

LAW OFFICES
WHEELER & WHEELER

SOUTHERN BUILDING 15TH & H STREETS, N. W.

BURTON K. WHEELER (1882-1975)
EDWARD K. WHEELER
ROBERT G. SEAKS
ELDON S. OLSON
RICHARD H. STRODEL
CHANDLER L. VAN ORMAN
RICHARD H. STREETER

WASHINGTON, D. C. 20005

(202) 347-7117

January 31, 1977

7-031A110

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RECORDATION NO. Filed & Recorded

JAN 31 1977 2 45 PM

INTERSTATE COMMERCE COMMISSION

Date JAN 31 1977

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CC Washington, D. C.

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

Re: Chattel Mortgage

Dear Mr. Secretary:

1. Enclosed are three executed counterparts of a Chattel Mortgage, dated January 26, 1977, between the following parties:

Mortgagor: AUTO-TRAIN CORPORATION, a Florida corporation
1801 K Street, NW
Washington, D. C. 20006

Mortgagee: THE RIGGS NATIONAL BANK, a national banking corporation
1503 Pennsylvania Avenue, NW
Washington, D. C. 20013

2. This Chattel Mortgage is hereby submitted to the Secretary of the Interstate Commerce Commission for recording pursuant to 49 U.S.C. Sec. 20c and 49 C.F.R. Part 1116.

3. By the terms of the Chattel Mortgage the following equipment is covered:

<u>Description of Equipment</u>	<u>Serial Numbers AT-*</u>
21 Bi-Level Auto Carriers	3-7, 10, 12, 14-18, 20-28
21 Tri-Level Auto Carriers	100-120
6 Steam Generators	130, 132, 134, 136-138

* All car numbers have the prefix AT-

Robert G. Seaks

REGISTRATION NO. 011111 Filed & Recorded

FEB 1 1977 12 00 PM

INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of January 15, 1977

between each of

BETHLEHEM STEEL CORPORATION,

GREENVILLE STEEL CAR COMPANY

and

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

[Covering 1000 One Hundred Ton Open Top Quadruple Hopper Cars
and 50 One Hundred Ton High Side Mill Gondola Cars]

CONDITIONAL SALE AGREEMENT

TABLE OF CONTENTS

	<u>Page</u>
PARTIES	1
PREAMBLES	1
ARTICLE 1. Construction and Sale	1
ARTICLE 2. Inspection and Delivery	2
ARTICLE 3. Purchase Price and Payment; Interest; Closing Dates;	5
ARTICLE 4. Taxes.....	10
ARTICLE 5. Title to the Equipment.....	12
ARTICLE 6. Marking of the Equipment.....	14
ARTICLE 7. Casualty Occurences; Replacement of Equipment and/or Prepayment; Waiver; Investments; Insurance.....	15
ARTICLE 8. Maintenance; Compliance with Laws and Rules....	23
ARTICLE 9. Reports and Inspections.....	24 ✓
ARTICLE 10. Possession and Use.....	25
ARTICLE 11. Prohibition Against Liens.....	26
ARTICLE 12. Railroad's Indemnities.....	26
ARTICLE 13. Patent Indemnities; Builders' Warranty of Material and Workmanship.....	27
ARTICLE 14. Assignments.....	31
ARTICLE 15. Defaults.....	35
ARTICLE 16. Remedies.....	39
ARTICLE 17. Applicable State Laws.....	46

CONDITIONAL SALE AGREEMENT

TABLE OF CONTENTS
(Continued)

	<u>Page</u>
ARTICLE 18. Recording.....	46
ARTICLE 19. Payment of Expenses.....	47
ARTICLE 20. Notice.....	48
ARTICLE 21. Article Headings; Effect; Modification of Agreement.....	48
ARTICLE 22. Law Governing.....	49
ARTICLE 23. Definitions.....	49
ARTICLE 24. Execution.....	50
TESTIMONIUM	50
SIGNATURES	51
ACKNOWLEDGMENTS	
SCHEDULE A - Specifications of the Equipment	

CONDITIONAL SALE AGREEMENT, dated as of January 15, 1977, between each of BETHLEHEM STEEL CORPORATION, a Delaware corporation, GREENVILLE STEEL CAR COMPANY, a Pennsylvania corporation (hereinafter called collectively the Builders or individually a Builder, or collectively or individually the Vendor as the context may require, all as more particularly set forth in Article 23 hereof), and LOUISVILLE AND NASHVILLE RAILROAD COMPANY, a Kentucky corporation (hereinafter called the Railroad).

WHEREAS, the Builders severally have agreed to construct, sell and deliver to the Railroad, and the Railroad has agreed to purchase, the railroad equipment described in Schedule A attached hereto (hereinafter called the Equipment);

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

ARTICLE 1. Construction and Sale. Pursuant to this Agreement, each Builder shall construct the units of the Equipment to be constructed by it at its plant, all as set forth in Schedule A hereto (such units of Equipment with respect to such Builder being hereinafter called its Equipment), and will sell and deliver to the Railroad, and the Railroad will purchase from each Builder and accept delivery of and pay for (as hereinafter provided), its Equipment, each

unit of which shall be constructed in accordance with the specifications referred to in Schedule A hereto and in accordance with such modifications thereof as may be agreed upon in writing between such Builder with respect to its Equipment and the Railroad (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture of each thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards and specifications recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such units of the Equipment, and each unit of the Equipment (except to the extent referred to in Article 7 hereof) will be new railroad equipment first put into service no earlier than October 1, 1976. The railroad warrants that the Equipment will be non-special purpose equipment capable of being employed in the normal course of operations by railroads in general.

ARTICLE 2. Inspection and Delivery. Each Builder will deliver the units of its Equipment to the Railroad at the place or places specified in Schedule A hereto (or if Schedule A does not specify a place or places, at the place

or places designated from time to time by the Railroad or, if any units of its Equipment have heretofore been delivered to the Railroad by such Builder under a lease, at such place or places where such units of Equipment may be at the time of delivery and acceptance under this Conditional Sale Agreement), freight charges, if any, collect, in accordance with the delivery schedule set forth in Schedule A hereto; provided, however, that neither Builder shall have any obligation to deliver any unit of the Equipment hereunder at any time after any event of default (as described in Article 15 hereof), or event which with the lapse of time and/or demand could constitute such an event of default, shall have occurred and be continuing.

Each Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond such Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 2, any Equipment not delivered, accepted and settled for pursuant to Article 3 hereof on or before the Cut-off

Date (as defined in Article 3 hereof) shall be excluded herefrom. If any unit or units of Equipment shall be excluded from this Agreement pursuant to the immediately preceding sentence, the Builder of such unit or units and the Railroad shall execute an agreement supplemental hereto limiting this Agreement to the the units of Equipment not so excluded herefrom. If a Builder's failure to deliver Equipment so excluded from this Agreement resulted from one or more of the causes set forth in the immediately preceding paragraph, the Railroad shall nevertheless be obligated to accept such Equipment and to pay the full purchase price therefor, determined as provided in this Agreement, if and when such Equipment shall be completed and delivered by the Builder, such payment to be in cash on the delivery of such Equipment, either directly or, in case the Railroad shall arrange therefor, by means of a conditional sale agreement, equipment trust or such other appropriate method of financing as the Railroad shall determine and as shall be reasonably acceptable to such Builder.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Railroad and each Builder shall grant to such authorized inspectors reasonable access to its plant. Each Builder agrees to inspect all materials used in the construction of its Equipment in accordance with the standard quality control practices of such Builder. Upon completion of each

unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Railroad for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Railroad shall execute and deliver to the Builder thereof a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Railroad and are marked in accordance with Article 6 hereof; provided, however, that such Builder shall not thereby be relieved of its warranty referred to in Article 13 hereof.

On delivery of each such unit hereunder at the place specified for delivery, the Railroad will assume the responsibility and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such unit.

ARTICLE 3. Purchase Price and Payment. The base price per unit of the Equipment is set forth in Schedule A hereto. The base price is subject to such increase or decrease as may be agreed to by the Builder thereof and the Railroad. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased.

For the purpose of making settlement, the Equipment of each Builder may be divided into such number of groups of units of the Equipment, delivered to and accepted by the Railroad (each such group being hereinafter called a Group), as the Builder thereof and the Railroad may agree upon.

The Railroad hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) On each Closing Date (as hereinafter defined) with respect to each Group the amount, if any, by which (x) the Purchase Price of all units of the Equipment covered by this Agreement for which settlement has theretofore or is then being made, as stated in the invoice or invoices therefor (said invoiced prices being hereinafter called the Invoiced Purchase Prices), exceeds (y) the sum of \$30,460,000 and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this subparagraph (a) (said excess of clause (x) over clause (y) being hereinafter called the Excess Amount); and

(b) in 12 consecutive equal semiannual instalments, as hereinafter provided, an amount equal to 40%

of the balance of the aggregate Invoiced Purchase Prices not paid or payable pursuant to the immediately preceding subparagraph (a); and thereafter

(c) in 18 consecutive equal semiannual instalments, as hereinafter provided, an amount equal to the aggregate of the Invoiced Purchase Prices for all of the Equipment less the aggregate amount paid or payable with respect thereto pursuant to the immediately preceding subparagraphs (a) and (b) of this paragraph (the aggregate of all said instalments provided for in subparagraphs (b) and (c) of this paragraph being hereinafter called the Conditional Sale Indebtedness.)

