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INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of March 1, 1972

between

PULLMAN INCORPORATED
(PULLMAN—STANDARD DIVISION)

and

CHICAGO HEIGHTS TERMINAL TRANSFER
RAILROAD COMPANY

AGREEMENT AND ASSIGNMENT

Dated as of March 1, 1972

between

PULLMAN INCORPORATED
(PULLMAN—STANDARD DIVISION)

and

CONTINENTAL ILLINOIS NATIONAL BANK AND
TRUST COMPANY OF CHICAGO

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300 100-Ton 4740 Cu. Ft. Covered Hopper Cars
$3,925,000 Maximum Committed Amount

St. Louis Law Printing Co., Inc., 411-15 N. Eighth St. 63101 314-231-4477

CONDITIONAL SALE AGREEMENT dated as of March 1, 1972, by and between PULLMAN INCORPORATED (PULLMAN—STANDARD DIVISION), a Delaware corporation, the corporation named in Item 1 of Schedule A hereto, (hereinafter called the Manufacturer or Builder, as more particularly set forth in Article 28 hereof), and CHICAGO HEIGHTS TERMINAL TRANSFER RAILROAD COMPANY, an Illinois corporation (hereinafter called the Vendee).

WHEREAS the Builder has agreed to construct or cause to be constructed and to sell and deliver to the Vendee, and the Vendee has agreed to purchase, the railroad equipment described in Schedule B 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.* The Builder will construct the Equipment and will sell and deliver it to the Vendee and the Vendee will purchase from the Builder and accept delivery of and pay for the Equipment as hereinafter provided, each unit of which shall be constructed in accordance with the specifications referred to in Schedule B hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Vendee and the Builder (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of the Equipment shall conform to all Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads interpreted as being applicable to railroad equipment of the character of the Equipment as of the date of this Agreement.

ARTICLE 2. *Delivery.* The Builder will deliver the various units of the Equipment to the Vendee at such point or points within the United States of America as shall be specified by the Vendee, freight charges, if any, prepaid (unless the Vendee shall otherwise specify or direct), in accordance with the delivery schedule set forth in Schedule B hereto.

The Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the 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, or delays in receiving necessary materials.

Notwithstanding the preceding provisions of this Article 2, any Equipment not delivered and accepted on or before July 1, 1972, shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement. In the event of any such exclusion the Vendee and the Builder shall execute (*a*) an agreement supplemental hereto limiting this Agreement to the Equipment theretofore delivered and accepted hereunder and (*b*) a separate agreement providing for the purchase of such excluded Equipment by the Vendee, on the terms herein specified, payment to be made in cash on delivery of such Equipment either directly or by means of a conditional sale, equipment trust or such other appropriate method of financing the purchase as the Vendee and the Builder shall determine.

The Equipment shall be subject to inspection and approval prior to delivery by inspectors or other authorized representatives of the Vendee. Upon delivery of each unit, the Vendee agrees to cause to be executed and delivered to

the Builder, a certificate of acceptance (hereinafter called the Certificate of Acceptance) executed by an agent designated by the Vendee stating that such unit has been inspected and is accepted by him on behalf of the Vendee, has been completed in accordance with the Specifications and is marked in accordance with Article 7 hereof. Such Certificate of Acceptance shall be conclusive evidence that the unit of the Equipment covered thereby has been delivered to the Vendee and conforms with the Specifications and is acceptable to the Vendee in all details.

On delivery of each of such units hereunder, the Vendee assumes with respect thereto the responsibility and risk of loss.

Article 3. *Purchase Price and Payment.* The base price or prices per unit of the Equipment, exclusive of interest and freight charges, are set forth in Schedule B hereto (which price is hereinafter called the base price). The base price or prices shall be subject to increase or decrease in accordance with Article 4 hereof, and the term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased.

The Equipment shall be settled for on one or more Closing Dates (fixed as hereinafter provided) as specified in Item 2 of Schedule A hereto (the Equipment settled for on each such Closing Date being hereinafter called a Group); *provided, however,* that, if there shall at any time have been delivered to and accepted by the Vendee units of the Equipment, and the Builder shall be prevented by any one or more of the causes referred to in the second paragraph of Article 2 hereof from delivering additional units for a period of 30 days or more following the last date of delivery with respect to such delivered and accepted units, such delivered and accepted units shall constitute an additional Group for the purpose of settlement.

The Vendee hereby acknowledges itself to be indebted to the Manufacturer in the amount of, and hereby promises to pay in cash to the Manufacturer at the office of the Manufacturer, or at such other place as the Manufacturer may designate, the Purchase Price of the Equipment and prepaid freight, as follows:

(*a*) On each Closing Date (as hereinafter defined) with respect to each Group:

(*i*) the amount, if any, by which the estimated aggregate Purchase Price of units of Equipment in such Group as stated in the invoice or invoices for such units (hereinafter called the "Interim Invoiced Purchase Price") exceeds the amount set forth in Item 3 of Schedule A hereto (hereinafter called the "Committed Amount"); and

(*ii*) the amount, if any, of prepaid freight paid by the Builder in respect of such units upon shipment thereof from the Builder's plant to the place for delivery thereof designated by the Vendee;

(*b*) Upon receipt of a final certificate of aggregate Purchase Price (hereinafter called the Final Certificate) for all Groups, the amount, if any, by which the final aggregate Purchase Price of all Groups, as stated in the final invoice or invoices therefor (hereinafter called the Final Invoiced Purchase Price), shall exceed that portion of the Final Invoiced Purchase Price paid or to be paid pursuant to subparagraphs (*a*) and (*c*) of this paragraph;

(*c*) In 20 consecutive equal (except for appropriate adjustment of the final instalment in case the amount payable pursuant to this subparagraph (*c*) shall not, when divided by 20, result in an amount ending in an integral cent) semi-annual instalments, as hereinafter provided, the lesser of the Final Invoiced Purchase Price and the Committed Amount.

