

10188-1

RECORDATION NO. Filed 1425

MAR 12 1979 -11 30 AM

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT AND ASSUMPTION AGREEMENT

AMONG

COLUMBUS & GREENVILLE RAILWAY COMPANY,

RAILWAY FREIGHT CAR SERVICES, INC.,

R.F.C. SERVICES, INC.

AND

CANTOR, FITZGERALD EQUITIES CORP.

DATED AS OF FEBRUARY 1, 1979

Filed and recorded with the Interstate Commerce Commission pursuant to Section 11303 of Title 49, United States Code, on March __, 1979, at _____, Recordation No. _____.

ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of February 1, 1979, among Columbus & Greenville Railway Company, a Mississippi corporation (hereinafter called "Manager"), Railway Freight Car Services, Inc., a Delaware corporation (hereinafter called "Assignor"), R.F.C. Services, Inc., a Delaware corporation and a wholly owned subsidiary of Assignor (hereinafter called "RFC"), and Cantor, Fitzgerald Equities Corp., a Delaware corporation (hereinafter called "Equities").

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each of the parties hereby agrees as follows:

1. Assignor hereby assigns, sells, transfers and conveys to RFC all of its right title and interest in, to and under that certain Management Agreement, dated as of August 1, 1978, a true and complete copy of which is annexed hereto as Exhibit A, between Assignor and Manager (the "Management Agreement"), with respect to the 50, 50-foot, 70-ton boxcars (the "50 Units"), set forth in Schedule A annexed hereto, and RFC hereby acknowledges, consents to and accepts such assignment, agrees to be bound by all of the terms and conditions of the Management Agreement and assumes and agrees to perform all of the obligations of Assignor thereunder, but

only with respect to the 50 Units, to the same extent as if RFC had originally been named as "Owner" under the Management Agreement.

2. Assignor hereby assigns, sells, transfers and conveys to Equities, for itself and as agent for Teltrain, Inc., a New York corporation, all of its right, title and interest in, to and under the Management Agreement, with respect to the 150, 50-foot, 70-ton boxcars (the "150 Units"), set forth in Schedule B annexed hereto, and Equities hereby acknowledges, consents to and accepts such assignment, agrees to be bound by all of the terms and conditions of the Management Agreement and assumes and agrees to perform all of the obligations of Assignor thereunder, but only with respect to the 150 Units, to the same extent as if Equities had originally been named as "Owner" under the Management Agreement.

3. Manager hereby acknowledges and consents to the assignments and assumptions referred to in Sections 1 and 2 above, and hereby releases Assignor from any and all obligations under the Management Agreement. Manager agrees to look solely to RFC with respect to the 50 Units and solely to Equities with respect to the 150 Units, to the same extent as if RFC, or Equities, as the case may be, originally had been named as the "Owner", as such term is defined in the Management Agreement.

4. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officers, all as of the date first above written.

COLUMBUS & GREENVILLE RAILWAY COMPANY

By: H. L. Bitner Pres.
Title

RAILWAY FREIGHT CAR SERVICES, INC.

By: [Signature]
Harvey Polly, President

R.F.C. SERVICES, INC.

By: [Signature]
Harvey Polly, President

CANTOR, FITZGERALD EQUITIES CORP.

By: [Signature] Pres.
Title

SCHEDULE A

<u>A.A.R.</u> <u>Mech.</u> <u>Design</u>	<u>Manufacturer</u>	<u>Description</u>	<u>Numbers</u>	<u>Number</u> <u>of Cars</u>
"XF"	FMC Corporation	70-Ton, 50' 6" Single Sheath Boxcars	CAGY 21,150 through 21,199	50

SCHEDULE B

<u>A.A.R. Mech. Design</u>	<u>Manufacturer</u>	<u>Description</u>	<u>Numbers</u>	<u>Number of Cars</u>
"XM"	FMC Corporation	70-Ton, 50' 6" Single Sheath Boxcars	CAGY 21,000 through 21,149.	150

STATE OF MISS)
) : ss:
COUNTY OF LOWMEY)

BE IT REMEMBERED, that on the 8 day of MARCH, 1979, before me, the subscriber, a Notary Public in and for said County and State, personally appeared H. C. BITNER, the PRESIDENT of COLUMBUS & GREENVILLE RAILWAY COMPANY, the corporation whose name is subscribed to and which executed the foregoing instrument, and for himself and as such officer, and for and on behalf of said corporation, acknowledged that he did execute said instrument on behalf of said corporation, and that the signing and execution of said instrument is his free and voluntary act and deed, his free act and deed as such officer, and the free and voluntary act and deed of said corporation for the uses and purposes mentioned in said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal on the day and year aforesaid.