The instalments of the Conditional Sale Indebtedness payable pursuant to the third paragraph of this Article 3 shall be payable semiannually on April 20 and October 20 in each year commencing on October 20, 1977, to and including April 20, 1992 (or if any such date is not a business day, on the next succeeding business day), each such date being hereinafter called a "Payment Date"; provided, however, that the instalments payable pursuant to subparagraph (b) of the third paragraph of this Article 3 shall be payable commencing on October 20, 1977, to and including April 20, 1983, and the instalments payable pursuant to subparagraph (c) of said third Paragraph shall be payable commencing on October 20, 1983, to and including April 20, 1992. The

unpaid portion of the Conditional Sale Indebtedness payable in instalments on or prior to April 20, 1983, shall bear interest from the respective Closing Dates on which such indebtedness was incurred at the rate of 7-5/8% per annum. The unpaid portion of the Conditional Sale Indebtedness payable in instalments on or after October 20, 1983, shall bear interest from the respective Closing Dates on which such indebtedness was incurred at the rate of 8-3/8% per annum. All such interest shall be payable by the Railroad to the Vendor, to the extent accrued, on April 20, 1977, and on each Payment Date thereafter.

The term "Closing Date" with respect to any Group of the Equipment shall mean such date, on or after January 27, 1977, and prior to July 1, 1977 (the latter date being hereinafter called the Cut-off Date), not more than ten business days following presentation by a Builder to the Railroad of the invoice and the Certificate or Certificates of Acceptance for such Group (unless the Builder shall otherwise agree), as shall be fixed by the Railroad by written notice delivered to the Vendor at least six business days prior to the Closing Date designated therein; provided, however, that the aggregate Purchase Price of all Groups for which settlement may be made pursuant to this Agreement on any Closing Date occurring prior to March 1, 1977, shall not exceed \$7,000,000. The term "business days" as used herein

means calendar days excluding Saturdays, Sundays and any other day on which banking institutions in Baltimore, Maryland or New York, New York are closed.

All interest under this Agreement shall be calculated on the basis of a 360-day year or twelve 30-day months.

The Railroad will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding, at the rate of 8 5/8% per annum in the case of amounts due and payable with respect to Conditional Sale Indebtedness due on or prior to April 20, 1983, and at the rate of 9 3/8% per annum, in the case of amounts due and payable with respect to Conditional Sale Indebtedness due after April 20, 1983.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts and shall be made in clearing house funds on the due date for such payments. Except as provided in Article 7 hereof, the Railroad shall not have the privilege of prepaying any installment of its indebtedness hereunder prior to the date it becomes due.

In the event the Vendor, pursuant to Article 14 hereof, assigns the right to receive the payments herein

provided to be made by the Railroad, the assignee thereof may request the Railroad to make such payments to it at such address as shall be supplied to the Railroad by the assignee.

ARTICLE 4. Taxes. All payments to be made by the Railroad hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor or the Investors (as defined in Article 7 hereof) with respect to the amount of any local, state, federal or foreign taxes (other than taxes on or measured by the net income, gross receipts [except gross receipts taxes in the nature of or in lieu of sales or use taxes], or excess profits of the Vendor or the Investors) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called Impositions), all of which Impositions the Railroad assumes and agrees to pay on demand. The Railroad will also pay promptly all Impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom or upon the Vendor or the Investors solely by reason of its or

their ownership thereof and will keep at all times all and every part of the Equipment free and clear of all Impositions which might in any way affect the title of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Railroad 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 opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any such Impositions shall have been charged or levied against the Vendor or the Investors directly and paid by the Vendor or the Investors, the Railroad shall reimburse the Vendor or the Investors, as the case may be, upon presentation of an invoice therefor, and any amounts so paid by the Vendor or the Investors shall be secured by and under this Agreement and shall be deemed to be payable by the Railroad as part of the Purchase Price of the Equipment; provided, however, that the Railroad shall not be obligated to reimburse the Vendor or the Investors for any Impositions so paid unless the Vendor or the Investors, as the case may be, shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor or the Investors) or unless the Railroad shall have approved the payment thereof. In the event the Railroad assumes, pays, reimburses or otherwise indemnifies

the Vendor or any Investor pursuant to this Article 4 for any Impositions, the Railroad shall pay to the Vendor or such Investor an amount equal to any increase in any and all tax liabilities of the Vendor or the Investor, as the case may be, by reason of the assumption, payment, reimbursement or indemnity by the Railroad on account of such Impositions.

ARTICLE 5. Title to the Equipment. The Vendor shall and hereby does retain the full legal title to and property in the Equipment until the Railroad shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as provided in this Agreement. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 7 hereof, when and only when the full indebtedness in respect to the Purchase Price of the Equipment, together with interest and all other payments as herein provided, shall have been paid, and all the Railroad's obligations

herein contained shall have been performed by the Railroad, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Railroad at that time, will (a) execute a bill or bills of sale for the Equipment transferring its title thereto and property therein to the Railroad, or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address referred to in Article 20 hereof; (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Railroad to the Equipment; and (c) pay to the Railroad any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Railroad hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the

filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Railroad.

ARTICLE 6. Marking of the Equipment. The Railroad will cause each unit of the Equipment to be kept numbered with its identifying number as set forth in Schedule A hereto, or in the case of Equipment not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Owned by a Bank or Trust Company under a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or the name of the Vendor followed by the words "Agent, Owner", or other appropriate markings approved by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's title to and property in the Equipment and its rights under this Agreement. The Railroad will not place any such unit in operation or exercise any control or dominion over the same until such markings have been made thereon and will

replace promptly any such markings which may be removed, defaced, obliterated or destroyed. The Railroad will not change the number of any unit of Equipment except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor by the Railroad and filed, recorded and deposited by the Railroad in all public offices where this Agreement shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the Railroad will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia of the Railroad or its affiliates.

ARTICLE 7. Casualty Occurrences. In the event that any unit of the Equipment shall be worn out, lost, stolen, destroyed, irreparably damaged or otherwise rendered permanently unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Railroad for a period of 90 consecutive days (such occurrences being hereinafter called Casualty Occurrences), the Railroad shall promptly (after it has knowledge of such Casualty Occurrence) and fully inform the

Vendor in regard thereto. When the aggregate Casualty Value (as defined herein) of all units having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Vendor pursuant to this Article 7) hereunder shall exceed \$300,000 (or such lesser amount as the Railroad may elect), the Railroad, within 30 days after it has knowledge of such event, shall promptly pay to the Vendor a sum equal to the aggregate Casualty Value of such units of the Equipment as of the date of such payment and shall file with the Vendor a certificate of an officer of the Railroad setting forth the Casualty Value of each unit of the Equipment suffering a Casualty Occurrence.

Any money paid to the Vendor pursuant to the preceding paragraph of this Article 7 shall, as the Railroad may direct in a written instrument filed with the Vendor, be applied (so long as no event of default shall have occurred and be continuing), in whole or in part, to prepay instalments of Conditional Sale Indebtedness or toward the cost of a unit or units of standard-gauge railroad equipment (other than passenger or work equipment, cabooses and locomotives) first put into service no earlier than the date of this Agreement, to replace units suffering a Casualty Occurrence. If such replacement equipment shall be equipment theretofore used in railroad service, the Railroad shall deliver to the Vendor a certificate of an officer of the

Railroad that the cost of such equipment does not exceed the fair value thereof. In case any money is applied to prepay indebtedness, it shall be so applied, on the installment date for the payment of Conditional Sale Indebtedness next following receipt by the Vendor of such written direction, to the reduction, respectively, in the reverse order of maturity thereof, of outstanding instalments of Conditional Sale Indebtedness attributable to (i) subparagraph (b) of the third paragraph of Article 3 hereof, and to (ii) subparagraph (c) of said third paragraph; provided that such applications to instalments arising as specified in (i) and (ii) above shall each be in the same proportion as the aggregate outstanding instalments with respect to each of (i) and (ii) bear, respectively, to the aggregate outstanding Conditional Sale Indebtedness, all without premium. In the event no direction is received by the Vendor, such moneys shall be applied by the Vendor to the prepayment of the Conditional Sale Indebtedness as aforesaid.

Whenever the Railroad has become obligated under the first paragraph of this Article 7 to make a payment, it may, at any time up to 15 days prior to the due date therefor, request in writing that the Vendor waive such payment then about to be due, and the Vendor shall in writing grant such a waiver with respect to such payment, provided that on or before said due date it shall receive written direction

to grant such waiver from Investors (as hereinafter defined) whose interests in the then outstanding Conditional Sale Indebtedness aggregate at least 75% thereof, and provided further that (i) the Railroad shall have delivered together with such request the certificate required by the first paragraph of this Article 7 to be filed with payment hereunder and a certificate of a Vice President, Assistant Vice President or Comptroller of the Railroad certifying as of the due date of such payment (a) that no event of default hereunder has occurred and is continuing, (b) that the Railroad is not in default under a Finance Agreement, dated as of the date hereof, among Mercantile-Safe Deposit and Trust Company and the parties named in Schedule A thereto (the Investors) (hereinafter called the Finance Agreement), (c) that the fair market value of the Equipment (excluding that with respect to which such payment is about to be due) exceeds a sum equal to 125% of the then outstanding Conditional Sale Indebtedness, (d) that the book value of the Equipment (excluding that with respect to which such payment is about to be due) exceeds a sum equal to 125% of the then outstanding Conditional Sale Indebtedness; and (ii) to the actual knowledge of the Vendor, the Railroad is not in default under the Finance Agreement, and no event of default or event which with the lapse of time and/or demand or failure to take action hereby could constitute an event of default shall have occurred and be continuing.