If this Agreement shall have been assigned by the Builder, the obligations of the Vendee under subparagraph (*b*) of the preceding paragraph of this Article 3 shall be an unsecured obligation and the Builder shall not have any lien on, or claim against, the Equipment or any part thereof in respect of such obligation.

The first instalment of the portion of the Purchase Price of each group payable pursuant to subparagraph (*c*) of the third paragraph of this Article 3 shall be payable on September 1, 1972, and subsequent instalments shall be payable semiannually thereafter on March 1 and September 1 through March 1, 1982. The unpaid portion of such indebtedness shall bear interest, from the respective closing dates, or, in the case of any portion thereof owing by reason of the fact that the Final Invoiced Purchase Price exceeds the aggregate of the Group Invoiced Purchase Prices, from the tenth business day after delivery of the Final Certificate, regardless of any postponement thereof pursuant to the provisions of any assignment of this Agreement, at a rate per annum equal to ¼ of 1% per annum above the Prime Rate which shall be the best rate of Continental Illinois National Bank and Trust Company of Chicago for loans of 90-day maturity to substantial and responsible commercial borrowers as from time to time in effect; provided, however, such rate of interest shall in no event be less than 4% per annum nor more than 9% per annum. Each change in such interest rate shall take effect on the first day of the month following the change in such Prime Rate. Such interest shall be payable semi-annually on the dates of maturity of principal as above set forth.

Anything herein contained to the contrary notwithstanding, the Interim Invoiced Purchase Prices shall be so fixed that they will not exceed, in the aggregate, the Final Invoiced Purchase Price. The Final Certificate shall be delivered on or before July 1, 1972.

The term "Closing Date" with respect to any Group of the Equipment shall mean such date, not more than 10 business days following presentation by the Builder to the Vendee of the invoice for such Group and the Certificates of Acceptance in respect thereof, as shall be fixed by the Vendee by written notice delivered to the Manufacturer at least 5 business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and holidays.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

The Vendee will pay, to the extent legally enforceable, interest at the rate of 10% per annum 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.

All payments provided for in this Agreement shall be made by the Vendee 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.

The Vendee may, at its option, at any time, prepay any or all of the principal instalments, without premium, in the inverse order of maturity; provided, however, that if such prepayment shall be made directly or indirectly from proceeds of borrowings, a premium shall be payable in the amount of ½ of 1% per annum upon each instalment so prepaid from the date of prepayment to the date upon which such instalment is due.

ARTICLE 4. *Changes in Prices.* The base price or prices of the Equipment are subject to increase or decrease as may be agreed to by the Builder and the Vendee, and in accordance with the Builder's Proposal referred to in Schedule B hereto, as such Proposal shall be from time to time amended.

ARTICLE 5. *Taxes.* All payments to be made by the Vendee hereunder will be free of expense to the Manufacturer for collection or other charges and will be free of expense to the Manufacturer in respect of the amount of any local, state or federal taxes (other than income, gross receipts [except gross receipts taxes in the nature of sales taxes], excess profits and similar taxes) or licenses hereafter levied or imposed upon, or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which expenses, taxes and licenses the Vendee assumes and agrees to pay on demand in addition to the indebtedness in respect of the Purchase Price of the Equipment. The Vendee will also pay promptly all taxes and assessments which may be imposed upon the Equipment delivered to it or for the use or operation thereof by the Vendee or upon the earnings arising therefrom or upon the Manufacturer solely by reason of its ownership thereof and will keep at all times each unit of the Equipment free and clear of all taxes and assessments which might in any way affect the title of the Manufacturer or result in a lien upon any unit of the Equipment; *provided, however,* that the Vendee shall be under no obligation to pay any taxes, assessments, licenses, charges, fines or penalties of any kind so long as it is contesting in good faith and by appropriate legal proceedings such taxes, assessments, licenses, charges, fines or penalties and the non-payment thereof does not, in the opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder. If any such expenses, taxes, assessments, licenses, charges, fines or penalties shall have been charged or levied against the Manufacturer directly and paid by the Manufacturer, the Vendee shall reimburse the Manufacturer on presentation of an invoice therefor; *provided, further,* that the Vendee shall not be obligated to reimburse the Manufacturer for any expenses, taxes, assessments, licenses, charges, fines or penalties so paid

unless the Manufacturer shall have been legally liable in respect thereof, or unless the Vendee shall have approved the payment thereof.

ARTICLE 6. *Title to the Equipment.* The Manufacturer shall and hereby does retain the full legal title to and property in the Equipment delivered to the Vendee hereunder until the Vendee shall have made all of the payments hereunder 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 Vendee as herein provided. 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.

