 and related sections of the Internal Revenue Code of 1954, as amended ("Code") in an amount equal to ten (10%) percent of the reconstructed portion of the Purchase Price of the Units ("Reconstruction Cost")

(ii) The deduction for depreciation of the Units under various sections of the Code based upon (A) depreciation by Lessor over useful life of 12 years (as provided by the lower limit for assets includable in Asset Guideline Class 00.25 as published in Rev. Proc. 77-10) (B) Salvage value equal to ten (10%) percent of the Purchase Price of the Units (after reduction as provided for in Section 167(f) of the Code), (C) utilization of the double declining balance method of depreciation switching to sum of the years digits method when most beneficial to the Lessor using an original basis equal to the Reconstruction Cost, and (D) Utilization of the one hundred fifty (150%) percent declining balance method of depreciation switching to straight line for the nonreconstructed portion of the Purchase Price.

(c) The applicability throughout the term of this Lease of a federal income tax equal to the statutory rate applicable to Lessor on the signing date of this Lease and a California Franchise tax rate (or any other applicable California tax based on net income) equal to the statutory rate applicable to Lessor on the signing date of this Lease.

7.2 If Lessor shall lose, shall not have or shall lose the right to claim, or if there shall be disallowed or recaptured with respect to Lessor, all or any portion of the Tax Benefits as are provided to an owner of property with respect to any Unit ("Loss") as a direct result of (i) the inaccuracy of

any statement in any letter or document furnished to the Lessor by the Lessee (or any officer, agent or employee thereof), (ii) the noncompliance, breach or misrepresentation by the Lessee with or of any provision of Section 7.1 hereof, (iii) the use of any Unit by the Lessee in such a way as to disqualify it as Section 38 property within the meaning of Section 48(a) of the Code, or as property eligible for accelerated depreciation as provided in Section 167 of the Code, to the extent applicable, or (iv) any action or omission by Lessee, except any actions or omissions permitted by the terms of this Lease, then on the next succeeding rental payment date after written notice to Lessee by Lessor that a Loss has occurred, or if there be no such date, thirty days following such notice, Lessee shall pay Lessor, as additional rent, an amount which, in the reasonable opinion of Lessor and after deduction of all taxes required to be paid by Lessor with respect to the receipt of such amount, will cause the Lessor's net after-tax return over the term of the Lease in respect of such Unit to equal the net after-tax return that would have been available if Lessor had been entitled to the utilization of all of the Tax Benefits. The amount required to be paid to Lessor pursuant to this paragraph shall be payable as a lump sum in the case of a Loss of the investment credit referred to in Section 7.1(b)(i) hereof and, in the case of the Loss of any other Tax Benefit, either as a lump sum or as future rental increases, at the option of Lessor.

For purposes of this Section 7.2, whenever it may be necessary to compute the amount of an indemnity payment with respect to a Loss for any purpose, such computation shall be made on the assumption that Lessor could have fully utilized such tax benefit and that the receipt by Lessor of any such indemnity payment will be subject to federal and state taxes at a combined effective rate equal to that specified at Section 7.1(c) of this Section 7 subject to the limitations found at Section 7.3(gg).

7.3 For purposes of this Section 7, a Loss shall occur upon the earliest

of (a) the happening of any event (such as disposition or change in use of any Unit) which may cause such Loss, (b) the payment by Lessor to the Internal Revenue Service of the tax increase resulting from such Loss, or (c) the adjustment of the tax return of Lessor to reflect such Loss. Lessor shall not be entitled to a payment under this Section 7 on account of any Loss due solely to one or more of the following events: (aa) a disqualifying disposition due to sale of the Unit by Lessor prior to any default by Lessee, (bb) a failure of Lessor to claim timely or properly the Tax Benefits for the Unit in the tax return of the Lessor, (cc) a disqualifying change in the nature of Lessor's business or liquidation thereof, (dd) a foreclosure by any person holding through Lessor of a lien on the Unit, which foreclosure results solely from an act of Lessor, (ee) any event which by the terms of this Lease requires payment by the Lessee of the Casualty Value, if such Casualty Value is thereafter actually paid by the Lessee, or (ff) the failure of Lessor to have sufficient taxable income or tax liability to utilize such Tax Benefits, (gg) any change or modification in the tax law, regulations, Revenue Rulings, or Revenue Procedures of precedential value, effective after December 15, 1978, and (hh) any arrangement between Lessor and NAC Leasing Corporation, its assignees, or any affiliated entity.