The Casualty Value of each unit of the Equipment

(other than a replacement unit) shall be deemed to be that amount which bears the same ratio to the original Purchase Price thereof (less, in the event that the Railroad shall have made any payment or payments under the provisions of subparagraph (a) of the third paragraph of Article 3 hereof, an amount which bears the same ratio to the aggregate of all such payments as the original Purchase Price of such unit bears to the original aggregate Purchase Price of all equipment) as the unpaid Conditional Sale Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 7) as of the date payment is made with respect to such Casualty Occurrence bears to the original Conditional Sale Indebtedness. The Casualty Value of each replacement unit shall be deemed to be that amount which bears the same ratio to the portion of the cost thereof paid by the Vendor as the unpaid Conditional Sale Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 7) as of the date payment is made with respect to such Casualty Occurrence bears to the unpaid Conditional Sale Indebtedness (without giving effect to any such prepayments) as of the date of acquisition by the Vendor of such replacement unit.

The Railroad will cause any replacement unit or units to be marked as provided in Article 6 hereof. Any and all such

replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all appropriate terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and shall be included in the term "Equipment" as used in this Agreement. The Railroad warrants that title to all such replacement units shall be free and clear of all liens and encumbrances except the liens permitted by the second paragraph of Article 11 hereof and shall be taken initially and shall remain in the name of the Vendor subject to the provisions hereof, and the Railroad shall execute, acknowledge, deliver, file, record or deposit all such documents and do any and all such acts as may be necessary to cause title to such replacement units to vest in the Vendor and to come under and be subject to this Agreement. All such replacement units shall be guaranteed and warranted in like manner as is customary at the time for similar equipment. Whenever the Railroad shall file with the Vendor a written direction to apply amounts toward the cost of any replacement unit or units, the Railroad shall file therewith executed counterparts of an opinion of counsel covering the matters set forth in this paragraph and a certificate of a Vice President, Assistant Vice President or Comptroller of the Railroad certifying that such replacement unit or units comply with the requirements of this Agreement.

So long as no event of default shall have occurred and be continuing, any money paid to the Vendor pursuant to

this Article 7 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in such (i) direct obligations of the government of the United States of America or any agency thereof, or obligations for which the full faith and credit of the United States is pledged to provide for the payment or principal and interest, (ii) open market commercial paper rated within the two highest grades by Standard and Poor's Corporation or Moody's Investors Service, Inc., or the successor of either of them, or (iii) certificates of deposit of, or bankers acceptances accepted by, commercial banks in the United States of America having a capital and surplus aggregating at least \$100,000,000, in each case maturing in not more than one year from the date of such investment (such investments being hereinafter called Investments), as may be specified in such written direction. Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest received by the Vendor on any Investments shall be held by the Vendor and applied as hereinafter provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus any interest received by the Vendor thereon, up to the cost (including accrued interest) thereof, shall be held by the Vendor for application pursuant to this Article 7, and any excess shall be paid to the Railroad. If such proceeds (plus

such interest) shall be less than such cost, the Railroad will promptly pay to the Vendor an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Vendor in connection with the purchase and sale of Investments.

If one or more events of default shall have occurred and be continuing, all moneys held by the Vendor pursuant to this Article 7 (including, for this purpose, Investments) shall be applied by the Vendor as if such money were money received upon the sale of Equipment pursuant to Article 16 hereof.

In order to facilitate the sale or other disposition of any Equipment suffering a Casualty Occurrence, the Vendor shall, upon request of the Railroad, after payment by the Railroad of a sum equal to the Casualty Value of such Equipment, execute and deliver to the Railroad or the Railroad's vendee, assignee or nominee, a bill of sale (without warranties) for such Equipment, and such other documents as may be required to release such Equipment from the terms and scope of this Agreement, in such form as may be reasonably requested by the Railroad.

The Railroad will at all times prior to the payment of the full indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon and all other payments required hereby, at its own expense, maintain ap-

propriate insurance on the Equipment at the time subject hereto in amounts and against risks customarily insured against by railroad companies on similar equipment, and in any event in amounts and against risks comparable to those insured against by the Railroad on similar equipment owned by it. Unless an event of default hereunder shall have occurred and be continuing, the Railroad may self-insure with respect to all liabilities and risks required to be insured hereunder.

ARTICLE 8. Maintenance; Compliance with Laws and Rules. The Railroad will at all times maintain the Equipment or cause the Equipment to be maintained in good order and repair at its own expense.

During the term of this Agreement, the Railroad will at all times comply in all respects with all laws of the jurisdictions into which its operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of any part on any

unit of the Equipment, the Railroad will conform therewith, at its own expense; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 9. Reports and Inspections. On or before March 31 in each year, commencing with the calendar year 1978, the Railroad shall furnish to the Vendor an accurate statement signed by an officer of the Railroad (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 6 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and to discuss with officers and employees of the Railroad the Railroad's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement, provided that upon the occurrence of any event of default or event which with the lapse of time and/or demand

or failure to take action provided for hereby could constitute an event of default, the Vendor shall have the right, by its agents, to inspect the Railroad's records with respect to the Equipment.

Immediately upon the occurrence of any event of default, the Railroad shall promptly deliver to the Vendor notice in writing thereof, describing such occurrence and explaining what action the Railroad has taken or proposes to take to remedy the event.

ARTICLE 10. Possession and Use. The Railroad, so long as an event of default shall not have occurred under this Agreement and be continuing, shall be entitled to the possession of the Equipment and the use thereof upon the lines of railroad owned or operated by it either alone or jointly with others and whether under lease or otherwise, or upon the lines of railroad owned or operated by any railroad company controlled by, or under common control with, the Railroad, or over which it has trackage rights or operating rights pursuant to contract, or upon connecting and other carriers in the usual interchange of traffic, from and after delivery of the Equipment by the Builder to the Railroad, but only upon and subject to all the terms and conditions of this Agreement; provided, however, that such use of the Equipment by the Railroad shall be restricted to the United States.

ARTICLE 11. Prohibition Against Liens. The Railroad will pay or discharge any and all sums claimed by any party from, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien, charge or security interest on the Equipment, or any unit thereof, equal or superior to the Vendor's title thereto or property therein; provided, however, that the Railroad shall be under no obligation to pay or discharge any such claim so long as it is contesting in good faith and by appropriate legal proceedings such claim and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, 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.

ARTICLE 12. Railroad's Indemnities. The Railroad agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities,

claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of retention by the Vendor of title to the Equipment, the use and operation thereof by the Railroad during the period when title thereto remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

ARTICLE 13. Patent Indemnities; Builders' Warranty of Material and Workmanship. Except in cases of articles or materials specified by the Railroad and not manufactured by such Builder and in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by such Builder, each Builder agrees to indemnify, protect and hold harmless the Railroad from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Railroad, its assigns or the users of such Builder's Equipment because of the use in or about the construction or operation of any of such Builder's Equipment

of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Railroad likewise will indemnify, protect and hold harmless the Vendor from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Railroad and not manufactured by the Builder of such Equipment or of any design, system, process, formula or combination specified by the Railroad and not developed or purported to be developed by the Builder of such Equipment which infringes or is claimed to infringe on any patent or other right. Each Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Railroad every claim, right and cause of action which such Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Railroad and purchased or otherwise acquired by such Builder for use in or about the construction or operation of any of its Equipment, on the ground that any such design, system,

process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. Each Builder further agrees to execute and deliver to the Railroad or the users of such Builder's Equipment all and every such further assurance as may be reasonably requested by the Railroad more fully to effectuate the assignment and delivery of every such claim, right and cause of action. Each Builder will give notice to the Railroad of any claim known to such Builder from which liability may be charged against the Railroad hereunder and the Railroad will give notice to each Builder of any claim known to the Railroad from which liability may be charged against such Builder hereunder. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

Each Builder warrants that its Equipment will be built in accordance with the Specifications and the standards and requirements as set forth in Article 1 and warrants its Equipment will be free from defects in material (except as to specialties incorporated therein specified by the Railroad and not manufactured by such Builder) and workmanship and design (except as to designs incorporated therein specified by the Railroad and not developed by such Builder) under normal

use and service, each Builder's obligation under this paragraph being limited to making good at its plant any part or parts of any unit of its Equipment which shall, within one year after the delivery of such unit of its Equipment to the Railroad, be returned to such Builder with transportation charges prepaid and which examination by such Builder shall disclose to its satisfaction to have been thus defective. In no event shall such Builder be liable to anyone for any incidental, special or consequential damages of any kind.

The foregoing warranty is expressly in lieu of all other warranties, expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and of all other obligations or liabilities on the part of either Builder, except for each Builder's obligations under this Article 13 and Articles 1, 2 and 3 of this Agreement, and neither Builder assumes nor authorizes any person to assume for it any other liability in connection with the construction of its respective Equipment and delivery of such Equipment, except as aforesaid.

Each Builder further agrees with the Railroad that neither the inspection provided in Article 2 of this Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 2 shall be deemed a waiver or a modification by the Railroad of any of its

rights under this Article 13.