When and only when the Manufacturer shall have been paid the full indebtedness in respect of the Purchase Price of all the Equipment together with interest and all other payments as herein provided, and all the Vendee's obligations herein contained shall have been performed by the Vendee, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Manufacturer, except that the Manufacturer, if requested by the Vendee so to do, will then execute a bill or bills of sale of the Equipment transferring its title thereto and property therein to the Vendee or upon its order free of all liens and encumbrances created hereby and deliver such bill or bills of sale to the Vendee at its address specified in Article 24 hereof, and will then execute and deliver at the same place, for record or for filing 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

In case the Manufacturer shall rightfully demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the lines of any railroad or the premises of the Vendee for the delivery of the Equipment to the Manufacturer, the Vendee shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points as shall be designated by the Manufacturer and shall there deliver the Equipment or cause it to be delivered to the Manufacturer; and, at the option of the Manufacturer, the Manufacturer may keep the Equipment on any of the lines of railroad of any railroad or premises of the Vendee until the Manufacturer shall have leased, sold or otherwise disposed of the same, and for such purpose the Vendee agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Manufacturer reasonably convenient to the Vendee. This agreement to deliver the Equipment and to furnish facilities for its storage 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 Manufacturer shall be entitled to a decree against the Vendee requiring specific performance hereof. The Vendee hereby expressly waives any and all claims against Manufacturer 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.

If the Vendee shall make default as hereinbefore provided, then at any time thereafter during the continuance of such default and after the entire indebtedness in respect of Purchase Price shall have been declared immediately due and payable as hereinbefore provided, the Manufacturer (after retaking possession of the Equipment as hereinbefore in this Article 19 provided) may at its election, to the extent not prohibited by any mandatory

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

On this 20TH day of MARCH, 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 was the free act and deed of said corporation.

Elizabeth Cameron
Notary Public
[NOTARIAL SEAL]

My Commission expires May 1, 1975.

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

On this 20th day of March, 1972, before me personally appeared James P. Johnson to me personally known, who, being by me duly sworn, says that he is a Vice President of CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO; that one of the seals affixed to the foregoing instrument is the 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.

P. F. Sender
Notary Public
[NOTARIAL SEAL]

My Commission Expires May 14, 1973

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment, is acknowledged as of March 1, 1972.

CHICAGO HEIGHTS TERMINAL TRANSFER RAILROAD COMPANY

By H. L. Dierling
Vice President

thereof all sums due to the Manufacturer from the Vendee hereunder.

Each and every power and remedy hereby specifically given to the Manufacturer 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 Manufacturer. 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 Manufacturer 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.

If, after applying all sums of money realized by the Manufacturer under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall pay the amount of such deficiency to the Manufacturer upon demand, and, if the Vendee shall fail to pay such deficiency (with interest thereon at the rate of 10% per annum to the extent legally enforceable), the Manufacturer may bring suit therefor and shall be entitled to recover judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Manufacturer, there shall remain a surplus in the possession of the Manufacturer, such surplus shall be paid to the Vendee.

The Vendee will pay all reasonable expenses, including attorneys' fees, incurred by the Manufacturer in enforcing its remedies under the terms of this Agreement. In the event that the Manufacturer shall bring any suit

to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Manufacturer may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

In the event of assignments of interest hereunder to more than one assignee, each such assignee shall be entitled to exercise all rights of the Manufacturer hereunder in respect of the Equipment assigned to such assignee, irrespective of any action or failure to act on the part of any other assignee.

ARTICLE 20. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any State, or which by any applicable law of any State would convert this Agreement into any instrument other than an agreement of conditional sale, shall as to such State be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable State law may be waived, they are hereby waived by the Vendee to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Vendee, to the fullest 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 sell the Equipment or any unit thereof, and any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Manufacturer's rights hereunder and any and all rights of redemption.

ARTICLE 21. *Extension Not a Waiver.* No delay or omission in the exercise of any power or remedy herein pro-

Commission or any other governmental authority is necessary for the execution and delivery of the Conditional Sale Agreement and (*v*) title to the units of the Equipment in such Group is validly vested in the Assignee, free of all claims, liens, security interests and other encumbrances, except only the rights of the Vendee under the Conditional Sale Agreement;

(*e*) An opinion of counsel for the Builder stating that (*i*) the Builder is a duly organized and existing corporation in good standing under the laws of its State of incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (*ii*) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Builder and is a valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms, (*iii*) this Assignment has been duly authorized, executed and delivered by the Builder and is a valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms, (*iv*) the Assignee is vested with all the right, title and interest of the Builder in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment, and (*v*) title to the units of the Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Vendee, were free of all claims, liens and encumbrances except only the rights of the Vendee under the Conditional Sale Agreement; and

(*f*) Unless payment of the amount (if any) payable pursuant to subparagraph (*a*) of the third paragraph of Article 3 of the Conditional Sale Agreement is made by the Assignee through the use of funds furnished to it for the purpose by the Vendee, a counterpart of a receipt from the Builder acknowledging such payment.