Morris H. Dale
Notary Public

My Commission Expires Nov. 17th, 1979

STATE OF n.y.)
COUNTY OF n.y.) ss:

BE IT REMEMBERED, that on the 7th day of March, 1979, before me, the subscriber, a Notary Public in and for said County and State, personally appeared Harvey Polly, President of RAILWAY FREIGHT CAR SERVICES, INC., the corporation whose name is subscribed to and which executed the foregoing instrument, and for himself and as such officer, and for and on behalf of said corporation, acknowledged that he did execute said instrument on behalf of said corporation, and that the signing and execution of said instrument is his free and voluntary act and deed, his free act and deed as such officer, and the free and voluntary act and deed of said corporation for the uses and purposes mentioned in said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal on the day and year aforesaid.

Susan F. Dimeo

Notary Public

SUSAN F. DIMEO
NOTARY PUBLIC, STATE OF NEW YORK
No. 31-4606548
Qualified in New Ycrk County
Commission Expires March 30, 1979

STATE OF N.Y.)
) :
COUNTY OF N.Y.) : ss:

BE IT REMEMBERED, that on the 7th day of March, 1979, before me, the subscriber, a Notary Public in and for said County and State, personally appeared Harvey Polly, President of R.F.C. SERVICES, INC., the corporation whose name is subscribed to and which executed the foregoing instrument, and for himself and as such officer, and for and on behalf of said corporation, acknowledged that he did execute said instrument on behalf of said corporation, and that the signing and execution of said instrument is his free and voluntary act and deed, his free act and deed as such officer, and the free and voluntary act and deed of said corporation for the uses and purposes mentioned in said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal on the day and year aforesaid.

Susan F. DiMEO
Notary Public
SUSAN F. DI MEO
NOTARY PUBLIC, STATE OF NEW YORK
No. 31-4605548
Qualified in New York County
Commission Expires March 30, 1979

STATE OF N.Y.)
COUNTY OF N.Y.) ss:

BE IT REMEMBERED, that on the 9th day of March, 1979, before me, the subscriber, a Notary Public in and for said County and State, personally appeared William P. Welles the Pres. of CANTOR, FITZGERALD EQUITIES CORP., the corporation whose name is subscribed to and which executed the foregoing instrument, and for himself and as such officer, and for and on behalf of said corporation, acknowledged that he did execute said instrument on behalf of said corporation, and that the signing and execution of said instrument is his free and voluntary act and deed, his free act and deed as such officer, and the free and voluntary act and deed of said corporation for the uses and purposes mentioned in said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal on the day and year aforesaid.

Susan F. DiMeco
Notary Public
SUSAN F. DiMEO
NOTARY PUBLIC, STATE OF NEW YORK
No. 31-4605543
Qualified in New York County
Commission Expires March 30, 1979

MANAGEMENT AGREEMENT

AGREEMENT made and entered into as of the 1st day of August, 1978, between RAILWAY FREIGHT CAR SERVICES, INC., a Delaware corporation (hereinafter called "Owner") and COLUMBUS & GREENVILLE RAILWAY COMPANY, a Mississippi corporation (hereinafter called "Manager").

W I T N E S S E T H :

WHEREAS, Manager desires to obtain a management agreement from owner concerning certain railroad cars, hereinafter specifically designated for the purpose and upon the terms and conditions as set forth in this agreement.

NOW, THEREFORE, the parties hereto agree as follows:

1. Scope of Agreement

A. Owner agrees to make available for management by Manager during the term of this agreement a minimum of 200 fifty foot, seventy ton boxcars of the types and descriptions as set forth in any schedules executed by the parties concurrently herewith or from time to time hereafter and made a part of this agreement. The scheduled items of equipment are hereinafter called collectively the "Boxcars". The word "Schedule" as used herein includes the Schedule executed concurrently herewith and all additional Schedules and amendments thereto

whether for Boxcars or other railroad equipment, each of which when signed by both parties shall be a part of this agreement.