7.4 Upon receipt by Lessor of a written notification from a Federal or state taxing authority of a disallowance, a proposed disallowance or an adjustment for which an amount may be payable by Lessee as a result of a Loss in accordance with this Section 7 (hereafter called a "Disallowance"), Lessor shall promptly notify Lessee of said Disallowance after receipt of such written notification from the applicable taxing authority (which notice to Lessee shall include all relevant information relating to such Disallowance which may be particularly within the knowledge of Lessor, including but not limited to the assumptions and computations utilized by the Lessor in originally evaluating this Lease transaction and in determining such Loss).

Lessor shall contest such Disallowance if:

(i) Lessee requests Lessor to contest such Disallowance within twenty (20) days after Lessor has so notified Lessee and within forty-five (45) days thereafter independent tax counsel selected by Lessee and approved by Lessor ("Independent Tax Counsel") renders a written opinion that there is a reasonable basis to contest such Disallowance; and

(ii) Lessee agrees to pay on demand all reasonable expenses, including, without limitation, the fees and disbursements of such Independent Tax Counsel, Lessor's special counsel, accountants, and investigators, paid or incurred by the Lessor in connection with contesting such claim.

The Lessor, at its sole option, may choose to forego any and all administrative appeals, proceedings, hearings and conferences with the relevant Taxing Authority in respect of such Disallowance; but if Lessor elects to forego any of the preceding administrative remedies it shall contest the Disallowance in a court of competent jurisdiction selected by it at its sole option.

At all stages of any contest of a Disallowance, Lessor shall conduct the contest by any proceedings available under applicable law, regulation or court rules which, in its sole discretion, it determines to pursue, and shall determine in its sole and exclusive discretion whether (A) to petition for a redetermination of the deficiency proposed to be assessed by the taxing authority as a result of the Disallowance or (B) to pay the deficiency and institute an action in a court of competent jurisdiction for a refund of taxes paid.

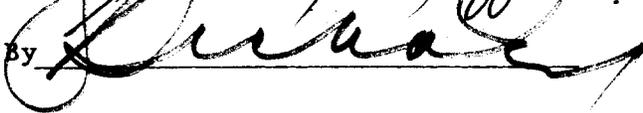
If after actual receipt by Lessor of an amount paid by Lessee and attributable to a Loss of Tax Benefits, the extent of such Loss shall be established by the final judgment or decree of a court or administrative agency having jurisdiction thereof or a settlement with the consent of Lessee, within thirty (30) days, Lessor shall pay to Lessee all or the portion of the amount received by Lessor and

paid by Lessee with respect to such Loss which Lessor did not incur because of such final judgment or compromise. In the event of such a final judgment, decree or settlement and if future rental payments have been increased pursuant to Section 7.2 hereof, then future rental payments shall be reduced to reflect the Loss which Lessor did not incur because of such judgment or compromise. Notwithstanding the foregoing, Lessor shall not be required to make any payment hereunder so long as an Event of Default (or an event which with the passage of time or notice or both would constitute an Event of Default) shall have occurred and be continuing.

7.5 All of the Lessor's rights and privileges arising from the indemnities contained in this Section 7 shall survive the expiration or other termination of this Lease.

7.6 For purposes of this Section 7, the term "Lessor" shall include any affiliated group (within the meaning of Section 1504 of the Code) of which Lessor is a member for any year in which a consolidated income tax return is filed for such affiliated group.

BAMERILEASE, INC.

By 
By 

CHICAGO AND NORTH WESTERN TRANSPORTATION
COMPANY

By 
By  Vice President

EXHIBIT I TO LEASE

HULK PURCHASE AGREEMENT

NORTH WESTERN LEASING COMPANY

Dated as of April 5, 1978

BameriLease, Inc.
555 California Street
San Francisco, California 94104

Attention:

Gentlemen:

North Western Leasing Company, a Delaware corporation ("Seller"), owns the railroad equipment described in Annex A hereto (collectively the "Hulks" and individually a "Hulk") and hereby agrees to sell the Hulks to BameriLease, Inc. ("Buyer") for the purchase price set forth in said Annex, and on the terms and conditions hereof.