ARTICLE 14. Assignments. The Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or, except as provided in Article 10 hereof, transfer the right to possession of any unit of the Equipment without first obtaining the written consent of the Vendor. A sale, assignment, transfer or disposition to a railroad company organized under the laws of the United States of America or any of the states thereof which shall acquire all or substantially all of the lines of railroad of the Railroad, and which, by execution of an appropriate instrument satisfactory to the Vendor, shall assume and agree to perform each of and all the obligations and covenants of the Railroad under this Agreement, shall not be deemed a breach of this covenant, provided such railroad company shall have net tangible assets and capital and surplus aggregating at least that of the Railroad prior to such acquisition.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve any Builder from, any of the obligations of such Builder to construct and deliver

its Equipment in accordance with this Agreement or to respond to its warranties and indemnities contained in Article 13 hereof, or relieve the Railroad of any of its obligations to any Builder under Articles 1, 2, 3, 4, 12 and 13 hereof and this Article 14 or of any other obligation which, according to its terms and context, is intended to survive an assignment.

Upon any such assignment either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall by virtue of such assignment acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad of the notification of any such assignment, all payments thereafter to be made by the Railroad under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Railroad recognizes that it is the custom of railroad equipment manufacturers to assign conditional sale agreements and understands that the assignment of this Agreement, or of some of or all of the rights of the Vendor hereunder is contemplated. The Railroad expressly represents,

for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder and for the purpose of inducing such acquisition, that in the event of such assignment by the Vendor as hereinbefore provided, the rights of such assignee to the entire unpaid indebtedness in respect of the Purchase Price or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of a Builder with respect to such Builder's Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by a Builder. Any and all obligations of the Builders hereunder, howsoever arising, shall be and remain enforceable by the Railroad against and only against the respective Builders and not against any assignee of this Agreement.

In the event of any such assignment or successive assignments by the Vendor, the Railroad will, if necessary upon request of the assignee, change the markings on each side of each unit of the Equipment so as to be consistent with the interests of the assignee in the Equipment. The

cost of such markings in the event of an assignment of not less than all the Equipment at the time covered by this Agreement shall be borne by the Railroad and, in the event of an assignment of less than all such Equipment, such cost shall be borne by such assignee.

The Railroad will (a) in connection with each settlement for the Equipment subsequent to such assignment, deliver to the assignee, at the time of delivery of notice fixing the Closing Date for such Equipment, all documents required by the terms of such assignment to be delivered to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, except for any opinion of counsel for such assignee and (b) furnish to such assignee such number of counterparts of any other certificate or paper required by the Vendor as may reasonably be requested.

If this Agreement shall have been assigned by the Builders and the assignee shall not make payment to a Builder with respect to units of its Equipment as provided in the instrument making such assignment, such Builder will promptly notify the Railroad of such event and, if such amount shall not have been previously paid by such assignee, the Railroad will, not later than 90 days after the date such payment was due, pay or cause to be paid to such Builder the aggregate unpaid Purchase Price of such units, together with

interest from the date such payment was due to the date of payment by the Railroad at the highest prime rate of interest of leading New York City banks in effect on the date such payment was due.

ARTICLE 15. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Railroad shall fail to pay in full any indebtedness in respect of the Purchase Price of the Equipment or any other sum payable by the Railroad as provided in this Agreement within five days after payment thereof shall be due hereunder; or

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

(c) a petition for reorganization under

Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, or under any other act, now or hereafter enacted providing for the reorganization of railroads engaged in interstate commerce, shall be filed by or against the Railroad 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 Railroad under this Agreement shall not 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

(d) any other proceeding shall be commenced by or against the Railroad for any relief under any bankruptcy or insolvency law, or law 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 indebtedness payable 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 Railroad under this Agreement shall not 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 Railroad or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such 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; or

(e) the Railroad shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Railroad and upon compliance with any mandatory legal requirements then in force and applicable to such action by the Vendor, declare (hereinafter called a Declaration of Default) the entire indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 3 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. The Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated. The Railroad shall promptly notify the Vendor of any event which has come to its attention which constitutes, or which with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

The Vendor may at its election waive any such event of default and its consequences and rescind and annul any Declaration of Default by notice to the Railroad in writing

to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 16. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, subject to compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as expressly provided hereinafter in this Article 16, and may remove the same from possession and use of the Railroad or any other person and for such purpose may enter upon the Railroad's premises or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall reasonably designate a point or points upon the premises of the Railroad for the delivery of the Equipment to the Vendor, the Railroad shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points on its lines as shall be designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Railroad until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient to the Railroad. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may at its election and upon such notice as is hereinafter set forth retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Railroad by telegram or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Railroad's rights in the Equipment shall thereupon terminate and all payments made by the Railroad may be retained by the Vendor as compensation for the use of the Equipment by the Railroad; provided, however, that if the Railroad, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing and storing

the Equipment and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad; provided, further, that if the Railroad or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall have given no notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Railroad and to any other persons to whom the law may require notice of the time and place, may sell the Equipment, or any unit thereof, free from any and all claims of the Railroad or any other party claiming from, through or under the Railroad at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided,

however, that if, prior to such sale and prior to the making of a contract for such sale, the Railroad should tender full payment of the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad. The proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine. The Railroad shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed to the Railroad as provided in Article 20 hereof. The Vendor or the Rail-

road may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. In the event that the Vendor shall be the purchaser thereof, it shall not be accountable to the Railroad (except to the extent of surplus money received as hereinafter provided in this Article 16), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all sums due to the Vendor from the Railroad hereunder. From and after the date of any such sale, the Railroad shall pay to the Vendor the per diem interchange for each unit of Equipment which shall not have been assembled as herein provided by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser at such sale.

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

The foregoing provisions of this Article 16 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 17. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. In cases, however, in which the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Railroad, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any unit thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 18. Recording. The Railroad will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded with

the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act; and the Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of special counsel for the Vendor, of the title of the Vendor to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 19. Payment of Expenses. The Railroad will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Builders) incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent or any successor agent, if the first assignee is an agent), and any instrument supplemental or related hereto or thereto, including all fees and expenses of counsel for the first assignee of this Agreement and for any party acquiring interests in such first assignment, and all reasonable costs and expenses in connection with the transfer by any party of interests acquired in such first assignment.

ARTICLE 20. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

(a) to the Railroad, at 908 West Broadway, Louisville, Kentucky 40201, for the attention of Mr. H.D. Goff, Assistant Treasurer-Finance

(b) to a Builder at its address set forth immediately below,

(1) Bethlehem Steel Corporation
Bethlehem, Pennsylvania 18016
Attn: Railroad Products Sales

(2) Greenville Steel Car Company
Greenville, Pennsylvania 16125
Attn: Mr. J.T. Egbert
Vice President - Sales

(c) to any assignee of the Vendor or of the Railroad, at such address as may have been furnished in writing to each of the other parties hereto by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 21. Article Headings; Effect and Modification of Agreement. The Table of Contents hereto and all article headings are inserted for convenience only, are not part of this Agreement and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Schedule hereto, exclusively states the rights of the Vendor and the Railroad with respect to the Equipment and supersedes all other agree-

ments, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Vendor and the Railroad.

ARTICLE 22. Law Governing. The Railroad warrants that its chief place of business and its chief executive office are located in the state specified in clause (a) of Article 20 hereof. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of such state; provided, however, that the parties hereto shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 23. Definitions. The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder, respectively, Bethlehem Steel Corporation and Greenville Steel Car Company and any successor or successors for the time being to their manufacturing properties and businesses, and, after any such assignment, both any assignee or assignees for the time

being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment. Whenever the term Vendor refers to Bethlehem Steel Corporation or Greenville Steel Car Company, such term shall mean either or both such companies, as the context may require. The term "Builder", whenever used in this Agreement, means, both before and after any such assignment, Bethlehem Steel Corporation and Greenville Steel Car Company, respectively, and any successor or successors for the time being to their manufacturing properties and businesses.

ARTICLE 24. Execution. This Agreement 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 contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated as of the date first set forth above, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be

executed in their respective corporate names by their officers,
thereunto duly authorized, and their respective corporate seals
to be hereunto affixed, duly attested, all as of the date
first written.

BETHLEHEM STEEL CORPORATION

By 
Vice President

(CORPORATE SEAL)

ATTEST:


Assistant Secretary

GREENVILLE STEEL CAR COMPANY

By _____
Vice President

(CORPORATE SEAL)

ATTEST:

Assistant Secretary

LOUISVILLE AND NASHVILLE
RAILROAD COMPANY


By _____
Assistant Vice President

ATTEST:


Attesting Officer

COMMONWEALTH OF KENTUCKY)
COUNTY OF JEFFERSON) : ss.:

On this *24th* day of January, 1977, before me personally appeared *N. H. Stier*, to me personally known, who, being by me duly sworn, says that he is *asst.* Vice President of LOUISVILLE AND NASHVILLE RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Sharon W. Bowles
Notary Public

(NOTARIAL SEAL)

My commisison expires *July 26, 1978*

SCHEDULE A

Type	AAR Mechanical Design- nation	Builder's Specifi- cations	Builder & Builder's Plant	Quantity	Railroad Road Numbers (Inclusive)	Unit Base Price	Total Base Price	Time and Place of Delivery
100 Ton Open Top Quadruple Hopper Car	HT	3400-451 10/8/76	Bethlehem, Steel Corp. Johnstown, Penn.	1000	197200- 198199	\$29,000	\$29,000,000	March 1, 1977 (approx.) Johnstown, Penn.

100 Ton 65 foot High Side Mill Gondola Cars	GB	GB-6015A 11/17/76	Greenville Steel Car Co. Greenville, Penn.	50	25500- 25549	\$29,200	\$1,460,000	March 1, 1977 (approx.) Green- ville, Penn.