B. It is the intent of the parties of this agreement that Railway Freight Car Services, Inc. shall at all times be the owner of all scheduled Boxcars. Manager agrees that it will at no time take any action or file any document which is inconsistent with the foregoing intent and that it will take such action and execute such documents as may be necessary to accomplish this intent.

2. Term

A. This agreement shall remain in full force until it shall have been terminated as to all of the Boxcars. The term of management contract with respect to each Boxcar shall be for fifteen (15) years commencing upon the date of delivery of such Boxcar as set forth in Section 3A hereof.

B. If this agreement has not been earlier terminated and no default has occurred and is continuing, the management term with respect to each Boxcar shall be automatically extended for not more than a five consecutive periods of twelve months, provided, however, that Owner may by written notice to Manager delivered not less than twelve months prior to the end of the initial term or any extended term for any scheduled Boxcar terminate this agreement.

3. Supply Provisions

A. Owner will inspect each Boxcar tendered by the manufacturer for delivery to Manager. If the Boxcar conforms to the specifications of the equipment ordered by Owner, and to all applicable governmental regulatory specifications, and this agreement has not been terminated, Owner will accept delivery thereof at the manufacturer's facility and shall notify Manager in writing of such acceptance. The Boxcars shall be deemed delivered to Manager upon acceptance by Owner. The Boxcars shall be moved to Manager's railroad line at no cost to Manager as soon after acceptance by Owner as is consistent with mutual convenience and economy. Due to the nature of railroad operations in the United States, Owner can neither control nor determine when the Boxcars managed hereunder will actually be available to Manager for its use on its railroad tracks. Notwithstanding that Manager may not have immediate physical possession of the Boxcars managed hereunder, Manager agrees to pay to Owner the charges set forth in this agreement.

B. In order to obtain maximum utilization of the equipment, Manager shall give preference to Owner and shall load the Boxcars it is managing for Owner prior to any other boxcars with the exception of the Manager's 18,000 and 19,100 series, representing no more than 100 Boxcars and to any other Boxcars now owned, leased or managed or hereafter acquired. However, this shall in no event prevent or prohibit Manager from fulfilling

its obligations to provide transportation and facilities upon reasonable request to shippers on its railroad tracks.

4. Railroad Markings

A. Owner agrees that on or before delivery of Boxcars to Manager, the Boxcars will be lettered, with the name and/or other insignia used by Manager. Such name or insignia shall comply with all applicable regulations and shall be affixed to the Boxcars in the space directly above Manager's reporting marks.

B. Manager shall during the term of this agreement prepare and file all documents related to the registration, maintenance and record keeping functions normally performed by the Manager with respect to the Boxcars. Such matters shall be but are not limited to the preparation and filing of the following documents: (1) appropriate papers with the AAR requesting relief from AAR Car Service Rules 1 and 2 as provided for in paragraph 6A(5), (2) registration of the equipment in the Official Railway Equipment Register and the Universal Machine Language Equipment Register (UMLER), and (3) such reports as may be required from time to time by the I.C.C. and/or other regulatory agencies with respect to the equipment.

C. All record keeping performed by Manager hereunder and all record of payments, charges and correspondence related to the scheduled Boxcars shall be separately recorded and maintained

by Manager in a form suitable for reasonable inspection by Owner from time to time during regular business hours.

Manager shall supply Owner with such reports regarding the use of Boxcars by Manager on its railroad line as Owner may reasonably request.

5. Maintenance, Taxes and Insurance

A. Owner will pay all costs, expenses, fees and charges incurred in connection with the use and operation of each Boxcar during this management term and any extension thereof, including but not limited to repairs, maintenance and servicing unless the same was occasioned by the fault of Manager while a Boxcar was in the physical possession of Manager. Manager shall be responsible to inspect all Boxcars interchanged to it to insure that such Boxcars are in good working order and condition and shall be liable to Owner for any repairs required for damage not noted at the time of interchange. Manager hereby transfers and assigns to Owner for and during the term of this agreement all of its right, title and interest in any warranty in respect to the Boxcars. All claims or actions on any warranty so assigned shall be made and prosecuted by Owner at its sole expense and Manager shall have no obligation to make any claim on such warranty. Any recovery under such warranty shall be made payable to Owner. All proceeds from such recovery shall be used to repair the Boxcars.