The Seller will deliver the Hulks to Buyer's representative authorized to accept delivery thereof at the delivery point or points designated by Buyer together with a Bill or Bills of Sale of the Seller transferring title to the Hulks in such group to Buyer and warranting that at the time of delivery of such Hulks, the Seller had legal title thereto and good and lawful right to sell the same and that title to such Hulks transferred to Buyer by such Bill or Bills of Sale was, at the time of delivery thereof, free of all claims, liens and encumbrances of any nature, and that the purchase price of such Hulks does not exceed the fair market value thereof. No later than two (2) business days after delivery of a group or groups of Hulks (each of which groups shall contain such number of Hulks as shall be mutually agreed upon by Buyer and the Seller from time to time) to such authorized representative, the Seller will deliver to Buyer (a) a Hulk Acceptance Certificate in the form of Annex B attached hereto, signed by such authorized representative stating that the Hulks in such group have been delivered to such authorized representative and accepted on Buyer's behalf, and (b) a written opinion of counsel that the Bill or Bills of Sale previously delivered to Buyer are valid and effective to transfer good title to the Hulks in such group to Buyer, free of all claims, liens and encumbrances of any nature. Payment of the purchase price of each Hulk shall be due two (2) business days after receipt of such Hulk Acceptance Certificate and opinion of counsel covering said Hulk.

Delivery of the Hulks pursuant to this Agreement shall commence as soon as practicable and shall be completed in sufficient time for reconstruction to occur on or before December 27, 1978 under the Reconstruction Agreement dated as of April 5, 1978 between Buyer and Chicago and North Western Transportation Company. ("Reconstruction Agreement").

In the event that the reconstruction of any Hulk sold to Buyer pursuant hereto shall not have been completed on or before December 27, 1978 under the Reconstruction Agreement, or any such Item or Reconstructed Equipment (as defined in the Reconstruction Agreement) shall not have been leased and delivered to Lessee on or before December 27, 1978 pursuant to the Equipment Lease Agreement dated as of April 5, 1978, the Seller agrees to immediately purchase such Hulk or Item or Reconstructed Equipment (irrespective of the status of its reconstruction) from Buyer AS-IS-WHERE-IS without representation or warranty whatever, express or implied, at a price equal to the purchase price, if any, paid by Buyer to the Seller for such Hulk.

If the foregoing arrangement concerning sale of the Equipment is satisfactory, please confirm by signing and returning the enclosed copy of this letter to the undersigned.

Very truly yours,

NORTE WESTERN LEASING COMPANY,
Seller

[S E A L]

By _____
Its

ACCEPTED:

BAMERILEASE, INC.

By _____
Its

By _____
Its

EQUIPMENT DESCRIPTION
HULK PURCHASE AGREEMENT

<u>Quantity</u>	<u>Description</u>	<u>Old No.</u>	<u>New No.</u>	<u>Hulk Purchase Price</u>	<u>Total Purchase Price</u>
10	GP-9 1750 H.P.	701	4512	\$ 50,000 ea.	\$ 500,000
		702	4513		
		1760	4529		
		1769	4530		
		1773	4531		
		1729	4532		
		1731	4533		
		1732	4534		
		1743	4535		
		1746	4536		
9	GP-7 1500 H.P.	1539	4487	\$ 50,000 ea.	\$ 450,000
		1546	4488		
		1549	4489		
		1565	4490		
		1573	4491		
		1577	4492		
		1581	4493		
		1632	4494		
		1639	4495		
				Total	\$ 950,000

ANNEX B
TO HULK PURCHASE AGREEMENT

HULK ACCEPTANCE CERTIFICATE

TO: BAMERILEASE, INC.

I, duly appointed and authorized representative for BameriLease, Inc., under the Hulk Purchase Agreement dated as of April 5, 1978, between BameriLease, Inc. and North Western Leasing Company, do hereby certify that I inspected, received, approved and accepted delivery under the Hulk Purchase Agreement of the following items:

TYPE OF EQUIPMENT:

DATE ACCEPTED:

NUMBER OF UNITS:

NUMBERED:

The execution of this Hulk Acceptance Certificate will in no way relieve or decrease the responsibility of North Western Leasing Company for any warranties it has made with respect to the Hulks.

Inspector and Authorized Representative
of BameriLease, Inc.