Within ten business days after delivery to the Assignee of the Final Certificate (as defined in the Conditional Sale Agreement) accompanied by or bearing thereon a certification by the Vendee as to the correctness of the prices stated therein, Assignee shall pay to the Builder the amount, if any, by which that portion of the Final Invoiced Purchase Price (as defined in the Conditional Sale Agreement) which shall be payable by the Vendee pursuant to subparagraph (*c*) of the third paragraph of Article 3 of the Conditional Sale Agreement shall exceed the amount theretofore paid to the Builder pursuant to the foregoing provisions of this Section 6. The Final Certificate shall be delivered on or before July 1, 1972.

It is understood and agreed that the Assignee shall not be required to make any payment in respect of, and shall have no right or interest in, any Equipment excluded from the Conditional Sale Agreement pursuant to Article 2 thereof. The Assignee shall at the request of the Builder or the Vendee execute or join in the execution of such supplemental agreement as may be deemed necessary or appropriate to exclude any such Equipment from the Conditional Sale Agreement and from this Agreement and Assignment.

In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee.

The term "business days" as used herein means calendar days, excluding Saturdays, Sundays, and holidays.

Section 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Vendee thereunder. In the event of any

such assignment any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 8. The Builder hereby:

(*a*) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized and lawfully executed and delivered by it for a valid consideration, that (assuming valid authorization, execution and delivery by the Vendee) the Conditional Sale Agreement is a valid and existing agreement binding upon the Builder and enforceable against the Builder in accordance with its terms and that it is now in force without amendment thereto; and

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

SECTION 9. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Missouri; *provided, however,* that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act. The terms, rights and obligations of the parties hereunder may not be changed orally, but may be changed only by an agreement in writing signed by the party against whom enforcement of such change is sought.

SECTION 10. This Agreement and Assignment may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Vendee, which delivery shall constitute due notice of the assignment hereby made. Although this Agreement and Assignment is dated for convenience as of March 1, 1972, 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 these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, all as of the day, month and year first above written.

PULLMAN INCORPORATED
(PULLMAN—STANDARD DIVISION)

By _____
Vice President

Attest: _____ [Seal]
Assistant Secretary

CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO

By _____
Vice President

Attest: _____ [Seal]
Operations Officer

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

On this 20th day of March, 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 was the free act and deed of said corporation.

Elizabeth Cameron
Notary Public

[NOTARIAL SEAL]

My Commission expires May 1, 1975.

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

On this 20th day of March, 1972, before me personally appeared H S Vierling, to me personally known, who being duly sworn, says that he is the Vice President of CHICAGO HEIGHTS TERMINAL TRANSFER 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.

Alice Thome
Notary Public

[NOTARIAL SEAL]

My Commission expires Nov 22, 1973

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

On this 20TH day of MARCH, 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 was the free act and deed of said corporation.

Elizabeth Cameron
Notary Public
[NOTARIAL SEAL]

My Commission expires May 1, 1975.

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

On this 20th day of March, 1972, before me personally appeared James P. Johnson to me personally known, who, being by me duly sworn, says that he is a Vice President of CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO; that one of the seals affixed to the foregoing instrument is the 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.

P. F. Sender
Notary Public
[NOTARIAL SEAL]

My Commission Expires May 14, 1973

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment, is acknowledged as of March 1, 1972.

CHICAGO HEIGHTS TERMINAL TRANSFER RAILROAD COMPANY

By H. L. Dierling
Vice President

thereof all sums due to the Manufacturer from the Vendee hereunder.

Each and every power and remedy hereby specifically given to the Manufacturer 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 Manufacturer. 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 Manufacturer 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.

If, after applying all sums of money realized by the Manufacturer under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall pay the amount of such deficiency to the Manufacturer upon demand, and, if the Vendee shall fail to pay such deficiency (with interest thereon at the rate of 10% per annum to the extent legally enforceable), the Manufacturer may bring suit therefor and shall be entitled to recover judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Manufacturer, there shall remain a surplus in the possession of the Manufacturer, such surplus shall be paid to the Vendee.

The Vendee will pay all reasonable expenses, including attorneys' fees, incurred by the Manufacturer in enforcing its remedies under the terms of this Agreement. In the event that the Manufacturer shall bring any suit

to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Manufacturer may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

In the event of assignments of interest hereunder to more than one assignee, each such assignee shall be entitled to exercise all rights of the Manufacturer hereunder in respect of the Equipment assigned to such assignee, irrespective of any action or failure to act on the part of any other assignee.

ARTICLE 20. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any State, or which by any applicable law of any State would convert this Agreement into any instrument other than an agreement of conditional sale, shall as to such State be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable State law may be waived, they are hereby waived by the Vendee to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Vendee, to the fullest 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 sell the Equipment or any unit thereof, and any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Manufacturer's rights hereunder and any and all rights of redemption.

ARTICLE 21. *Extension Not a Waiver.* No delay or omission in the exercise of any power or remedy herein pro-

Commission or any other governmental authority is necessary for the execution and delivery of the Conditional Sale Agreement and (*v*) title to the units of the Equipment in such Group is validly vested in the Assignee, free of all claims, liens, security interests and other encumbrances, except only the rights of the Vendee under the Conditional Sale Agreement;

(*e*) An opinion of counsel for the Builder stating that (*i*) the Builder is a duly organized and existing corporation in good standing under the laws of its State of incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (*ii*) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Builder and is a valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms, (*iii*) this Assignment has been duly authorized, executed and delivered by the Builder and is a valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms, (*iv*) the Assignee is vested with all the right, title and interest of the Builder in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment, and (*v*) title to the units of the Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Vendee, were free of all claims, liens and encumbrances except only the rights of the Vendee under the Conditional Sale Agreement; and

(*f*) Unless payment of the amount (if any) payable pursuant to subparagraph (*a*) of the third paragraph of Article 3 of the Conditional Sale Agreement is made by the Assignee through the use of funds furnished to it for the purpose by the Vendee, a counterpart of a receipt from the Builder acknowledging such payment.