B. Manager may make running repairs to facilitate

continued immediate use of a Boxcar, but shall not otherwise make any repairs, alterations, improvements or additions to the Boxcars without Owner's prior written consent. If Manager makes an alteration to any Boxcar without Owner's prior written consent, Manager shall be liable to Owner for any revenues lost due to such alteration. Title to any such alteration, improvement or addition occurring in the course of or as a result of normal and customary maintenance shall be and remain with Owner.

C. Manager shall make or cause to be made such inspections of and maintenance and repairs to, the Boxcars as may be required. Upon request of Owner, Manager shall perform any necessary maintenance and repairs to Boxcars on Manager's railroad tracks as may be reasonably requested by Owner. Manager shall also make with Owner's consent, at Owner's expense, all alterations, modifications or replacement of parts, as shall be necessary to maintain the Boxcars in good operating condition throughout during the term of this agreement.

D. Manager will at all times while this agreement is in effect be responsible for the Boxcars while they are on Manager's railroad tracks in the same manner that Manager is responsible under Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Service Rules - Freight for boxcars not owned by Manager which are operating on Manager's railroad tracks.

E. Owner agrees to reimburse Manager for all taxes, assessments and other governmental charges (excluding taxes based on income) of whatsoever kind or character paid by Manager relating to each Boxcar which may be accrued, levied, assessed or imposed during the management term.

6. Management Charges

A. Manager agrees to pay the following rental charges to Owner for the use of Owner's Boxcars:

(1) Owner shall receive all of the mileage charges and car hire revenues (including both straight and incentive per diem) payable to Manager by other railroads if the utilization of all the Boxcars on an aggregate basis for each calendar year shall be equal to or less than 83% of the maximum that they could earn in that year assuming that the Boxcars travel 50 miles per day. In the event that utilization exceeds 83% in any calendar year, the Manager shall be entitled to all sums in excess of 83% utilization. Such rental shall be applicable from the date of acceptance as provided in paragraph 3 and until such Boxcar is returned to Owner upon termination of this agreement.

(2) Manager shall report to Owner on a monthly basis in writing with respect to amounts so deposited. Such rentals shall be due and payable monthly and Manager shall have the right to retain any amount over 83% of the maximum that could be

earned when it makes its monthly remittance. The annual calculations required by Manager shall be made within three months after the end of each calendar year. Any amounts payable pursuant to the preceding sentence shall be paid promptly following such calculation, any amount paid to either party in excess of the amounts required by the yearly calculations shall be promptly refunded to the appropriate party.

(3) All monies received by Manager on account of use of the Boxcars by others shall be received and held in trust and promptly deposited in a bank account which will be maintained by Manager in a depository of its choice and called the "Rental Account".

(4) In the event damage or destruction of a Boxcar has been reported in accordance with Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Hire Rules - Freight and the appropriate amount due as a result thereof is received by Owner/Assignee, said damaged or destroyed Boxcar will be removed from this agreement as of the date that payment of car hire revenues ceased.

(5) In the event that utilization in any 90 day period shall fall below 80%, Owner may, at its option and upon not less than 30 days prior written notice to Manager, terminate this agreement with prior consent of assignee as to such number of Boxcars as Owner shall determine, or Manager shall at

Owner's option with prior consent of Assignee file with the Association of American Railroads requesting relief from AAR Car Services Rules 1 and 2.

(6) Owner may, at its option, terminate this agreement if the I.C.C. shall, at any time, (i) issue an order eliminating incentive per diem for Boxcars without a corresponding increase in straight per diem or other revenues available to both Owner and Manager at least equal in amount to such reduction or (ii) determine that Manager may not apply its net credit balance from incentive per diem settlements in payment of rental charges set forth in this section.

7. Possession and Use

A. So long as Manager shall not be in default under this agreement, Manager shall be entitled to the possession, use and quiet enjoyment of the Boxcars in accordance with the terms of this agreement and in the manner and to the extent Boxcars are customarily used in the railroad freight business. Manager agrees that to the extent it has physical possession and can control use of the Boxcars, the Boxcars will at all times be used and operated under and in compliance with the laws of the jurisdiction in which the same may be located and in compliance with all lawful acts, rules and regulations and orders of any governmental bodies or officers having power to regulate or supervise the use of such property, except that either owner

or Manager may in good faith and by appropriate proceedings contest the application of any such rule, regulation or order in any reasonable manner at the expense of the contesting party.