EXHIBIT II TO LEASE

EQUIPMENT RECONSTRUCTION AGREEMENT

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

THIS EQUIPMENT RECONSTRUCTION AGREEMENT ("Reconstruction Agreement") dated as of April 5, 1978, between Chicago and North Western Transportation Company, a Delaware corporation ("Rebuilder") and BameriLease, Inc., a California corporation ("Owner").

R E C I T A L S

The Owner is the owner of the Hulks described in Schedule A hereto (collectively the "Hulks" and individually a "Hulk") which are to be reconstructed by the Rebuilder in accordance with the specifications therefor set forth in Exhibit I of Schedule A (hereinafter, with such modifications therein as may be approved by the Owner or its authorized representative and the Rebuilder, called the "Specifications"); and the Owner proposes to pay for the reconstructed equipment described in Schedule A (collectively the "Reconstructed Equipment" and individually an "Item of Reconstructed Equipment") at the price, in the manner and upon the terms and conditions hereinafter provided;

NOW THEREFORE, in consideration of the premises and of the covenants and agreements hereinafter set forth, the Owner and the Rebuilder hereby agree as follows:

Section 1. Reconstruction of the Equipment. The Rebuilder agrees (i) to reconstruct the Hulks in accordance with the Specifications for the Owner, (ii) to number and mark each Item of Reconstructed Equipment as specified by the Owner and (iii) to deliver the Reconstructed Equipment to the Owner, as and when so reconstructed, marked and numbered, at the reconstruction price or prices as may be mutually agreed upon by the parties hereto set forth in amended Schedules A. The design, quality and component parts of the Reconstructed Equipment will conform to all United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all other requirements reasonably interpreted by the Rebuilder as being applicable to railroad equipment of the character of the Reconstructed Equipment as of the date of this Agreement.

Section 2. Delivery.

2.1 Place. The Owner will deliver the Hulks at the plants of the Rebuilder in Oelwein, Iowa, as the Rebuilder shall direct. The Rebuilder will deliver the Reconstructed Equipment to an authorized representative of the Owner at the delivery point or points mutually agreed upon by the Owner and the Rebuilder in accordance with the delivery schedule set forth in Schedule A.

2.2 Outside Delivery Date. In the event that all Hulks have not been reconstructed, delivered and accepted hereunder and under the Equipment Lease Agreement ("Lease") dated April 5, 1978 between Owner, as Lessor, and Rebuilder, as Lessee, on or prior to the outside delivery date set forth in Schedule A, this Reconstruction Agreement shall be deemed to apply only to such Hulks as have been reconstructed, delivered and accepted on or prior to said date and, as used herein, the term Reconstructed Equipment shall be deemed to mean only such Hulks as have been reconstructed,

delivered and accepted on or prior to said date and the Owner shall have no liability for any part of the reconstruction cost of any Hulks not reconstructed, delivered and accepted on or prior to said outside delivery date.

2.3 Inspection and Acceptance. Acceptance by an authorized representative of Owner, who may be an employee of the Lessee, shall constitute acceptance by the Owner hereunder upon execution of Certificate of Acceptance (Exhibit B).

Owner shall have the right to visit, at the time convenient to Rebuilder, the plants of the Rebuilder where the reconstruction of the Equipment shall take place and there observe said reconstruction.

Section 3. Payment for Reconstruction of the Equipment. The Owner agrees that the Owner will pay to the Rebuilder two (2) business days after an Item of Reconstructed Equipment is delivered to the Owner, the reconstruction price of the Item of Reconstructed Equipment providing that the Owner shall have first received, in form and substance satisfactory to the Owner, all of the following:

(a) A Certificate or Certificates of Acceptance with respect to such Item of Reconstructed Equipment;

(b) An invoice or invoices covering the reconstruction cost of such Item of Reconstructed Equipment; provided, however, that notwithstanding the actual dates of acceptance of delivery of the Items of Reconstructed Equipment, invoices therefor shall be rendered only in respect of Item of Reconstructed Equipment which shall have been delivered and accepted by the authorized representative of the Lessee under the Equipment Lease;

(c) An opinion of counsel for the Rebuilder to the effect that this Agreement has been duly authorized, executed and delivered by the Rebuilder and constitutes a valid, legal and binding agreement of the Rebuilder enforceable in accordance with its terms.

