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RECORDATION NO. _____ Filed & Recorded

FEB 14 1972 - 9⁵⁵ AM

INTERSTATE COMMERCE COMMISSION

TEMPORARY CONDITIONAL SALE AGREEMENT

Dated as of February 1, 1972

between

PULLMAN INCORPORATED (PULLMAN STANDARD DIVISION)

and

NORFOLK AND WESTERN RAILWAY COMPANY

TEMPORARY CONDITIONAL SALE AGREEMENT dated as of February 1, 1972, between PULLMAN INCORPORATED (PULLMAN STANDARD DIVISION), a Delaware corporation (the "Vendor"), and NORFOLK AND WESTERN RAILWAY COMPANY, a Virginia corporation (the "Railroad").

RECITALS

The Vendor has agreed to construct, sell and deliver to the Railroad, and the Railroad has agreed to purchase, the railroad equipment described in Schedule A hereto (the "Equipment").

In order that the Equipment may be delivered to and put to use by the Railroad pending consummation of permanent financing arrangements for acquisition of the Equipment, the Vendor has agreed that the Railroad may acquire possession of and the right to use the Equipment in accordance with and subject to the terms of this Agreement.

* * * * *

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

1. The Vendor will deliver the Equipment to the Railroad f.o.b. at the point or points and in accordance with the delivery schedule set forth in Schedule A hereto. The Vendor's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Vendor's reasonable control. Upon delivery of each unit of the Equipment to the Railroad, an authorized representative of the Railroad will execute and deliver to the Vendor a certificate of acceptance certifying, if such be the case, that such unit has been built in accordance with the specifications therefor and acknowledging receipt of delivery thereof under this Agreement, whereupon the Railroad shall assume the responsibility and risk of loss with respect to such unit so accepted.

2. The rights of the Railroad hereunder in respect of each unit of the Equipment shall commence on the date of acceptance of such unit hereunder and end on June 1, 1972, or on the earlier date of payment to the Vendor of the purchase price of such unit under permanent financing arrangements. Title to the Equipment shall remain in the Vendor, and the Railroad's right and interest therein is and shall be solely that of possession, custody and use as

a conditional sale purchaser under this Agreement. Transfer of title to the Equipment shall be effected only at the time of delivery by the Vendor of a bill of sale of the Equipment either hereunder or under permanent financing arrangements. The terms of this Agreement shall be superseded as to each unit of the Equipment by the terms of a conditional sale agreement or other equipment financing agreement at the earlier to occur of the time of the payment to the Vendor of the purchase price of such unit or the time of filing with the Interstate Commerce Commission of said conditional sale or other equipment financing agreement covering such unit, except the terms of paragraphs 4 and 7 hereof to the extent not covered by permanent financing arrangements.

3. The initial unit price and initial total price of the Equipment are set forth in Schedule A hereto. Such initial prices are subject to such increase or decrease as may be agreed to by the Vendor and the Railroad, and the term "purchase price" as used herein shall mean such initial prices as so increased or decreased. The Railroad hereby acknowledges itself to be indebted to the Vendor, and hereby promises to pay in cash to the Vendor, on or before June 1, 1972, the purchase price of each unit of the Equipment delivered to and accepted by the Railroad hereunder.

4. The Railroad agrees that it will permit no lien of any kind to attach to the Equipment and that it will pay promptly all taxes and assessments which may accrue or be imposed upon or in respect of the Equipment by reason of or in connection with the Railroad's use or operation thereof under this Agreement. The Railroad's obligations contained in this paragraph 4 shall survive the termination of this Agreement.

5. The Railroad shall, at its own expense, keep and maintain the Equipment in good order and repair at all times. The Railroad shall pay to the Vendor the purchase price of each unit of the Equipment lost, destroyed or irreparably damaged during the term of this Agreement.

6. Prior to delivery of each unit of the Equipment to the Railroad, it will be numbered with the appropriate road number set forth in Schedule A hereto. In contemplation of subsequent delivery of the Equipment under permanent financing arrangements, the Railroad will, throughout the term of this Agreement, keep and maintain plainly, distinctly, permanently and conspicuously marked in stencil on each side of each unit of the Equipment, in letters not less than one inch in height, the following legend:

OWNED BY A BANK OR TRUST COMPANY UNDER A SECURITY
AGREEMENT FILED UNDER INTERSTATE COMMERCE ACT, SECTION 20c.

The Railroad may also cause the Equipment to be lettered "Norfolk and Western," "N&W," "NW," or in some other appropriate manner for convenience of identification of the interest of the Railroad therein.