Within ten business days after delivery to the Assignee of the Final Certificate (as defined in the Conditional Sale Agreement) accompanied by or bearing thereon a certification by the Vendee as to the correctness of the prices stated therein, Assignee shall pay to the Builder the amount, if any, by which that portion of the Final Invoiced Purchase Price (as defined in the Conditional Sale Agreement) which shall be payable by the Vendee pursuant to subparagraph (*c*) of the third paragraph of Article 3 of the Conditional Sale Agreement shall exceed the amount theretofore paid to the Builder pursuant to the foregoing provisions of this Section 6. The Final Certificate shall be delivered on or before July 1, 1972.

It is understood and agreed that the Assignee shall not be required to make any payment in respect of, and shall have no right or interest in, any Equipment excluded from the Conditional Sale Agreement pursuant to Article 2 thereof. The Assignee shall at the request of the Builder or the Vendee execute or join in the execution of such supplemental agreement as may be deemed necessary or appropriate to exclude any such Equipment from the Conditional Sale Agreement and from this Agreement and Assignment.

In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee.

The term "business days" as used herein means calendar days, excluding Saturdays, Sundays, and holidays.

Section 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Vendee thereunder. In the event of any

In case the Manufacturer shall rightfully demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the lines of any railroad or the premises of the Vendee for the delivery of the Equipment to the Manufacturer, the Vendee shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points as shall be designated by the Manufacturer and shall there deliver the Equipment or cause it to be delivered to the Manufacturer; and, at the option of the Manufacturer, the Manufacturer may keep the Equipment on any of the lines of railroad of any railroad or premises of the Vendee until the Manufacturer shall have leased, sold or otherwise disposed of the same, and for such purpose the Vendee agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Manufacturer reasonably convenient to the Vendee. This agreement to deliver the Equipment and to furnish facilities for its storage 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 Manufacturer shall be entitled to a decree against the Vendee requiring specific performance hereof. The Vendee hereby expressly waives any and all claims against Manufacturer 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.

If the Vendee shall make default as hereinbefore provided, then at any time thereafter during the continuance of such default and after the entire indebtedness in respect of Purchase Price shall have been declared immediately due and payable as hereinbefore provided, the Manufacturer (after retaking possession of the Equipment as hereinbefore in this Article 19 provided) may at its election, to the extent not prohibited by any mandatory

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

On this 20TH day of MARCH, 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 was the free act and deed of said corporation.

Elizabeth Cameron
Notary Public
[NOTARIAL SEAL]

My Commission expires May 1, 1975.

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

On this 20th day of March, 1972, before me personally appeared James P. Johnson to me personally known, who, being by me duly sworn, says that he is a Vice President of CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO; that one of the seals affixed to the foregoing instrument is the 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.

P. F. Sender
Notary Public
[NOTARIAL SEAL]

My Commission Expires May 14, 1973

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment, is acknowledged as of March 1, 1972.

CHICAGO HEIGHTS TERMINAL TRANSFER RAILROAD COMPANY

By H. L. Dierling
Vice President

thereof all sums due to the Manufacturer from the Vendee hereunder.

Each and every power and remedy hereby specifically given to the Manufacturer 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 Manufacturer. 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 Manufacturer 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.

If, after applying all sums of money realized by the Manufacturer under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall pay the amount of such deficiency to the Manufacturer upon demand, and, if the Vendee shall fail to pay such deficiency (with interest thereon at the rate of 10% per annum to the extent legally enforceable), the Manufacturer may bring suit therefor and shall be entitled to recover judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Manufacturer, there shall remain a surplus in the possession of the Manufacturer, such surplus shall be paid to the Vendee.

The Vendee will pay all reasonable expenses, including attorneys' fees, incurred by the Manufacturer in enforcing its remedies under the terms of this Agreement. In the event that the Manufacturer shall bring any suit

to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Manufacturer may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

In the event of assignments of interest hereunder to more than one assignee, each such assignee shall be entitled to exercise all rights of the Manufacturer hereunder in respect of the Equipment assigned to such assignee, irrespective of any action or failure to act on the part of any other assignee.

ARTICLE 20. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any State, or which by any applicable law of any State would convert this Agreement into any instrument other than an agreement of conditional sale, shall as to such State be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable State law may be waived, they are hereby waived by the Vendee to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Vendee, to the fullest 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 sell the Equipment or any unit thereof, and any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Manufacturer's rights hereunder and any and all rights of redemption.