CONDITIONAL SALE AGREEMENT

Dated as of January 15, 1977

between each of

BETHLEHEM STEEL CORPORATION,

GREENVILLE STEEL CAR COMPANY

and

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

[Covering 1000 One Hundred Ton Open Top Quadruple Hopper Cars
and 50 One Hundred Ton High Side Mill Gondola Cars]

CONDITIONAL SALE AGREEMENT

TABLE OF CONTENTS

	<u>Page</u>
PARTIES	1
PREAMBLES	1
ARTICLE 1. Construction and Sale	1
ARTICLE 2. Inspection and Delivery	2
ARTICLE 3. Purchase Price and Payment; Interest; Closing Dates;	5
ARTICLE 4. Taxes.....	10
ARTICLE 5. Title to the Equipment.....	12
ARTICLE 6. Marking of the Equipment.....	14
ARTICLE 7. Casualty Occurences; Replacement of Equipment and/or Prepayment; Waiver; Investments; Insurance.....	15
ARTICLE 8. Maintenance; Compliance with Laws and Rules....	23
ARTICLE 9. Reports and Inspections.....	24
ARTICLE 10. Possession and Use.....	25
ARTICLE 11. Prohibition Against Liens.....	26
ARTICLE 12. Railroad's Indemnities.....	26
ARTICLE 13. Patent Indemnities; Builders' Warranty of Material and Workmanship.....	27
ARTICLE 14. Assignments.....	31
ARTICLE 15. Defaults.....	35
ARTICLE 16. Remedies.....	39
ARTICLE 17. Applicable State Laws.....	46

CONDITIONAL SALE AGREEMENT

TABLE OF CONTENTS
(Continued)

	<u>Page</u>
ARTICLE 18. Recording.....	46
ARTICLE 19. Payment of Expenses.....	47
ARTICLE 20. Notice.....	48
ARTICLE 21. Article Headings; Effect; Modification of Agreement.....	48
ARTICLE 22. Law Governing.....	49
ARTICLE 23. Definitions.....	49
ARTICLE 24. Execution.....	50
TESTIMONIUM	50
SIGNATURES	51
ACKNOWLEDGMENTS	
SCHEDULE A - Specifications of the Equipment	

CONDITIONAL SALE AGREEMENT, dated as of January 15, 1977, between each of BETHLEHEM STEEL CORPORATION, a Delaware corporation, GREENVILLE STEEL CAR COMPANY, a Pennsylvania corporation (hereinafter called collectively the Builders or individually a Builder, or collectively or individually the Vendor as the context may require, all as more particularly set forth in Article 23 hereof), and LOUISVILLE AND NASHVILLE RAILROAD COMPANY, a Kentucky corporation (hereinafter called the Railroad).

WHEREAS, the Builders severally have agreed to construct, sell and deliver to the Railroad, and the Railroad has agreed to purchase, the railroad equipment described in Schedule A attached hereto (hereinafter called the Equipment);

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

ARTICLE 1. Construction and Sale. Pursuant to this Agreement, each Builder shall construct the units of the Equipment to be constructed by it at its plant, all as set forth in Schedule A hereto (such units of Equipment with respect to such Builder being hereinafter called its Equipment), and will sell and deliver to the Railroad, and the Railroad will purchase from each Builder and accept delivery of and pay for (as hereinafter provided), its Equipment, each

unit of which shall be constructed in accordance with the specifications referred to in Schedule A hereto and in accordance with such modifications thereof as may be agreed upon in writing between such Builder with respect to its Equipment and the Railroad (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture of each thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards and specifications recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such units of the Equipment, and each unit of the Equipment (except to the extent referred to in Article 7 hereof) will be new railroad equipment first put into service no earlier than October 1, 1976. The railroad warrants that the Equipment will be non-special purpose equipment capable of being employed in the normal course of operations by railroads in general.

ARTICLE 2. Inspection and Delivery. Each Builder will deliver the units of its Equipment to the Railroad at the place or places specified in Schedule A hereto (or if Schedule A does not specify a place or places, at the place

or places designated from time to time by the Railroad or, if any units of its Equipment have heretofore been delivered to the Railroad by such Builder under a lease, at such place or places where such units of Equipment may be at the time of delivery and acceptance under this Conditional Sale Agreement), freight charges, if any, collect, in accordance with the delivery schedule set forth in Schedule A hereto; provided, however, that neither Builder shall have any obligation to deliver any unit of the Equipment hereunder at any time after any event of default (as described in Article 15 hereof), or event which with the lapse of time and/or demand could constitute such an event of default, shall have occurred and be continuing.

Each Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond such Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 2, any Equipment not delivered, accepted and settled for pursuant to Article 3 hereof on or before the Cut-off

Date (as defined in Article 3 hereof) shall be excluded herefrom. If any unit or units of Equipment shall be excluded from this Agreement pursuant to the immediately preceding sentence, the Builder of such unit or units and the Railroad shall execute an agreement supplemental hereto limiting this Agreement to the the units of Equipment not so excluded herefrom. If a Builder's failure to deliver Equipment so excluded from this Agreement resulted from one or more of the causes set forth in the immediately preceding paragraph, the Railroad shall nevertheless be obligated to accept such Equipment and to pay the full purchase price therefor, determined as provided in this Agreement, if and when such Equipment shall be completed and delivered by the Builder, such payment to be in cash on the delivery of such Equipment, either directly or, in case the Railroad shall arrange therefor, by means of a conditional sale agreement, equipment trust or such other appropriate method of financing as the Railroad shall determine and as shall be reasonably acceptable to such Builder.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Railroad and each Builder shall grant to such authorized inspectors reasonable access to its plant. Each Builder agrees to inspect all materials used in the construction of its Equipment in accordance with the standard quality control practices of such Builder. Upon completion of each

unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Railroad for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Railroad shall execute and deliver to the Builder thereof a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Railroad and are marked in accordance with Article 6 hereof; provided, however, that such Builder shall not thereby be relieved of its warranty referred to in Article 13 hereof.

On delivery of each such unit hereunder at the place specified for delivery, the Railroad will assume the responsibility and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such unit.

ARTICLE 3. Purchase Price and Payment. The base price per unit of the Equipment is set forth in Schedule A hereto. The base price is subject to such increase or decrease as may be agreed to by the Builder thereof and the Railroad. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased.

For the purpose of making settlement, the Equipment of each Builder may be divided into such number of groups of units of the Equipment, delivered to and accepted by the Railroad (each such group being hereinafter called a Group), as the Builder thereof and the Railroad may agree upon.

The Railroad hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) On each Closing Date (as hereinafter defined) with respect to each Group the amount, if any, by which (x) the Purchase Price of all units of the Equipment covered by this Agreement for which settlement has theretofore or is then being made, as stated in the invoice or invoices therefor (said invoiced prices being hereinafter called the Invoiced Purchase Prices), exceeds (y) the sum of \$30,460,000 and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this subparagraph (a) (said excess of clause (x) over clause (y) being hereinafter called the Excess Amount); and

(b) in 12 consecutive equal semiannual installments, as hereinafter provided, an amount equal to 40%

of the balance of the aggregate Invoiced Purchase Prices not paid or payable pursuant to the immediately preceding subparagraph (a); and thereafter

(c) in 18 consecutive equal semiannual instalments, as hereinafter provided, an amount equal to the aggregate of the Invoiced Purchase Prices for all of the Equipment less the aggregate amount paid or payable with respect thereto pursuant to the immediately preceding subparagraphs (a) and (b) of this paragraph (the aggregate of all said instalments provided for in subparagraphs (b) and (c) of this paragraph being hereinafter called the Conditional Sale Indebtedness.)

The instalments of the Conditional Sale Indebtedness payable pursuant to the third paragraph of this Article 3 shall be payable semiannually on April 20 and October 20 in each year commencing on October 20, 1977, to and including April 20, 1992 (or if any such date is not a business day, on the next succeeding business day), each such date being hereinafter called a "Payment Date"; provided, however, that the instalments payable pursuant to subparagraph (b) of the third paragraph of this Article 3 shall be payable commencing on October 20, 1977, to and including April 20, 1983, and the instalments payable pursuant to subparagraph (c) of said third Paragraph shall be payable commencing on October 20, 1983, to and including April 20, 1992. The

unpaid portion of the Conditional Sale Indebtedness payable in instalments on or prior to April 20, 1983, shall bear interest from the respective Closing Dates on which such indebtedness was incurred at the rate of 7-5/8% per annum. The unpaid portion of the Conditional Sale Indebtedness payable in instalments on or after October 20, 1983, shall bear interest from the respective Closing Dates on which such indebtedness was incurred at the rate of 8-3/8% per annum. All such interest shall be payable by the Railroad to the Vendor, to the extent accrued, on April 20, 1977, and on each Payment Date thereafter.

The term "Closing Date" with respect to any Group of the Equipment shall mean such date, on or after January 27, 1977, and prior to July 1, 1977 (the latter date being hereinafter called the Cut-off Date), not more than ten business days following presentation by a Builder to the Railroad of the invoice and the Certificate or Certificates of Acceptance for such Group (unless the Builder shall otherwise agree), as shall be fixed by the Railroad by written notice delivered to the Vendor at least six business days prior to the Closing Date designated therein; provided, however, that the aggregate Purchase Price of all Groups for which settlement may be made pursuant to this Agreement on any Closing Date occurring prior to March 1, 1977, shall not exceed \$7,000,000. The term "business days" as used herein

means calendar days excluding Saturdays, Sundays and any other day on which banking institutions in Baltimore, Maryland or New York, New York are closed.