Section 4. Warranty. The Rebuilder warrants that, at the time of delivery, the Equipment will be free of all claims, liens and encumbrances of any nature, except those of persons claiming by, through or under Owner and those arising under the Equipment Lease Agreement between Owner, as Lessor, and Rebuilder, as Lessee, dated as of April 5, 1978. The Rebuilder further warrants that the Equipment will be reconstructed in accordance with the requirements, specifications and standards set forth or referred to in Section 1 hereof and warrants that the Reconstructed Equipment will be free from defects in material, workmanship and design under normal use and service, the obligation of the Rebuilder under this Section being limited to making good at its plant any part or parts of any Item of Reconstructed Equipment which shall, within one year after the delivery of such Item of Reconstructed Equipment to the Owner, be returned to the Rebuilder with transportation charges prepaid and which examination by the Rebuilder shall disclose to its satisfaction to have been thus defective. This warranty is expressly in lieu of all other warranties, expressed or implied, and of all other obligations or liabilities on the part of the Rebuilder except for its obligations under Sections 1, 2 and 3 hereof and the Rebuilder neither assumes nor authorizes any person to assume for it any other liability in connection with the reconstruction of the Equipment and delivery of the Reconstructed Equipment except as aforesaid. The Rebuilder further agrees with the Owner that the acceptance of any Item of Reconstructed Equipment under Section 2 hereof shall not be deemed a waiver by the Owner of any of its rights under this Section.

Section 5. Notices. Any notice permitted or required to be given by either party hereto to the other shall be in writing and deemed to be properly served if delivered, or

addressed and deposited in the United States mails, first class postage prepaid, as follows:

If to the Rebuilder: Chicago and North Western Transportation Company
400 West Madison Avenue
Chicago, Illinois 60606
Attention: Vice President Finance

If to the Owner: BameriLease, Inc.
555 California Street
San Francisco, California 94104
Attention: Documentation Supervisor

or delivered or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

Section 6. Indemnification. Rebuilder does hereby assume liability for and does hereby agree to indemnify, protect, save and keep harmless Owner, its successors and assigns, from and against any and all liabilities, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements, including court costs and legal expenses, of whatever kind and nature, imposed on, incurred by or asserted against Owner or its successors and assigns (whether or not also indemnified against by any other person) in any way relating to or arising out of this agreement or the manufacture, purchase, reconstruction ownership, delivery, lease, possession, use, operation, condition, return or other disposition of the Hulks and the Reconstructed Equipment by Owner or Rebuilder, including without limitation, latent and other defects, whether or not discoverable by Owner or Rebuilder; any claim for patent, trademark, or copyright infringement; and any claims arising out of strict liability in tort. Rebuilder agrees to give Owner and Owner agrees to give Rebuilder, prompt written notice of any claim or liability hereby indemnified against. The indemnities and assumptions of liabilities contained in this Section 6 shall continue in full force and effect notwithstanding the termination of this agreement, whether by expiration of time or otherwise, as to any act or omission in any manner relating to the Hulks and the Reconstructed Equipment occurring during the continuance of this agreement which at any time is claimed to have created a cause of action against the Owner, provided, however, that the Rebuilder shall not be liable except in the case of gross negligence or intentional act of the Rebuilder or of its employees or agents and, except to the extent otherwise provided by law, for any injury to, or the death of any person exercising, on behalf of the Owner the rights of inspection granted under this Agreement.

Section 7. Taxes. Rebuilder shall pay or reimburse Owner for all taxes (exclusive of net income or franchise taxes unless such net income or franchise taxes are in substitution for or relieve Rebuilder from any taxes which Rebuilder would otherwise be obligated to pay under the terms of this paragraph), fees, charges, licenses, and assessments whatsoever, however designated, whether based on the reconstruction cost or levied, assessed or imposed upon the Hulks or the Reconstructed Equipment or upon or in respect of the reconstruction purchase, delivery or ownership of the Hulks or the Reconstructed Equipment.

Section 8. Insurance. Rebuilder will, at all times while this Reconstruction Agreement is in effect, at its own expense, cause to be carried and maintained, property insurance in respect of the Hulks and of the Reconstructed Equipment at the time subject hereto and public liability insurance, all in amounts and against risks customarily insured against by railroad companies in respect of similar equipment and in any event comparable to those insured against by Rebuilder in respect of similar equipment owned by it.

