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INTERSTATE COMMERCE COMMISSION

AGREEMENT AND ASSIGNMENT

Dated as of April 15, 1976

Between

GENERAL MOTORS CORPORATION
(ELECTRO-MOTIVE DIVISION)

as Vendor

and

CITIBANK, N.A.

As Assignee

Re:

$1,300,000 Maximum Principal Amount
Conditional Sale Indebtedness due 1981

of

UNION RAILROAD COMPANY

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AGREEMENT AND ASSIGNMENT

AGREEMENT AND ASSIGNMENT dated as of April 15, 1976, between GENERAL MOTORS CORPORATION (ELECTRO-MOTIVE DIVISION) a Delaware corporation ("Manufacturer") and CITIBANK, N.A., (the "Assignee").

WHEREAS, the Manufacturer and UNION RAILROAD COMPANY, a Pennsylvania corporation ("Railroad") have entered into a Conditional Sale Agreement dated as of April 15, 1976 (the "Conditional Sale Agreement"), covering the construction, sale and delivery on the conditions therein set forth, by the Manufacturer and the purchase by the Railroad of the railroad equipment described in Schedule A to the Conditional Sale Agreement (collectively the "Equipment" and individually "Item" or "Items of Equipment").

WHEREAS, the Assignee and the Railroad have entered into a Finance Agreement dated as of April 15, 1976 (the "Finance Agreement") providing for the acquisition from the Manufacturer by the Assignee of the right, title and interest of the Manufacturer under the Conditional Sale Agreement, subject to the conditions set forth below.

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (the "Assignment"),

W I T N E S S E T H:

That, in consideration of the sum of One Dollars ($1.00) and other good and valuable consideration paid by the Assignee to the Manufacturer, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. Assignment by Manufacturer. The Manufacturer hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) All the right, security title and interest of the Manufacturer in and to each Item of Equipment when and as delivered and accepted and upon payment by the Assignee to the Manufacturer of the amount required to be paid under Section 5 hereof and payment by the Railroad of the amount required to be paid under Section 3.3(a) of the Conditional Sale Agreement with respect to such Item;

(b) All the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement (except the right to construct and deliver the various Items of Equipment pursuant to Section 1 and 2.1 thereof and the right to receive the payments specified in subparagraph (a) of Section 3.3 thereof and in Section 14.7 thereof and reimbursement for taxes paid or incurred by the Manufacturer and the right to indemnity from the Railroad for claims arising against the Manufacturer as provided in Sections 12.1 and 13 thereof), and in and to any and all amounts which may be or become due or owing to the Manufacturer under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) Except as limited above in subparagraph (b) hereof, all of the Manufacturer's rights, powers, privileges and remedies under the Conditional Sale Agreement;

without any recourse, however, against the Manufacturer for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify the obligations of the Manufacturer to construct and deliver the various Items of Equipment to be built by it in accordance with the Conditional Sale Agreement or with respect to its warranties and agreements contained in Sections 12.3 and 13 of the Conditional Sale Agreement or relieve the Railroad from its obligations to the Manufacturer under Sections 2, 3.3(a), 7, 12, 13 and 14 of the Conditional Sale Agreement, it being understood and agreed that notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Section 14 of the Conditional Sale Agreement, all obligations of the Manufacturer to the Railroad shall be and remain enforceable by the Railroad, its successors and assigns, against and only against the Manufacturer. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Manufacturer to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Railroad with the terms and agreements on their parts to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. Covenants and Agreements of Manufacturer. The Manufacturer covenants and agrees that it will deliver the various Items of Equipment to the Railroad, in accordance with the provisions of the Conditional Sale Agreement, and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by the Manufacturer. The Manufacturer further covenants and agrees that it will warrant to the Assignee and the Railroad that at the time of delivery of each Item of Equipment to the Railroad under the Conditional Sale Agreement it had legal title to such Item and good and lawful right to sell such Item and the title to such Item was free of all claims, liens and encumbrances of any nature except only the right of the Manufacturer to receive payment of its invoice price therefor and the rights of the Railroad under the Conditional Sale Agreement; and the Manufacturer further covenants and agrees that it will defend the title to such Item against the demands of all persons whomsoever based on claims originating prior to said delivery of such Item by the Manufacturer to the Railroad; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Railroad thereunder.