All interest under this Agreement shall be calculated on the basis of a 360-day year or twelve 30-day months.

The Railroad will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding, at the rate of 8 5/8% per annum in the case of amounts due and payable with respect to Conditional Sale Indebtedness due on or prior to April 20, 1983, and at the rate of 9 3/8% per annum, in the case of amounts due and payable with respect to Conditional Sale Indebtedness due after April 20, 1983.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts and shall be made in clearing house funds on the due date for such payments. Except as provided in Article 7 hereof, the Railroad shall not have the privilege of prepaying any installment of its indebtedness hereunder prior to the date it becomes due.

In the event the Vendor, pursuant to Article 14 hereof, assigns the right to receive the payments herein

provided to be made by the Railroad, the assignee thereof may request the Railroad to make such payments to it at such address as shall be supplied to the Railroad by the assignee.

ARTICLE 4. Taxes. All payments to be made by the Railroad hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor or the Investors (as defined in Article 7 hereof) with respect to the amount of any local, state, federal or foreign taxes (other than taxes on or measured by the net income, gross receipts [except gross receipts taxes in the nature of or in lieu of sales or use taxes], or excess profits of the Vendor or the Investors) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called Impositions), all of which Impositions the Railroad assumes and agrees to pay on demand. The Railroad will also pay promptly all Impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom or upon the Vendor or the Investors solely by reason of its or

their ownership thereof and will keep at all times all and every part of the Equipment free and clear of all Impositions which might in any way affect the title of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Railroad 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 opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any such Impositions shall have been charged or levied against the Vendor or the Investors directly and paid by the Vendor or the Investors, the Railroad shall reimburse the Vendor or the Investors, as the case may be, upon presentation of an invoice therefor, and any amounts so paid by the Vendor or the Investors shall be secured by and under this Agreement and shall be deemed to be payable by the Railroad as part of the Purchase Price of the Equipment; provided, however, that the Railroad shall not be obligated to reimburse the Vendor or the Investors for any Impositions so paid unless the Vendor or the Investors, as the case may be, shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor or the Investors) or unless the Railroad shall have approved the payment thereof. In the event the Railroad assumes, pays, reimburses or otherwise indemnifies

the Vendor or any Investor pursuant to this Article 4 for any Impositions, the Railroad shall pay to the Vendor or such Investor an amount equal to any increase in any and all tax liabilities of the Vendor or the Investor, as the case may be, by reason of the assumption, payment, reimbursement or indemnity by the Railroad on account of such Impositions.

ARTICLE 5. Title to the Equipment. The Vendor shall and hereby does retain the full legal title to and property in the Equipment until the Railroad shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as provided in this Agreement. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 7 hereof, when and only when the full indebtedness in respect to the Purchase Price of the Equipment, together with interest and all other payments as herein provided, shall have been paid, and all the Railroad's obligations

herein contained shall have been performed by the Railroad, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Railroad at that time, will (a) execute a bill or bills of sale for the Equipment transferring its title thereto and property therein to the Railroad, or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address referred to in Article 20 hereof; (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Railroad to the Equipment; and (c) pay to the Railroad any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Railroad hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the

filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Railroad.

ARTICLE 6. Marking of the Equipment. The Railroad will cause each unit of the Equipment to be kept numbered with its identifying number as set forth in Schedule A hereto, or in the case of Equipment not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Owned by a Bank or Trust Company under a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or the name of the Vendor followed by the words "Agent, Owner", or other appropriate markings approved by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's title to and property in the Equipment and its rights under this Agreement. The Railroad will not place any such unit in operation or exercise any control or dominion over the same until such markings have been made thereon and will

replace promptly any such markings which may be removed, defaced, obliterated or destroyed. The Railroad will not change the number of any unit of Equipment except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor by the Railroad and filed, recorded and deposited by the Railroad in all public offices where this Agreement shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the Railroad will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia of the Railroad or its affiliates.

ARTICLE 7. Casualty Occurrences. In the event that any unit of the Equipment shall be worn out, lost, stolen, destroyed, irreparably damaged or otherwise rendered permanently unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Railroad for a period of 90 consecutive days (such occurrences being hereinafter called Casualty Occurrences), the Railroad shall promptly (after it has knowledge of such Casualty Occurrence) and fully inform the

Vendor in regard thereto. When the aggregate Casualty Value (as defined herein) of all units having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Vendor pursuant to this Article 7) hereunder shall exceed \$300,000 (or such lesser amount as the Railroad may elect), the Railroad, within 30 days after it has knowledge of such event, shall promptly pay to the Vendor a sum equal to the aggregate Casualty Value of such units of the Equipment as of the date of such payment and shall file with the Vendor a certificate of an officer of the Railroad setting forth the Casualty Value of each unit of the Equipment suffering a Casualty Occurrence.

Any money paid to the Vendor pursuant to the preceding paragraph of this Article 7 shall, as the Railroad may direct in a written instrument filed with the Vendor, be applied (so long as no event of default shall have occurred and be continuing), in whole or in part, to prepay instalments of Conditional Sale Indebtedness or toward the cost of a unit or units of standard-gauge railroad equipment (other than passenger or work equipment, cabooses and locomotives) first put into service no earlier than the date of this Agreement, to replace units suffering a Casualty Occurrence. If such replacement equipment shall be equipment theretofore used in railroad service, the Railroad shall deliver to the Vendor a certificate of an officer of the

Railroad that the cost of such equipment does not exceed the fair value thereof. In case any money is applied to prepay indebtedness, it shall be so applied, on the installment date for the payment of Conditional Sale Indebtedness next following receipt by the Vendor of such written direction, to the reduction, respectively, in the reverse order of maturity thereof, of outstanding instalments of Conditional Sale Indebtedness attributable to (i) subparagraph (b) of the third paragraph of Article 3 hereof, and to (ii) subparagraph (c) of said third paragraph; provided that such applications to instalments arising as specified in (i) and (ii) above shall each be in the same proportion as the aggregate outstanding instalments with respect to each of (i) and (ii) bear, respectively, to the aggregate outstanding Conditional Sale Indebtedness, all without premium. In the event no direction is received by the Vendor, such moneys shall be applied by the Vendor to the prepayment of the Conditional Sale Indebtedness as aforesaid.

Whenever the Railroad has become obligated under the first paragraph of this Article 7 to make a payment, it may, at any time up to 15 days prior to the due date therefor, request in writing that the Vendor waive such payment then about to be due, and the Vendor shall in writing grant such a waiver with respect to such payment, provided that on or before said due date it shall receive written direction

to grant such waiver from Investors (as hereinafter defined) whose interests in the then outstanding Conditional Sale Indebtedness aggregate at least 75% thereof, and provided further that (i) the Railroad shall have delivered together with such request the certificate required by the first paragraph of this Article 7 to be filed with payment hereunder and a certificate of a Vice President, Assistant Vice President or Comptroller of the Railroad certifying as of the due date of such payment (a) that no event of default hereunder has occurred and is continuing, (b) that the Railroad is not in default under a Finance Agreement, dated as of the date hereof, among Mercantile-Safe Deposit and Trust Company and the parties named in Schedule A thereto (the Investors) (hereinafter called the Finance Agreement), (c) that the fair market value of the Equipment (excluding that with respect to which such payment is about to be due) exceeds a sum equal to 125% of the then outstanding Conditional Sale Indebtedness, (d) that the book value of the Equipment (excluding that with respect to which such payment is about to be due) exceeds a sum equal to 125% of the then outstanding Conditional Sale Indebtedness; and (ii) to the actual knowledge of the Vendor, the Railroad is not in default under the Finance Agreement, and no event of default or event which with the lapse of time and/or demand or failure to take action hereby could constitute an event of default shall have occurred and be continuing.

The Casualty Value of each unit of the Equipment

(other than a replacement unit) shall be deemed to be that amount which bears the same ratio to the original Purchase Price thereof (less, in the event that the Railroad shall have made any payment or payments under the provisions of subparagraph (a) of the third paragraph of Article 3 hereof, an amount which bears the same ratio to the aggregate of all such payments as the original Purchase Price of such unit bears to the original aggregate Purchase Price of all equipment) as the unpaid Conditional Sale Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 7) as of the date payment is made with respect to such Casualty Occurrence bears to the original Conditional Sale Indebtedness. The Casualty Value of each replacement unit shall be deemed to be that amount which bears the same ratio to the portion of the cost thereof paid by the Vendor as the unpaid Conditional Sale Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 7) as of the date payment is made with respect to such Casualty Occurrence bears to the unpaid Conditional Sale Indebtedness (without giving effect to any such prepayments) as of the date of acquisition by the Vendor of such replacement unit.

The Railroad will cause any replacement unit or units to be marked as provided in Article 6 hereof. Any and all such

replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all appropriate terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and shall be included in the term "Equipment" as used in this Agreement. The Railroad warrants that title to all such replacement units shall be free and clear of all liens and encumbrances except the liens permitted by the second paragraph of Article 11 hereof and shall be taken initially and shall remain in the name of the Vendor subject to the provisions hereof, and the Railroad shall execute, acknowledge, deliver, file, record or deposit all such documents and do any and all such acts as may be necessary to cause title to such replacement units to vest in the Vendor and to come under and be subject to this Agreement. All such replacement units shall be guaranteed and warranted in like manner as is customary at the time for similar equipment. Whenever the Railroad shall file with the Vendor a written direction to apply amounts toward the cost of any replacement unit or units, the Railroad shall file therewith executed counterparts of an opinion of counsel covering the matters set forth in this paragraph and a certificate of a Vice President, Assistant Vice President or Comptroller of the Railroad certifying that such replacement unit or units comply with the requirements of this Agreement.