ARTICLE 21. *Extension Not a Waiver.* No delay or omission in the exercise of any power or remedy herein pro-

Commission or any other governmental authority is necessary for the execution and delivery of the Conditional Sale Agreement and (*v*) title to the units of the Equipment in such Group is validly vested in the Assignee, free of all claims, liens, security interests and other encumbrances, except only the rights of the Vendee under the Conditional Sale Agreement;

(*e*) An opinion of counsel for the Builder stating that (*i*) the Builder is a duly organized and existing corporation in good standing under the laws of its State of incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (*ii*) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Builder and is a valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms, (*iii*) this Assignment has been duly authorized, executed and delivered by the Builder and is a valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms, (*iv*) the Assignee is vested with all the right, title and interest of the Builder in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment, and (*v*) title to the units of the Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Vendee, were free of all claims, liens and encumbrances except only the rights of the Vendee under the Conditional Sale Agreement; and

(*f*) Unless payment of the amount (if any) payable pursuant to subparagraph (*a*) of the third paragraph of Article 3 of the Conditional Sale Agreement is made by the Assignee through the use of funds furnished to it for the purpose by the Vendee, a counterpart of a receipt from the Builder acknowledging such payment.

Within ten business days after delivery to the Assignee of the Final Certificate (as defined in the Conditional Sale Agreement) accompanied by or bearing thereon a certification by the Vendee as to the correctness of the prices stated therein, Assignee shall pay to the Builder the amount, if any, by which that portion of the Final Invoiced Purchase Price (as defined in the Conditional Sale Agreement) which shall be payable by the Vendee pursuant to subparagraph (*c*) of the third paragraph of Article 3 of the Conditional Sale Agreement shall exceed the amount theretofore paid to the Builder pursuant to the foregoing provisions of this Section 6. The Final Certificate shall be delivered on or before July 1, 1972.

It is understood and agreed that the Assignee shall not be required to make any payment in respect of, and shall have no right or interest in, any Equipment excluded from the Conditional Sale Agreement pursuant to Article 2 thereof. The Assignee shall at the request of the Builder or the Vendee execute or join in the execution of such supplemental agreement as may be deemed necessary or appropriate to exclude any such Equipment from the Conditional Sale Agreement and from this Agreement and Assignment.

In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee.

The term "business days" as used herein means calendar days, excluding Saturdays, Sundays, and holidays.

Section 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Vendee thereunder. In the event of any

such assignment any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 8. The Builder hereby:

(*a*) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized and lawfully executed and delivered by it for a valid consideration, that (assuming valid authorization, execution and delivery by the Vendee) the Conditional Sale Agreement is a valid and existing agreement binding upon the Builder and enforceable against the Builder in accordance with its terms and that it is now in force without amendment thereto; and

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

SECTION 9. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Missouri; *provided, however,* that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act. The terms, rights and obligations of the parties hereunder may not be changed orally, but may be changed only by an agreement in writing signed by the party against whom enforcement of such change is sought.

SECTION 10. This Agreement and Assignment may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Vendee, which delivery shall constitute due notice of the assignment hereby made. Although this Agreement and Assignment is dated for convenience as of March 1, 1972, 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 these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, all as of the day, month and year first above written.

PULLMAN INCORPORATED
(PULLMAN—STANDARD DIVISION)

By _____
Vice President

Attest: _____ [Seal]
Assistant Secretary

CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO

By _____
Vice President

Attest: _____ [Seal]
Operations Officer

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

On this 20th day of March, 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 was the free act and deed of said corporation.

Elizabeth Cameron
Notary Public

[NOTARIAL SEAL]

My Commission expires May 1, 1975.

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

On this 20th day of March, 1972, before me personally appeared H S Vierling, to me personally known, who being duly sworn, says that he is the Vice President of CHICAGO HEIGHTS TERMINAL TRANSFER 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.

Alice Thome
Notary Public

[NOTARIAL SEAL]

My Commission expires Nov 22, 1973

SCHEDULE A

Item 1: Pullman Incorporated (Pullman—Standard Division), a Delaware corporation.

Item 2: Settlement for the Equipment delivered to and accepted by the Vendee hereunder shall be made on one closing date.

Item 3: The Committed Amount of the Equipment is 80% of the final invoiced price of the cars plus freight but not to exceed $3,925,000 for all 300 units of the Equipment.

Item 4: 200 S. Michigan Avenue, Chicago, Illinois.

SCHEDULE B

PULLMAN INCORPORATED (Pullman—Standard division), BUILDER

CHICAGO HEIGHTS TERMINAL TRANSFER RAILROAD COMPANY, VENDEE

Type	Quantity	Specifications	Vendee's Car Nos.	Unit Base Price*	Delivery
100-Ton 4740 cu. ft. Covered Hopper Cars, AAR Class No. LO	300	Builder's Spec. 2942 of Sept. 2, 1971	C&EI 716600 to 716899	$17,461.00	March, 1972

All in accordance with Builder's proposal dated October 8, 1971, and Vendee's acceptance dated October 13, 1971.

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* Delivery F.O.B. Builder's plant at Butler, Pennsylvania, on delivery to a common carrier for shipment to Kansas City, Missouri. Includes all changes to January 31, 1972; prices rounded to nearest dollar. Prices subject to adjustment by reason of agreed changes and variation in prices of specialties.

AGREEMENT AND ASSIGNMENT dated as of March 1, 1972, by and between PULLMAN INCORPORATED (PULLMAN—STANDARD DIVISION) (hereinafter called the Builder), and CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO (hereinafter called the Assignee), a corporation duly organized and existing under the laws of the United States of America.