7. The Railroad shall 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 or out of the use and operation thereof by the Railroad during the period when title thereto remains in the Vendor. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the purchase price of the Equipment, as provided in paragraph 3 hereof, and the conveyance of the Equipment, as provided in paragraph 2 hereof, or the termination of this Agreement in any manner whatsoever.

8. All or any of the rights, benefits or advantages of the Vendor, including the right to receive the purchase price of any unit of the Equipment or any

other payments under this Agreement, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time; provided, however, that no such assignment shall subject any such assignee to any of the Vendor's obligations contained in this Agreement relating to the Equipment. In the event the Vendor assigns its right to receive the payments to be made by the Railroad under this Agreement and the Railroad receives written notice thereof from the Vendor, together with a counterpart of such assignment stating the identity and the post office address of the assignee, all payments thereafter to be made by the Railroad under this Agreement shall, to the extent so assigned, be made to the assignee against proper receipt therefor in form satisfactory to the Railroad.

9. In the event of any assignment by the Vendor of its right to receive any payments under this Agreement, the rights of such assignee to such payments as may be assigned, together with any other rights hereunder which can be and are so assigned, shall not be 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 the Vendor. Any and

all such obligations, howsoever arising, shall be or remain enforceable by the Railroad against the Vendor only.

10. The Vendor agrees that, upon receipt of all payments provided to be made to it by the Railroad under this Agreement, it shall thereupon execute and deliver to or upon the order of the Railroad a bill of sale of the Equipment in customary form with full warranty of title, free and clear of all liens and encumbrances.

11. The Railroad will cause this Agreement, any assignment hereof, and any amendments or supplements hereto or thereto to be filed and recorded with the Interstate Commerce Commission and otherwise as may be required by law or reasonably requested by the Vendor for the purpose of protection of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement.

12. The term "Vendor" whenever used in this Agreement means, before any assignment of any of its rights hereunder, Pullman Incorporated (Pullman Standard Division) and any successor or successors for the time being to its manufacturing business and after any assignment any assignee

for the time being of such particular assigned rights as regards such rights and any assignor or assignors as regards any rights hereunder that are retained or excluded from any assignment.

13. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Virginia.

14. This Agreement, which is dated for convenience as of February 1, 1972, may be executed in any number of counterparts, each of which shall be deemed to be an original, and such counterparts together shall constitute a single instrument.

IN WITNESS WHEREOF, the Vendor and the Railroad have caused this instrument to be signed and acknowledged by their proper officials and their respective corporate seals to be hereunto affixed and duly attested, as of the day and year first above written.

PULLMAN INCORPORATED (PULLMAN STANDARD DIVISION)

By *Stanley D. Brown*
Vice President

ATTEST:

William C. Edger
Assistant Secretary

NORFOLK AND WESTERN RAILWAY COMPANY

By *C. B. Deibel*
Assistant Vice President - Finance

ATTEST:

W. A. Ogden
Secretary

STATE OF ILLINOIS)
) ss:
COUNTY OF COOK)

On this *11th* day of *February*, 1972, before me personally appeared *Stanley Brown* to me personally known, who, being by me duly sworn, says that he is a Vice President of Pullman Incorporated (Pullman Standard Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument by him on this date was the free act and deed of said corporation.

Agnes M. Bruce
Notary Public

COMMONWEALTH OF VIRGINIA)
) ss:
CITY OF ROANOKE)

On this *10th* day of *February*, 1972, before me personally appeared C. B. Deibel, to me personally known, who, being by me duly sworn, says that he is Assistant Vice President - Finance of Norfolk and Western Railway 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 by him on this date was the free act and deed of said corporation.

My Commission Expires August 22, 1975

Betty S. Whitley
Notary Public

SCHEDULE A
 to
 TEMPORARY CONDITIONAL SALE AGREEMENT
 Dated as of February 2, 1972
 between
 PULLMAN INCORPORATED (PULLMAN STANDARD DIVISION)
 and
 NORFOLK AND WESTERN RAILWAY COMPANY

Type of Equipment

Specifications

60' 100-ton High
Roof Box Cars

Manufacturer's Specification No.
9587, dated 1-20-72, as may hereafter
be amended from time to time by
mutual agreement

<u>AAR Symbol</u>	<u>Plant</u>	<u>Quantity</u>	<u>Railroad's Road Numbers (both inclusive)</u>
XL	Bessemer, Alabama	65	603530 - 603594

<u>Estimated Unit Price</u>	<u>Estimated Total Price</u>	<u>Delivery</u>
\$27,000	\$1,755,000	At Bessemer, Alabama, in February through March, 1972.