B. Manager will not directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance or other security interest or claim on or with respect to the Boxcars or any interest therein or in this agreement or Schedule thereto. Manager will promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrances, security interest, or claim if the same shall arise at any time.

8. Default Remedies Upon Default

A. The occurrence of any of the following events shall be events of default:

(i) The nonpayment of Manager of any sum required hereunder by Manager within ten days after notice thereof.

(ii) The default by Manager under any other term, covenant or condition of this agreement which is not cured within ten days after notice thereof from Owner.

(iii) Any affirmative act of insolvency by Manager or the filing by Manager of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law,

or any other law or laws for the relief of, or relating to, debtors.

(iv) If Manager shall be adjudicated a bankrupt under the Bankruptcy Act, discontinue its operations as the same are presently being conducted under Chapter 77 of the Bankruptcy Act, or this agreement shall at any time for any reason cease to be in full force and effect or be declared to be null and void, or the validity or enforceability thereof shall be contested by the Manager, the Trustee of the Manager's properties, any bankruptcy court or any other entity, or the Manager or any such person, shall deny that the Manager has any further liability under this agreement, then and in any such event, Owner may, at its option, declare this agreement terminated.

(v) The subjection of any of the Manager's property to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency.

B. Upon the occurrence of any event of default, Owner/Assignee may, at its option, terminate this agreement and may:

(i) Proceed by appropriate court action to enforce performance by Manager of this agreement or to recover damages for a breach thereof (and Manager agrees to bear Owner's costs and expenses, including reasonable attorney's fees, in securing

such enforcement), or

(ii) By notice in writing to Manager, terminate Manager's right of possession of Boxcars, whereupon all right and interest of Manager in the Boxcar shall terminate; and thereupon Owner may by its agents enter upon any premises where the Boxcars may be located and take possession of them and henceforth hold, possess and enjoy the same free from any right to recover from Manager any and all rental amounts which under the terms of this agreement may then be due or which may have accrued to that date.

9. Termination

At the expiration or termination of this agreement as to any Boxcars set forth on a Schedule attached hereto, Manager will surrender possession of such Boxcars to Owner by delivering the same to Owner. A Boxcar shall be deemed terminated and no longer subject to this agreement upon the removal of Manager's railroad markings from the Boxcar and the placing thereon of such markings as may be designated by Owner, either, at the option of Owner, (1) upon delivery of such Boxcars to Manager's railroad line subsequent to termination of such Boxcar's agreement term or (2) removal and replacement of the markings by another railroad line which has physical possession of the Boxcar at the time of or subsequent to termination of the agreement term as to such Boxcar.

(1) If such Boxcars are on the railroad line of manager upon such expiration or termination, or are subsequently returned to Manager's railroad line, Manager shall at Owner's expense within ten working days remove Manager's railroad markings from the Boxcars and place thereon such markings as may be designated by Owner. After the removal and replacements of markings, Manager shall use its best efforts to load such Boxcars with freight and deliver them to a connecting carrier for shipment. Manager shall provide up to 120 days free storage on its railroad tracks for Owner or the subsequent Manager of any terminated Boxcar.

10. Indemnities

Manager agrees to indemnify and save harmless Owner against any loss, liability, claim, damage or expense (including the reasonable cost of investigating and defending against any claim for damages) which Owner may incur by reason of its ownership of the Boxcars during the term hereof, arising out of or in connection with the use of the Boxcars other than damages to the Boxcar itself and save Owner harmless against any claim or suit by reason of any accident resulting in damage to property or injury to any person, excepting however, any loss, liability, claim, damage or expense when the Boxcar for reason of repair or otherwise is in possession of Owner or under the direct control of Owner.

11. Warranties and Covenants

Manager represents, warrants and covenants that:

(i) Manager is a corporation duly organized, validly existing and in good standing under the laws of the state where it is incorporated and has the corporate power, authority and is duly qualified and authorized to do business wherever necessary, to carry out its present business and operations and to hold or own its properties and to perform its obligations under this agreement.

(ii) The entering into and performance of this agreement will not violate any judgment, order, law or regulation applicable to Manager, or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of Manager or on the Boxcars pursuant to any instrument to which Manager is a party or by which it or its assets may be bound.