WHEREAS the Builder and CHICAGO HEIGHTS TERMINAL TRANSFER RAILROAD COMPANY, an Illinois corporation (hereinafter called the Vendee), have entered into a Conditional Sale Agreement dated as of March 1, 1972 (hereinafter called the Conditional Sale Agreement), covering the manufacture, sale and delivery by the Builder and the purchase by the Vendee of the railroad equipment described or referred to in the Conditional Sale Agreement (hereinafter called the Equipment);

NOW THEREFORE, this Agreement and Assignment (hereinafter called this Assignment) WITNESSETH: That, in consideration of the sum of One Dollar and other good and valuable consideration paid by the Assignee to the Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. The Builder hereby assigns, transfers and sets over unto the Assignee, its successors and assigns, (*a*) all the right, title and interest of the Builder in and to the Equipment and each unit thereof when and as severally delivered and accepted and, as to each such unit, upon payment to the Builder of the amounts required to be paid under Section 6 hereof in respect of such unit, (*b*) all the right, title and interest of the Builder in and to the Conditional Sale Agreement in respect of the Equipment (except the right to manufacture and

the right to receive the payments specified in the third paragraph of Article 2 thereof and in subparagraphs (*a*) and (*b*) of the third paragraph of Article 3 thereof and in the last paragraph of Article 17 thereof, and reimbursement for taxes paid or incurred by the Builder as provided in Article 5 thereof), and in and to any and all amounts which may be or become due or owing by the Vendee to the Builder under the Conditional Sale Agreement on account of the Vendee's indebtedness in respect of the Purchase Price of the Equipment and interest thereon, and in and to any other sums becoming due from the Vendee under the Conditional Sale Agreement, other than those hereinabove excluded, and (*c*) all of the Builder's rights, powers, privileges and remedies under the Conditional Sale Agreement (without any recourse, however, against the Builder for or on account of the failure of the Vendee to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement); *provided however*, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the liability of the Builder to construct and deliver the Equipment in accordance with the Conditional Sale Agreement or in respect of its obligations contained in Articles 10 and 16 of the Conditional Sale Agreement, or relieve the Vendee from its obligations to the Builder under Articles 2, 5, 10, 15 and 16 (except that the Assignee shall also be entitled to the benefit of the Vendee's obligations under Articles 10, 15 and 16) of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 17 of the Conditional Sale Agreement, all obligations of the Builder to the Vendee in respect of the Equipment shall be and remain enforceable by the Vendee, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder

hereby authorizes and empowers the Assignee, in the Assignee's own name or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Vendee with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. The Builder covenants and agrees that it will construct the Equipment in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Vendee in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by the Builder. The Builder further covenants and agrees that it will warrant to the Assignee and the Vendee that at the time of delivery of any unit of the Equipment it had legal title to such unit and good and lawful right to sell such unit and the title to such unit was free of all claims, liens and encumbrances of any nature except only the rights of the Vendee under the Conditional Sale Agreement; and the Builder further covenants and agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder to the Vendee; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Vendee thereunder.

SECTION 3. The Builder covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for

any instalment of, or interest on, indebtedness in respect of Purchase Price or to enforce any provision of the Conditional Sale Agreement, the Builder will save, indemnify and keep harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Vendee arising out of a breach by the Builder of any obligation in respect of the Equipment or the manufacture, construction, delivery or warranty thereof, or under Articles 10 and 16 of the Conditional Sale Agreement, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee by the Builder. Any and all such obligations shall be and remain enforceable by the Vendee against and only against the Builder and shall not be enforceable against the Assignee or any party or parties in whom title to the Equipment or any unit thereof or any of the rights of the Builder under the Conditional Sale Agreement shall vest by reason of this assignment or of successive assignments.

The Builder will indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of the equipment, or any unit thereof, of any design, article or material which infringes, or is claimed to infringe on any patent right, except for any design, article or material specified by the Vendee and not manufactured by the Builder. The Builder agrees that any amount payable to it by the Vendee in respect of the Equipment, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien or charge on the Equipment or any unit thereof.

SECTION 4. The Builder covenants and agrees that, at the time of delivery of each unit of the Equipment to the Vendee, there will be plainly, distinctly, permanently and conspicuously placed and fastened on each side thereof a metal plate bearing the following legend, or such legend shall be otherwise plainly, distinctly, permanently and conspicuously marked on each side thereof, in either case in letters not less than one-half inch in height:

"CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST
COMPANY OF CHICAGO,
ASSIGNEE, OWNER"

SECTION 5. Upon request of the Assignee, its successors and assigns, the Builder will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Builder therein or in the Equipment.