So long as no event of default shall have occurred and be continuing, any money paid to the Vendor pursuant to

this Article 7 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in such (i) direct obligations of the government of the United States of America or any agency thereof, or obligations for which the full faith and credit of the United States is pledged to provide for the payment or principal and interest, (ii) open market commercial paper rated within the two highest grades by Standard and Poor's Corporation or Moody's Investors Service, Inc., or the successor of either of them, or (iii) certificates of deposit of, or bankers acceptances accepted by, commercial banks in the United States of America having a capital and surplus aggregating at least \$100,000,000, in each case maturing in not more than one year from the date of such investment (such investments being hereinafter called Investments), as may be specified in such written direction. Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest received by the Vendor on any Investments shall be held by the Vendor and applied as hereinafter provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus any interest received by the Vendor thereon, up to the cost (including accrued interest) thereof, shall be held by the Vendor for application pursuant to this Article 7, and any excess shall be paid to the Railroad. If such proceeds (plus

such interest) shall be less than such cost, the Railroad will promptly pay to the Vendor an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Vendor in connection with the purchase and sale of Investments.

If one or more events of default shall have occurred and be continuing, all moneys held by the Vendor pursuant to this Article 7 (including, for this purpose, Investments) shall be applied by the Vendor as if such money were money received upon the sale of Equipment pursuant to Article 16 hereof.

In order to facilitate the sale or other disposition of any Equipment suffering a Casualty Occurrence, the Vendor shall, upon request of the Railroad, after payment by the Railroad of a sum equal to the Casualty Value of such Equipment, execute and deliver to the Railroad or the Railroad's vendee, assignee or nominee, a bill of sale (without warranties) for such Equipment, and such other documents as may be required to release such Equipment from the terms and scope of this Agreement, in such form as may be reasonably requested by the Railroad.

The Railroad will at all times prior to the payment of the full indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon and all other payments required hereby, at its own expense, maintain ap-

appropriate insurance on the Equipment at the time subject hereto in amounts and against risks customarily insured against by railroad companies on similar equipment, and in any event in amounts and against risks comparable to those insured against by the Railroad on similar equipment owned by it. Unless an event of default hereunder shall have occurred and be continuing, the Railroad may self-insure with respect to all liabilities and risks required to be insured hereunder.

ARTICLE 8. Maintenance; Compliance with Laws and Rules. The Railroad will at all times maintain the Equipment or cause the Equipment to be maintained in good order and repair at its own expense.

During the term of this Agreement, the Railroad will at all times comply in all respects with all laws of the jurisdictions into which its operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of any part on any

unit of the Equipment, the Railroad will conform therewith, at its own expense; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 9. Reports and Inspections. On or before March 31 in each year, commencing with the calendar year 1978, the Railroad shall furnish to the Vendor an accurate statement signed by an officer of the Railroad (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 6 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and to discuss with officers and employees of the Railroad the Railroad's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement, provided that upon the occurrence of any event of default or event which with the lapse of time and/or demand

or failure to take action provided for hereby could constitute an event of default, the Vendor shall have the right, by its agents, to inspect the Railroad's records with respect to the Equipment.

Immediately upon the occurrence of any event of default, the Railroad shall promptly deliver to the Vendor notice in writing thereof, describing such occurrence and explaining what action the Railroad has taken or proposes to take to remedy the event.

ARTICLE 10. Possession and Use. The Railroad, so long as an event of default shall not have occurred under this Agreement and be continuing, shall be entitled to the possession of the Equipment and the use thereof upon the lines of railroad owned or operated by it either alone or jointly with others and whether under lease or otherwise, or upon the lines of railroad owned or operated by any railroad company controlled by, or under common control with, the Railroad, or over which it has trackage rights or operating rights pursuant to contract, or upon connecting and other carriers in the usual interchange of traffic, from and after delivery of the Equipment by the Builder to the Railroad, but only upon and subject to all the terms and conditions of this Agreement; provided, however, that such use of the Equipment by the Railroad shall be restricted to the United States.

ARTICLE 11. Prohibition Against Liens. The Railroad will pay or discharge any and all sums claimed by any party from, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien, charge or security interest on the Equipment, or any unit thereof, equal or superior to the Vendor's title thereto or property therein; provided, however, that the Railroad shall be under no obligation to pay or discharge any such claim so long as it is contesting in good faith and by appropriate legal proceedings such claim and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, 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.

ARTICLE 12. Railroad's Indemnities. The Railroad agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities,

claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of retention by the Vendor of title to the Equipment, the use and operation thereof by the Railroad during the period when title thereto remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

ARTICLE 13. Patent Indemnities; Builders' Warranty of Material and Workmanship. Except in cases of articles or materials specified by the Railroad and not manufactured by such Builder and in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by such Builder, each Builder agrees to indemnify, protect and hold harmless the Railroad from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Railroad, its assigns or the users of such Builder's Equipment because of the use in or about the construction or operation of any of such Builder's Equipment

of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Railroad likewise will indemnify, protect and hold harmless the Vendor from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Railroad and not manufactured by the Builder of such Equipment or of any design, system, process, formula or combination specified by the Railroad and not developed or purported to be developed by the Builder of such Equipment which infringes or is claimed to infringe on any patent or other right. Each Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Railroad every claim, right and cause of action which such Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Railroad and purchased or otherwise acquired by such Builder for use in or about the construction or operation of any of its Equipment, on the ground that any such design, system,

process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. Each Builder further agrees to execute and deliver to the Railroad or the users of such Builder's Equipment all and every such further assurance as may be reasonably requested by the Railroad more fully to effectuate the assignment and delivery of every such claim, right and cause of action. Each Builder will give notice to the Railroad of any claim known to such Builder from which liability may be charged against the Railroad hereunder and the Railroad will give notice to each Builder of any claim known to the Railroad from which liability may be charged against such Builder hereunder. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

Each Builder warrants that its Equipment will be built in accordance with the Specifications and the standards and requirements as set forth in Article 1 and warrants its Equipment will be free from defects in material (except as to specialties incorporated therein specified by the Railroad and not manufactured by such Builder) and workmanship and design (except as to designs incorporated therein specified by the Railroad and not developed by such Builder) under normal

use and service, each Builder's obligation under this paragraph being limited to making good at its plant any part or parts of any unit of its Equipment which shall, within one year after the delivery of such unit of its Equipment to the Railroad, be returned to such Builder with transportation charges prepaid and which examination by such Builder shall disclose to its satisfaction to have been thus defective. In no event shall such Builder be liable to anyone for any incidental, special or consequential damages of any kind.

The foregoing warranty is expressly in lieu of all other warranties, expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and of all other obligations or liabilities on the part of either Builder, except for each Builder's obligations under this Article 13 and Articles 1, 2 and 3 of this Agreement, and neither Builder assumes nor authorizes any person to assume for it any other liability in connection with the construction of its respective Equipment and delivery of such Equipment, except as aforesaid.

Each Builder further agrees with the Railroad that neither the inspection provided in Article 2 of this Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 2 shall be deemed a waiver or a modification by the Railroad of any of its

rights under this Article 13.

ARTICLE 14. Assignments. The Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or, except as provided in Article 10 hereof, transfer the right to possession of any unit of the Equipment without first obtaining the written consent of the Vendor. A sale, assignment, transfer or disposition to a railroad company organized under the laws of the United States of America or any of the states thereof which shall acquire all or substantially all of the lines of railroad of the Railroad, and which, by execution of an appropriate instrument satisfactory to the Vendor, shall assume and agree to perform each of and all the obligations and covenants of the Railroad under this Agreement, shall not be deemed a breach of this covenant, provided such railroad company shall have net tangible assets and capital and surplus aggregating at least that of the Railroad prior to such acquisition.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve any Builder from, any of the obligations of such Builder to construct and deliver

its Equipment in accordance with this Agreement or to respond to its warranties and indemnities contained in Article 13 hereof, or relieve the Railroad of any of its obligations to any Builder under Articles 1, 2, 3, 4, 12 and 13 hereof and this Article 14 or of any other obligation which, according to its terms and context, is intended to survive an assignment.

Upon any such assignment either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall by virtue of such assignment acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad of the notification of any such assignment, all payments thereafter to be made by the Railroad under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Railroad recognizes that it is the custom of railroad equipment manufacturers to assign conditional sale agreements and understands that the assignment of this Agreement, or of some of or all of the rights of the Vendor hereunder is contemplated. The Railroad expressly represents,

for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder and for the purpose of inducing such acquisition, that in the event of such assignment by the Vendor as hereinbefore provided, the rights of such assignee to the entire unpaid indebtedness in respect of the Purchase Price or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of a Builder with respect to such Builder's Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by a Builder. Any and all obligations of the Builders hereunder, howsoever arising, shall be and remain enforceable by the Railroad against and only against the respective Builders and not against any assignee of this Agreement.