(iii) There is no action or proceeding pending or threatened against Manager before any court or administrative agency or other governmental body which might result in any material adverse effect on the business, properties and assets, or conditions, financial or otherwise, of Manager.

(iv) There is no fact which Manager has not disclosed to Owner in writing, nor is Manager a party to any agreement or

instrument or subject to any charter or other corporate restriction which, so far as the Manager can now reasonably foresee, will individually or in the aggregate materially adversely affect the business condition or any material portion of the properties of the Manager or the ability of the Manager to perform its obligations under this agreement.

12. Inspection

Owner shall at any time during normal business hours have the right to enter the premises where the Boxcars may be located for the purpose of inspecting and examining the Boxcar to insure Manager's compliance with its obligations hereunder. Manager shall immediately notify Owner of any accident connected with the malfunctioning or operation of the Boxcars including in such report the time, place and nature of the accident and the damage caused to property.

13. Grant of Security Interest

It is anticipated that as collateral security for certain obligations from time to time incurred by Owner in connection with the financing of the purchase of the Boxcars, Owner will grant security interests in and give assignments of their rights in and to this agreement (including all amounts from time to time payable to Owner hereunder and thereunder) and in and to the Boxcars to such financial institutions

(collectively, the "Secured Parties", and individually a "Secured Party") as have provided such financing.

14. Rights of Owner

Manager understands and acknowledges that Owner does not have exclusive title to the Boxcars and that Owner is entering into this agreement on behalf of and as agent for itself and the other owners (the "Party") of the Boxcars. Manager further understands and acknowledges that with respect to the Boxcars owned by each such Party, Owner plans to assign its rights in and to this agreement to each such Party and that any such assignment may be made and shall be effective without the consent of Manager. Manager hereby covenants and agrees that upon its receipt of a written notice signed by Owner and such Party stating that with respect to the Boxcars specified in such notice Owner has assigned its rights in and to this agreement to such Party, such Party will be deemed to be and shall have all rights and remedies of Manager under this agreement.

15. Miscellaneous

A. This agreement and the Schedules contemplated hereby shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that Manager may not without the prior written consent of Owners assign this agreement or any of its rights hereunder

or sublease the Boxcars to any party, and any purported assignment or sublease in violation hereof shall be void.

B. Both parties agree to execute the documents contemplated by this transaction and such other documents as may be required in furtherance of this agreement.

C. It is expressly understood and agreed by the parties hereto that this agreement constitutes management of the Boxcars only and no joint venture or partnership is being created. Notwithstanding the calculation of rental payments nothing herein shall be construed as conveying to Manager any right, title or interest in the Boxcars except as a Manager only.

D. No failure or delay by Owner shall constitute a waiver or otherwise affect or impair any right, power or remedy available to Owner nor shall any waiver or indulgence by Owner or any partial or single exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

E. 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.

F. Any notice, demand or other communication hereunder shall be in writing and shall be deemed to have been duly given when personally delivered or deposited in the mail first class postage prepaid or delivered to a telegraph officer, charges prepaid, addressed as follows:

Railway Freight Car Services, Inc.
1440 Broadway
New York, New York 10018

If to Manager:

Attention: H. C. Bitner
President

Columbus & Greenville Railway Company
1302 Main Street
Columbus, Mississippi 39701

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

G. The remedies in this agreement provided in favor of the Owner shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in Owner's favor existing at law or in equity and may be exercised from time to time and as often and in such order as may be deemed expedient by the Owner. The captions herein are inserted for convenience only and shall not affect the construction of this agreement. No delay or omission of the Owner in the exercise of any right or power accruing upon any event of default shall impair any such right or power or shall be construed to be a waiver of such event of default or an acquiescence therein. The provisions of this agreement and

all rights and obligations hereunder shall be governed by and construed in accordance with the laws of the State of New York and applicable federal laws.

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

ATTEST: (SEAL)

Walter A. Hill
Secretary

RAILWAY FREIGHT CAR SERVICES, INC.

By *Harvey Polly*
Harvey Polly, President

ATTEST: (SEAL)

J. Thompson
Secretary

COLUMBUS & GREENVILLE RAILWAY COMPANY

By *H. C. Bitner*
H. C. Bitner, President