SECTION 6. The Assignee, on each Closing Date fixed as provided in Article 3 of the Conditional Sale Agreement with respect to a Group (as defined in said Article 3) of Equipment, shall pay to the Builder an amount equal to that portion of the Interim Invoiced Purchase Price of such Group not payable by the Vendee pursuant to subparagraph (*a*) of the third paragraph of said Article 3, provided that there shall have been delivered to the Assignee, as provided in Article 17 of the Conditional Sale Agreement, at least 5 business days prior to such Closing Date, the following documents, in form and substance satisfactory to it:

(*a*) A Bill of Sale from the Builder to the Assignee evidencing the transfer to the Assignee of title to the units of the Equipment in such Group and warranting to the Assignee and to the Vendee that at the time of delivery to the Vendee under the Conditional Sale

Agreement the Builder had legal title to such units and good and lawful right to sell such units and that title to such units was free of all claims, liens, security interests and other encumbrances of any nature, except only the rights of the Vendee under the Conditional Sale Agreement;

(*b*) A Certificate of Acceptance signed by an officer or other authorized representative of the Vendee stating that the Units of the Equipment in such Group have been delivered to the Vendee in accordance with the Conditional Sale Agreement and have been inspected and accepted by him on behalf of the Vendee and further stating that all such units have been marked as required by Section 4 hereof;

(*c*) An invoice for the units of the Equipment in such Group accompanied by or having endorsed thereon a certification by the Vendee as to the correctness of the prices of such units as set forth in said invoice;

(*d*) An opinion of counsel for the Vendee stating that (*i*) the Vendee is a duly organized and existing corporation in good standing under the laws of its State of incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (*ii*) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Vendee and is a valid instrument binding upon the Vendee and enforceable against the Vendee in accordance with its terms, (*iii*) the Conditional Sale Agreement and this Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and that no other filing or recordation is necessary for the protection of the rights of the Assignee in any State of the United States of America, (*iv*) no approval of the Interstate Commerce

Commission or any other governmental authority is necessary for the execution and delivery of the Conditional Sale Agreement and (*v*) title to the units of the Equipment in such Group is validly vested in the Assignee, free of all claims, liens, security interests and other encumbrances, except only the rights of the Vendee under the Conditional Sale Agreement;

(*e*) An opinion of counsel for the Builder stating that (*i*) the Builder is a duly organized and existing corporation in good standing under the laws of its State of incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (*ii*) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Builder and is a valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms, (*iii*) this Assignment has been duly authorized, executed and delivered by the Builder and is a valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms, (*iv*) the Assignee is vested with all the right, title and interest of the Builder in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment, and (*v*) title to the units of the Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Vendee, were free of all claims, liens and encumbrances except only the rights of the Vendee under the Conditional Sale Agreement; and

(*f*) Unless payment of the amount (if any) payable pursuant to subparagraph (*a*) of the third paragraph of Article 3 of the Conditional Sale Agreement is made by the Assignee through the use of funds furnished to it for the purpose by the Vendee, a counterpart of a receipt from the Builder acknowledging such payment.

Within ten business days after delivery to the Assignee of the Final Certificate (as defined in the Conditional Sale Agreement) accompanied by or bearing thereon a certification by the Vendee as to the correctness of the prices stated therein, Assignee shall pay to the Builder the amount, if any, by which that portion of the Final Invoiced Purchase Price (as defined in the Conditional Sale Agreement) which shall be payable by the Vendee pursuant to subparagraph (*c*) of the third paragraph of Article 3 of the Conditional Sale Agreement shall exceed the amount theretofore paid to the Builder pursuant to the foregoing provisions of this Section 6. The Final Certificate shall be delivered on or before July 1, 1972.

It is understood and agreed that the Assignee shall not be required to make any payment in respect of, and shall have no right or interest in, any Equipment excluded from the Conditional Sale Agreement pursuant to Article 2 thereof. The Assignee shall at the request of the Builder or the Vendee execute or join in the execution of such supplemental agreement as may be deemed necessary or appropriate to exclude any such Equipment from the Conditional Sale Agreement and from this Agreement and Assignment.

In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee.

The term "business days" as used herein means calendar days, excluding Saturdays, Sundays, and holidays.

Section 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Vendee thereunder. In the event of any

such assignment any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 8. The Builder hereby:

(*a*) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized and lawfully executed and delivered by it for a valid consideration, that (assuming valid authorization, execution and delivery by the Vendee) the Conditional Sale Agreement is a valid and existing agreement binding upon the Builder and enforceable against the Builder in accordance with its terms and that it is now in force without amendment thereto; and

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

SECTION 9. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Missouri; *provided, however,* that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act. The terms, rights and obligations of the parties hereunder may not be changed orally, but may be changed only by an agreement in writing signed by the party against whom enforcement of such change is sought.

SECTION 10. This Agreement and Assignment may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Vendee, which delivery shall constitute due notice of the assignment hereby made. Although this Agreement and Assignment is dated for convenience as of March 1, 1972, 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 these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, all as of the day, month and year first above written.

PULLMAN INCORPORATED
(PULLMAN—STANDARD DIVISION)

By _____
Vice President

Attest: _____ [Seal]
Assistant Secretary

CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO

By _____
Vice President

Attest: _____ [Seal]
Operations Officer

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

On this 20TH day of MARCH, 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 was the free act and deed of said corporation.

Elizabeth Cameron
Notary Public
[NOTARIAL SEAL]

My Commission expires May 1, 1975.

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

On this 20th day of March, 1972, before me personally appeared James P. Johnson to me personally known, who, being by me duly sworn, says that he is a Vice President of CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO; that one of the seals affixed to the foregoing instrument is the 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.

P. F. Sender
Notary Public
[NOTARIAL SEAL]

My Commission Expires May 14, 1973

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment, is acknowledged as of March 1, 1972.

CHICAGO HEIGHTS TERMINAL TRANSFER RAILROAD COMPANY

By H. L. Dierling
Vice President