Section 9. Successors and Assigns. As used herein, the terms "Rebuilder" and "Owner" shall be deemed to include the successors and assigns of the Rebuilder and the

Owner, provided, however, that no assignment by the Rebuilder or any assignee thereof shall subject any assignee to, or relieve the Rebuilder from, any of the obligations of the Rebuilder hereunder. Each party hereto may conclusively assume that there has been no assignment of the other party's rights under this Reconstruction Agreement unless and until it shall have been notified in writing of any such assignment by said assignor.

Section 10. Execution in Counterparts. This Reconstruction Agreement may be executed in several 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.

IN WITNESS WHEREOF, the Owner and the Rebuilder, pursuant to due corporate authority as appropriate, have caused this Reconstruction Agreement to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested.

CHICAGO AND NORTH WESTERN
TRANSPORTATION COMPANY

By _____

Title _____

BAMERILEASE, INC.

By _____

Title _____

EXHIBIT I TO SCHEDULE A
OF EQUIPMENT RECONSTRUCTION AGREEMENT
DATED AS OF APRIL 15, 1978 BETWEEN BAKERILEASE, INC.
AND CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

A. GENERAL DESCRIPTION

It is proposed to rebuild nineteen (19) GP7-GP9 locomotives built new in 1952 to 1958.

The locomotives will be rebuilt and modified, both mechanically and electrically, for use as dual purpose locomotives, switching and way freight or road.

The locomotives will be completely compatible, both air and electrical system, for multiple unit operation with any other unit.

The locomotive is to be disassembled with the long hood, short hood, main engine and generator, air compressor, accessory rack and all electrical equipment removed. All operating cab components and air equipment will be removed.

After all work has been completed the locomotive is to be fully load tested, all protective features properly adjusted and a 720 FRA required inspection performed.

The locomotive will be completely repainted to CNWT paint scheme and schedule.

The following described work will increase the life expectancy of each locomotive for at least an additional fifteen (15) years of service.

B. UNDERFRAME

1. The underframe is to be thoroughly cleaned, inspected and repaired as required for extended service life.
 - .1 The center bearings, draft gear pockets, draft gear and couplers will be inspected and repaired or replaced as needed.
 - .2 The foot boards will be removed from both ends and a pilot snow plow applied to the front end only.
 - .3 The pin lifter arrangement and side steps, both ends, will be modified to conform to FRA standards for side foot board application (CNW DRG #D59524).
 - .4 The end platform walkways are to be retained but modified to be stationary. The chain connection arrangement is to be retained.
 - .5 The present sand traps, both ends, are to be removed and replaced with the electric PM-530 system. The present manual piping is to be retained and the locomotive set up for dual system, out board sanding only.

C. LONG HOOD ASSEMBLY

1. The long hood assembly will be cleaned, inspected and repaired as needed.
 - .1 The carbody door hinges and latches are to be repaired as required.
 - .2 The shutters are to be repaired as required and shutter operating cylinders reworked.
 - .3 The present forward shutter section is to be modified to automatic, controlled by the #1 cooling fan contactor.
 - .4 The cooling radiators are to be removed, disassembled, cleaned and tested and reapplied with all new seals and gaskets.
 - .5 The carbody filter arrangement is to be modified so as to provide for outside air intake directly to the engine air intake filter housing with provisions for blanking out for winter operation.
 - .6 The air horns are to be relocated from the cab roof to a point over the front cooling fan to preclude winter freeze ups.
 - .7 New classification/market light assemblies, outside lever operated, are to be applied.

D. SHORT HOOD ASSEMBLY

1. The short hood (front) will be removed and modified to the low profile style for better visibility.
 - .1 The front hood deck area is to have the false deck removed to provide for application of the low hood and toilet facility.
 - .2 The present sand box is to be retained and repaired as required.
 - .3 The battery boxes are to be cleaned and repaired, neutralized with a soda solution and painted internally with acid resistant paint.
 - .4 New classification/marker light assemblies, outside lever operated, are to be applied.

E. OPERATING CAB

1. The operating cab is to have the seats, heaters, control stand and other equipment removed and needed repairs to all doors, windows, side sheets and cab ceiling made before repainting (suede gray).
 - .1 All cab doors, windows and electrical cabinet doors are to have the weather stripping renewed.
 - .2 All door hinges and latches are to be repaired or renewed.