In the event of any such assignment or successive assignments by the Vendor, the Railroad will, if necessary upon request of the assignee, change the markings on each side of each unit of the Equipment so as to be consistent with the interests of the assignee in the Equipment. The

cost of such markings in the event of an assignment of not less than all the Equipment at the time covered by this Agreement shall be borne by the Railroad and, in the event of an assignment of less than all such Equipment, such cost shall be borne by such assignee.

The Railroad will (a) in connection with each settlement for the Equipment subsequent to such assignment, deliver to the assignee, at the time of delivery of notice fixing the Closing Date for such Equipment, all documents required by the terms of such assignment to be delivered to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, except for any opinion of counsel for such assignee and (b) furnish to such assignee such number of counterparts of any other certificate or paper required by the Vendor as may reasonably be requested.

If this Agreement shall have been assigned by the Builders and the assignee shall not make payment to a Builder with respect to units of its Equipment as provided in the instrument making such assignment, such Builder will promptly notify the Railroad of such event and, if such amount shall not have been previously paid by such assignee, the Railroad will, not later than 90 days after the date such payment was due, pay or cause to be paid to such Builder the aggregate unpaid Purchase Price of such units, together with

interest from the date such payment was due to the date of payment by the Railroad at the highest prime rate of interest of leading New York City banks in effect on the date such payment was due.

ARTICLE 15. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Railroad shall fail to pay in full any indebtedness in respect of the Purchase Price of the Equipment or any other sum payable by the Railroad as provided in this Agreement within five days after payment thereof shall be due hereunder; or

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

(c) a petition for reorganization under

Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, or under any other act, now or hereafter enacted providing for the reorganization of railroads engaged in interstate commerce, shall be filed by or against the Railroad 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 Railroad under this Agreement shall not 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

(d) any other proceeding shall be commenced by or against the Railroad for any relief under any bankruptcy or insolvency law, or law 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 indebtedness payable 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 Railroad under this Agreement shall not 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 Railroad or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such 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; or

(e) the Railroad shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Railroad and upon compliance with any mandatory legal requirements then in force and applicable to such action by the Vendor, declare (hereinafter called a Declaration of Default) the entire indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 3 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. The Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated. The Railroad shall promptly notify the Vendor of any event which has come to its attention which constitutes, or which with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

The Vendor may at its election waive any such event of default and its consequences and rescind and annul any Declaration of Default by notice to the Railroad in writing

to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 16. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, subject to compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as expressly provided hereinafter in this Article 16, and may remove the same from possession and use of the Railroad or any other person and for such purpose may enter upon the Railroad's premises or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall reasonably designate a point or points upon the premises of the Railroad for the delivery of the Equipment to the Vendor, the Railroad shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points on its lines as shall be designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Railroad until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient to the Railroad. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may at its election and upon such notice as is hereinafter set forth retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Railroad by telegram or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Railroad's rights in the Equipment shall thereupon terminate and all payments made by the Railroad may be retained by the Vendor as compensation for the use of the Equipment by the Railroad; provided, however, that if the Railroad, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing and storing

the Equipment and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad; provided, further, that if the Railroad or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall have given no notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Railroad and to any other persons to whom the law may require notice of the time and place, may sell the Equipment, or any unit thereof, free from any and all claims of the Railroad or any other party claiming from, through or under the Railroad at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided,

however, that if, prior to such sale and prior to the making of a contract for such sale, the Railroad should tender full payment of the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad. The proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine. The Railroad shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed to the Railroad as provided in Article 20 hereof. The Vendor or the Rail-

road may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. In the event that the Vendor shall be the purchaser thereof, it shall not be accountable to the Railroad (except to the extent of surplus money received as hereinafter provided in this Article 16), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all sums due to the Vendor from the Railroad hereunder. From and after the date of any such sale, the Railroad shall pay to the Vendor the per diem interchange for each unit of Equipment which shall not have been assembled as herein provided by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser at such sale.

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

therein. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Vendor's rights or the Railroad's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Railroad's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default herein.

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

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

The foregoing provisions of this Article 16 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 17. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. In cases, however, in which the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Railroad, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any unit thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 18. Recording. The Railroad will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded with

the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act; and the Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of special counsel for the Vendor, of the title of the Vendor to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 19. Payment of Expenses. The Railroad will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Builders) incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent or any successor agent, if the first assignee is an agent), and any instrument supplemental or related hereto or thereto, including all fees and expenses of counsel for the first assignee of this Agreement and for any party acquiring interests in such first assignment, and all reasonable costs and expenses in connection with the transfer by any party of interests acquired in such first assignment.

ARTICLE 20. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

(a) to the Railroad, at 908 West Broadway, Louisville, Kentucky 40201, for the attention of Mr. H.D. Goff, Assistant Treasurer-Finance

(b) to a Builder at its address set forth immediately below,

(1) Bethlehem Steel Corporation
Bethlehem, Pennsylvania 18016
Attn: Railroad Products Sales

(2) Greenville Steel Car Company
Greenville, Pennsylvania 16125
Attn: Mr. J.T. Egbert
Vice President - Sales

(c) to any assignee of the Vendor or of the Railroad, at such address as may have been furnished in writing to each of the other parties hereto by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 21. Article Headings; Effect and Modification of Agreement. The Table of Contents hereto and all article headings are inserted for convenience only, are not part of this Agreement and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Schedule hereto, exclusively states the rights of the Vendor and the Railroad with respect to the Equipment and supersedes all other agree-

ments, oral or written, with respect to the Equipment. .No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Vendor and the Railroad.

ARTICLE 22. Law Governing. The Railroad warrants that its chief place of business and its chief executive office are located in the state specified in clause (a) of Article 20 hereof. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of such state; provided, however, that the parties hereto shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 23. Definitions. The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder, respectively, Bethlehem Steel Corporation and Greenville Steel Car Company and any successor or successors for the time being to their manufacturing properties and businesses, and, after any such assignment, both any assignee or assignees for the time

being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment. Whenever the term Vendor refers to Bethlehem Steel Corporation or Greenville Steel Car Company, such term shall mean either or both such companies, as the context may require. The term "Builder", whenever used in this Agreement, means, both before and after any such assignment, Bethlehem Steel Corporation and Greenville Steel Car Company, respectively, and any successor or successors for the time being to their manufacturing properties and businesses.

ARTICLE 24. Execution. This Agreement 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 contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated as of the date first set forth above, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be

executed in their respective corporate names by their officers,
thereunto duly authorized, and their respective corporate seals
to be hereunto affixed, duly attested, all as of the date
first written.

BETHLEHEM STEEL CORPORATION

(CORPORATE SEAL)

By _____
Vice President

ATTEST:

Assistant Secretary

GREENVILLE STEEL CAR COMPANY

(CORPORATE SEAL)

By FB Orzow
Vice President

ATTEST:

L. O. Kuhn
Assistant Secretary

LOUISVILLE AND NASHVILLE
RAILROAD COMPANY

By [Signature]
Assistant vice President

ATTEST:

W. D. Hoff
Attesting Officer



LOUISVILLE & NASHVILLE RAILROAD COMPANY

908 W. BROADWAY • LOUISVILLE, KENTUCKY 40201 • TELEPHONE (502) 587-5474

LAW DEPARTMENT

January 31, 1977

CHAUNCEY E. BRUMMER
ATTORNEY

FEB 1 1977

7-032 H030

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L.O.O.
FEE OPERATION DR.

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

Dear Mr. Secretary:

There is transmitted to you herewith for filing and recordation, pursuant to Section 20c of the Interstate Commerce Act, four duly executed counterparts of a Conditional Sale Agreement dated as of January 15, 1977 between each of Bethlehem Steel Corporation, a vendor, whose address is Bethlehem, Pennsylvania 18016, Greenville Steel Car Company, a vendor, whose address is Greenville, Pennsylvania 16125, and Louisville and Nashville Railroad Company, vendee or purchaser, whose address is 908 West Broadway, Louisville, Kentucky 40201.

The equipment covered by said Conditional Sale Agreement is as follows:

<u>Quantity</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>L&N Railroad Road Nos.</u>
1000	HT	100-ton open top quadruple hopper cars	197200-198199 (inclusive)
50	GB	100-ton 65 ft. high side mill gondola cars	25500-25549 (inclusive)

There has been no prior recordation of any document relating to this transaction.

This letter of transmittal is signed by an officer of Louisville and Nashville Railroad Company designated for the purpose hereof who has knowledge of the matters set forth herein.

C. H. Kunkel
Chauncey E. Brummer

Attached hereto is a draft in the amount of \$50 payable to the Treasurer of the United States to cover the prescribed recordation fee for said Conditional Sale Agreement.

After recordation, please return the recorded counterparts of said Conditional Sale Agreement to:

Mr. Chauncey E. Brummer
Attorney
Louisville and Nashville Railroad Company
908 West Broadway
Louisville, Kentucky 40201

Respectfully yours,

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

By 
Chauncey E. Brummer

Attachments

Interstate Commerce Commission
Washington, D.C. 20423

2/1/77

OFFICE OF THE SECRETARY

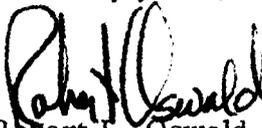
Chauncey E. Brummer, Atty.
L&N Railroad Company
908 W. Broadway
Louisville, KY. 40201

Dear

Sir:

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 2/1/77 at 12:05pm , and assigned recordation number(s) 8684 & 8684-A

Sincerely yours,


Robert L. Oswald
Secretary

Enclosure(s)

SE-30
(5/76)