The Manufacturer covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any installment of, or interest on, indebtedness in respect of the Purchase Price of the Equipment or to enforce any provision of the Conditional Sale Agreement, the Manufacturer will indemnify, protect and hold harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, set-off, counterclaim or recoupment whatsoever of the Railroad arising out of a breach by the Manufacturer of any obligation with respect to the Equipment or the manufacture, construction, delivery or warranty thereof by such manufacturer, or under Sections 12 and 13 of the Conditional Sale Agreement, or by reason of any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Manufacturer. The Manufacturer's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Section 14.4 of the Conditional Sale Agreement, to strike any defense, set-off, counterclaim or recoupment asserted by the Railroad in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, set-off, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee's prompt notification to the Manufacturer of the asserted defense, set-off, counterclaim or recoupment and the Assignee's giving the Manufacturer the right, at the Manufacturer's expense, to compromise, settle or defend against such defense, set-off, counterclaim or recoupment. Any and all such obligations shall be and remain enforceable by the Railroad against and only against the Manufacturer and shall not be enforceable against

the Assignee or any party or parties in whom security title to the Equipment or any unit thereof or any of the rights of the Manufacturer under the Conditional Sale Agreement shall vest by reason of this Assignment or of successive assignments. The Manufacturer will indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, article or material which infringes or is claimed to infringe on any patent or other right, except for any designs, articles or materials specified by the Railroad and not manufactured by the Manufacturer. The Assignee will give notice to the Manufacturer of any suit, proceeding or action by or against the Assignee herein described.

The Manufacturer agrees that any amount payable to it by the Railroad, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien or charge on any Item of Equipment.

SECTION 3. Equipment Markings. The Manufacturer will cause to be plainly, distinctly, permanently and conspicuously marked by a plate or stencil in contrasting color on both sides of each Item of Equipment, at the time of delivery thereof to the Railroad, in letters not less than one inch in height, the following legend:

"This Unit Subject to Conditional Sale Agreement
Recorded with the I. C. C."

SECTION 4. Recordation. Upon request of the Assignee, its successors and assigns, the Manufacturer will execute and deliver all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Manufacturer therein or in the Equipment.

SECTION 5. Conditions Precedent to Payment by Assignee. The Assignee, on or before 11:00 A. M., New York Time, on the Closing Date (the "Closing Date") fixed as provided in Section 3.4 of the Conditional Sale Agreement with respect to the Group (as defined in Section 3.2 of said Agreement) of Equipment, shall pay to the Manufacturer in immediately available funds by crediting the Manufacturer's account with the Assignee an amount equal to that portion of the Purchase Price of such Items required to be paid pursuant to Section 3.3 of said Agreement (other than the portion required to be paid by the Railroad pursuant to subparagraph (a) thereof), provided that

there shall have been delivered to the Assignee or Shearman & Sterling, the following documents, in such number of counterparts or copies as may reasonably be requested, in form and substance satisfactory to the Assignee and Messrs. Shearman & Sterling:

(a) Bill or Bills of Sale from the Manufacturer to the Assignee, transferring to the Assignee security title to the Items of Equipment in the Group and warranting to the Assignee and to the Railroad that at the time of delivery thereof to the Railroad under the Conditional Sale Agreement the Manufacturer had legal title to such Items and good and lawful right to sell such Items, and title to such Items was free of all claims, liens and encumbrances of any nature except only the rights of the Railroad under the Conditional Sale Agreement.

(b) Certificate or Certificates of Acceptance signed by an inspector or other authorized representative of the Railroad stating that the Items of Equipment in the Group have been inspected and accepted by him on behalf of the Railroad and further stating that there was plainly, distinctly, permanently and conspicuously marked by a plate or stencil in contrasting color on each side of each of such Items at the time of its acceptance, in letters not less than one inch in height, the following legend:

"This Unit Subject to Conditional Agreement Recorded with the I. C. C."

(c) Invoice from the Manufacturer to the Railroad and the Assignee for the Items of Equipment in the Group accompanied by or having endorsed thereon a certification by the Railroad as to the correctness of the price of such Items as set forth in said invoice;

(d) Opinion of counsel for the Railroad addressed to the Assignee, dated as of the Closing Date, to the effect that (i) the Railroad is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation, and has the power and authority to own its properties and to carry on its business as now conducted and is duly qualified to do business as a foreign corporation in all states where the character of its properties or the nature of its activities makes such qualification necessary; (ii) the Conditional Sale Agreement and the Finance Agreement have each been duly authorized, executed and delivered on behalf of the Railroad and are valid and binding instruments enforceable against the Railroad in accordance with their respective terms; (iii) the execution and delivery by the Railroad of the Conditional Sale Agreement and the Finance Agreement do not violate any provision of any law, any order of any court or governmental agency, the Charter or By-Laws of the Railroad, or any indenture, agreement, or other instrument to which

the Railroad is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Railroad; (iv) the interest created by the Conditional Sale Agreement is a first and prior security interest on the items of equipment in the group and that the security title to the Items of Equipment in the group is validly vested in the Assignee and such Items, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, were free of all claims, liens and encumbrances except only for the rights of the Railroad under the Conditional Sale Agreement, and based on an opinion of ~~Railroad~~ manufacturer's counsel, dated the day of the closing, are free of all claims, liens, and encumbrances except only for the rights of the Railroad under the Conditional Sale Agreement, (v) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution and delivery of the Conditional Sale Agreement or this Assignment; and (vi) the Conditional Sale Agreement and this Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and no other filing or recordation is necessary for the protection of the rights of the Assignee in the United States of America;

(e) Opinion of counsel for the Manufacturer, addressed to the Railroad and the Assignee, dated as of the Closing Date, to the effect that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the State of Delaware and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement and this Assignment have each been duly authorized, executed and delivered by the Manufacturer and, assuming the due authorization, execution and delivery thereof by each other party thereto, are valid instruments binding upon the Manufacturer and enforceable against the Manufacturer in accordance with their respective terms; (iii) the Assignee is vested with all the rights, titles, interests, powers, privileges and remedies purported to be assigned to it by this Agreement; and (iv) security title to the Items of Equipment in the Group is validly vested in the Assignee and such Items, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, were free of all claims, liens and encumbrances except only for the rights of the Railroad under the Conditional Sale Agreement.