- .3 A new front bulkhead, with two windows will be applied.
- .4 The cab sub-floor is to be repaired or replaced and Benolex floor covering is to be applied.
- .5 The present GP-9 cab heaters are to be retained. The heaters are to be cleaned and repaired as needed with new or reconditioned cores applied.
- .6 The GP-7 cab heaters will be changed over to the GP-9 style with new flush mounted heaters installed.
- .7 Permanent style window arm rests will be applied on both sides and a three panel bay window on the right side only.
- .8 A new style control stand will be applied.
- .9 The speed indicator will be a Barco electric style.
- .10 The air horn operating valve will be mounted on the control stand and will be non-modulating.
- .11 The warning bell will be electrically controlled with a magnet valve and control stand mounted switch.

F. MAIN ENGINES

- 1. The main engines will be either a 16-567BC or 16-567C engine.
 - .1 The 16-567BC engine will be rated at 1500 HP and will be applied to the GP-7 locomotive.
 - .2 The 16-567C engine will be rated at 1750 HP and will be applied to the GP-9 locomotive.
 - .3 The engines will be completely disassembled, crankcase and oil pan cleaned, inspected and repaired as required to qualify for rebuild with standard dimensions.
 - .4 The crankcase bore will be checked and line bored if required. The crankshaft will be inspected, checked and qualified or replaced.
 - .5 The lube oil pumps, water pumps and engine blowers will be completely overhauled.
 - .6 The engine governor will be replaced with an overhauled governor converted to a 12 pin style (new power pack).
 - .7 The injectors will be replaced with reworked (needle valve) injectors.
 - .8 The cylinder assemblies will be replaced with new or chrome plated liners, new pistons and rings and reworked cylinder heads.
 - .9 The engines will be reassembled with all new gaskets, seals and bearings.
 - .10 The exhaust manifolds will be equipped with internal (FARR) type spark arrestors with the external carbon traps.

G. FUEL SYSTEM

1. The basic fuel system on the locomotives will be retained with the following modifications:
 - .1 The fuel tank is to be drained, cleaned and tested for leaks and the present manual fuel cut off removed and replaced with an electric shut off feature.
 - .2 The present fuel sight glasses are to be removed, cleaned and reapplied with new gaskets. The sight glass copper lines to top of fuel tank are to be renewed.
 - .3 The fuel tank will be equipped with a Snyder automatic fuel shut off on each side.
 - .4 The present fuel strainer is to be retained and the 4 element primary filter removed and replaced with a michianna size single filter tank.
 - .5 The engine mounted filters are to be the spin on type.
 - .6 The fuel pump and motor are to be inspected and qualified or replaced.

H. ACCESSORY RACK

1. The accessory rack is to be removed, cleaned and repaired as needed.
 - .1 The oil cooler is to be removed and the core cleaned and tested and re-applied with new seals and gaskets.
 - .2 The lube oil filter housing is to be cleaned, and relief valves cleaned and inspected and reassembled with new 40# springs.
 - .3 The cooling water supply tank is to be cleaned with new sight glass, seals and valves applied. The tank is to be modified with a filler neck and cover for ease in applying water treatment. (The system will not be pressurized.)
 - .4 A new A.C. control panel is to be constructed and applied to the rack. this will contain the air compressor controls, and the #3 and #4 cooling fan contactors and controls.

J. AIR SYSTEMS

1. The air system is to be modified to 26L schedule.
 - .1 The system will be compatible with all other multiple unit operation systems.
 - .2 The air compressor will be a W X O air cooled style high capacity crankcase.
 - .3 The main reservoirs will be equipped with automatic drain valves operated in conjunction with the compressor cut-in and cut-out controls.

- .4 The system will be equipped with an air filter and a strainer with automatic blow down feature between the #2 main reservoir and air brake system. (Salem S24-50)

K. ELECTRICAL ROTATING EQUIPMENT

1. The main generator will be a model D123 with D14 alternator.
 - .1 The generator will be given a basic overhaul and varnish dip and be reassembled with a new bearing. If the generator does not qualify for a basic overhaul it will be replaced.
2. The auxiliary generator will be a 10 K. W. model 7159.
 - .1 The generator will be given a basic overhaul and be reassembled with new bearings. If the generator does not qualify for a basic overhaul it will be replaced.
3. The traction motors will be D27-D37-D47 or D57 type.
 - .1 The traction motor will be given a basic overhaul and be reassembled with bearings. Any motor that does not qualify for a basic overhaul will be replaced in kind.
4. The cooling fans are to be inspected and qualified for additional service or replaced.
5. The traction motor blowers are to be removed, cleaned, inspected and qualified and reapplied with new gasket blowers to deck.
6. The traction motor blower motors are to be disassembled, cleaned and new bearings applied or replaced.

L. ELECTRICAL NON-ROTATING EQUIPMENT

1. All control wiring, relays, resistors, etc., will be replaced.
 - .1 The present control rack will be replaced with a new GP style complete with new relays, wiring, solid state voltage regulator and battery charging rectifier.
 - .2 The switch gear will be either pneumatic, or magnetic reworked to new standard.
 - .3 The locomotive will be equipped with the new speed type transition, one step, with provisions for motor shunting, if required.
2. A new style control stand will be applied using the latest design switches.
3. M.U. receptacles will be reworked with new pins and boards.

4. Locomotive lighting.

- .1 The front headlight will be a twin seal beam unit 200 watts each and be mounted in a new headlight housing at the front top of operating cab.
 - .2 The rear headlights will remain in the same location with twin seal beam units 200 watts each.
 - .3 The headlights will be wired for train line multiple unit control.
 - .4 All other lighting will be repaired as needed with new receptacles and wiring.
5. The locomotive will be equipped with a rotating beacon light mounted at the highest point at the cab roof.

M. TRUCKS

1. The trucks will be cleaned, inspected and overhauled.
 - .1 All new wheels will be applied.
 - .2 All new pedestal liners (Polymer) will be applied.
 - .3 All springs will be checked and tested for further service or replaced.
 - .4 The brake rigging will be overhauled and brake shoes replaced as needed. The present clasp brake arrangement and cast iron brake shoes will be retained.
 - .5 Shock pads will be installed both above and below journal box springs for extended life.
 - .6 Journal boxes will be disassembled, cleaned, new bearings applied as needed and wear plates renewed as needed.

CERTIFICATE OF ACCEPTANCE UNDER EQUIPMENT RECONSTRUCTION
AGREEMENT AND LEASE AGREEMENT, BOTH DATED AS OF APRIL 5, 1978

TO: BameriLease, Inc. ("BameriLease") and Chicago and
North Western Transportation Company

I, duly appointed and authorized representative for BameriLease and Chicago and North Western Transportation Company under the Equipment Reconstruction Agreement and Lease Agreement, both dated as of April 5, 1978, and both being between BameriLease and said Chicago and Northwestern Transportation Company, do hereby certify that I inspected, received, approved and accepted delivery under the Reconstruction Agreement and Lease Agreement of the following Items of Reconstructed Equipment or Units:

TYPE OF RECONSTRUCTED EQUIPMENT:

DATE ACCEPTED:

NUMBER OF UNITS:

NUMBERED:

I do further certify that the foregoing Items of Reconstructed Equipment or Units are in good order and condition, and appear to conform to the specifications applicable thereto and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and that each Item or Unit has been marked in accordance with Section 1(ii) of the Reconstruction Agreement and Section 4.4 of the Lease.

I do further certify that each of the foregoing Items of Reconstructed Equipment or Units has been marked by means of a stencil printed in contrasting colors upon each side of each Item of Reconstructed Equipment or Unit in letters not less than one inch in height as follows:

"Ownership Subject to a Lease Agreement filed
under the Interstate Commerce Act, Section 20c"

The execution of this Certificate will in no way relieve or decrease the responsibility of Chicago and North Western Transportation Company for any warranties it has made with respect to the Reconstructed Equipment.

Inspector and Authorized Representative of
BameriLease, Inc. and Chicago and North
Western Transportation Company

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Inspector and Authorized Representative of
BameriLease, Inc. and Chicago and North
Western Transportation Company

Interstate Commerce Commission
Washington, D.C. 20423

5/1/78

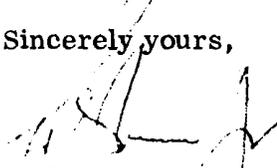
OFFICE OF THE SECRETARY

Diane Kohler-Rausch
Chicago & NorthWestern Transportation
400 West Madison Street
Chicago, Illinois 60606

Dear **Mrs. Diane Kohler-Rausch**

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on **5/1/78** at **9:35am**, and assigned recordation number(s) **9355**

Sincerely yours,


H.G. Homme, Jr.
Acting Secretary

Enclosure(s)

SE-30-T
(6/77)