(f) Opinion of Messrs. Shearman & Sterling, counsel for the Assignee, dated the Closing Date stating that the documents furnished in connection with the Closing for the Group are substantial respective to the requirements of this Section 5 and that all legal details in connection with the Closing are in substantially acceptable legal form for their reliance.

(g) Certificate of a Vice President of the Railroad to the effect that no Event of Default as specified in the Conditional Sale Agreement or any event which with the lapse of time and/or notice provided for in the Conditional Sale Agreement would constitute such an Event of Default, has occurred and is continuing, and to the effect that, since December 31, 1974, there has been no adverse change in the affairs or financial condition of the Railroad;

(h) Evidence satisfactory to the Assignee that the amount payable pursuant to subparagraph (a) of Section 3.3 of the Conditional Sale Agreement has been paid by the Railroad to the Manufacturer.

In giving the opinions specified in the preceding subparagraphs (d), (e) and (f), counsel may qualify any opinion to the effect that any agreement is a valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally. In giving the opinions specified in the preceding subparagraph (d), counsel may in fact rely as to the title to the Items of Equipment upon the opinions of counsel for the Manufacturer of such Items.

The Assignee shall not be obligated to make any of the above mentioned payments at any time while an Event of Default, or any event which with the lapse of time and/or notice provided for in the Conditional Sale Agreement would constitute an Event of Default, shall be subsisting under the Conditional Sale Agreement. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the Manufacturer, without recourse to the Assignee, all right, security title and interest of the Assignee in and to the Items of Equipment with respect to which payment has not been made by the Assignee.

It is understood and agreed that the Assignee shall not be required to make any payment with respect to any Items of Equipment excluded from the Conditional Sale Agreement pursuant to Sections 2.3 and 3.1 thereof. The Assignee shall at the request of the Manufacturer or the Railroad execute or join in the execution of such supplemental agreement as may be deemed necessary or appropriate to exclude, or if such Equipment shall have been delivered and accepted, to remove, any such Equipment from the Conditional Sale Agreement and from this Agreement and Assignment.

SECTION 6. Further Assignments. Subject to the terms and provisions of the Finance Agreement, the Assignee may assign in the entirety all of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Railroad thereunder. In the event of any such assignment each such subsequent or successive assignee shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 7. Representation of Manufacturer; Further Assurances. The Manufacturer hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized and lawfully executed and delivered by it for a valid consideration, that (assuming due authorization, execution and delivery by the other parties thereto) it is a valid and existing agreement binding upon the Manufacturer and the other parties thereto, and that it is now in force without amendment thereto; and

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

SECTION 8. Governing Law. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all the rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Assignment as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment shall be filed, recorded or deposited.

SECTION 9. Execution in Counterparts. This Assignment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Railroad. Although this Assignment is dated for convenience as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the Manufacturer and the Assignee have caused these presents to be executed in their respective corporate names by officers or representatives duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the day, month and year first above written.

GENERAL MOTORS CORPORATION
(ELECTRO-MOTIVE DIVISION)

By P.K. Hoglund
Its Vice President

(Corporate Seal)

Attest:

W A Thomas
Assistant Secretary

CITIBANK, N.A.

By Vincent R Stapen
Its Vice President

(Corporate Seal)

Attest:

ACCOUNT OFFICER

STATE OF ~~MICHIGAN~~ ILLINOIS)
COUNTY OF ~~WAYNE~~ COOK) SS:

On this 20TH day of MAY, 1976, personally appeared P. K. HOELUND, to me personally known, who being by me duly sworn, says that he is a Vice President of GENERAL MOTORS CORPORATION (ELECTRO-MOTIVE DIVISION), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

(Seal)

My Commission Expires: 1-17-79

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

On this 28 day of May 1976, before me personally appeared Vincent Stemoian, to me personally known, who being by me duly sworn, says that he is the Vice President of Citibank, N.A., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Juel R. Merz
Notary Public

(Seal)

JUEL R. MERZ
Notary Public, State of New York
No. 52-2671416
Qualified in Suffolk County
Certificate filed in New York County
Commission Expires March 30, 1977

My Commission Expires: _____

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

UNION RAILROAD COMPANY hereby acknowledges due notice of the assignments made by the foregoing Agreement and Assignment and consents to and accepts the terms thereof applicable to it this 14th day of May, 1976.

UNION RAILROAD COMPANY

By V W Kraetsch
Its Vice President-Finance

(Corporate Seal)

Attest:

L. F. Young
Assistant Secretary