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INTERSTATE COMMERCE COMMISSION

AGREEMENT

Dated as of April 15, 1975

between

WHITTAKER CORPORATION
(Berwick Forge & Fabricating Division)

and

THE BALTIMORE AND OHIO
RAILROAD COMPANY

- - - - -
Covering

75 50' 100-ton Canstock Box Cars

THIS AGREEMENT, dated as of April 15, 1975, by and between WHITTAKER CORPORATION (Berwick Forge & Fabricating Division), a California corporation with an office at 19th and Oak Streets, Berwick, Pennsylvania 18603, (Manufacturer) and THE BALTIMORE AND OHIO RAILROAD COMPANY, a Maryland corporation (B&O);

W I T N E S S E T H :

The Manufacturer and B&O heretofore entered into a Letter Agreement dated April 25, 1974 (a copy of which Letter Agreement is made a part hereof by reference) whereunder the Manufacturer agreed to construct and deliver to B&O, and B&O agreed to accept and pay for the following railroad Box cars:

75 50' 100-ton canstock Box cars to bear B&O's road numbers 480875 to 480949, inclusive (the "Box cars").

Delivery of the Box cars by the Manufacturer to B&O is scheduled to begin on or about May 5, 1975. However, inasmuch as B&O has not as yet consummated financing agreements (pursuant to a Conditional Sale Agreement or otherwise), it is not in a position to accept delivery of and pay for the Box cars under the terms of the Letter Agreement at this time. B&O represents that such financing arrangements will be consummated, however, on or before July 1, 1975. B&O (in order that it may use the Box cars pending completion of the above financing arrangements) has arranged with the Manufacturer to give it temporary custody and possession of the Box cars on their completion, solely as a bailee of the Box cars, and the Manufacturer is willing to do so upon the terms and conditions hereinafter stated.

In consideration of the premises, the Manufacturer hereby delivers to B&O and B&O hereby accepts from the Manufacturer the Box cars as of the date each of them is delivered to B&O at

Wilmington, Delaware, or other such place as may be specified by B&O, for the period ending on the earlier of July 1, 1975, or the date of consummation of the above financing arrangements. At such time this Agreement shall automatically be cancelled and superseded without further action by or notice to any party concerned.

Title to the Box cars shall remain in the Manufacturer and B&O's right and interest therein is and shall be solely that of possession, custody and use as bailee under this Agreement. Transfer of title shall be affected only at the time of delivery of the bills of sale. B&O, without expense to the Manufacturer, will promptly cause this Agreement to be filed with the Interstate Commerce Commission for recordation under Section 20c of the Interstate Commerce Act. In addition, B&O shall do such other acts as may be required by law, or reasonably requested by the Manufacturer; for the protection of the Manufacturer's title to and interest in the Box cars.

B&O agrees that it will permit no liens of any kind to attach to the Box cars; and that it will

- (a) indemnify and save harmless the Manufacturer from any and all claims, expenses or liabilities of whatsoever kind; and
- (b) pay any and all taxes, fines, charges and penalties that may accrue or be assessed or imposed upon the Box cars of the Manufacturer because of its ownership or because of the use, operation, management or handling of the Box cars by B&O during the term of this Agreement.

B&O's obligations contained in this paragraph shall survive the

termination by mutual agreement or otherwise of this Agreement.

B&O will, at its own expense, keep and maintain the Box cars in good order and running condition and will at its option repair or replace or promptly pay to the Manufacturer the purchase price in cash of those Box cars which may be damaged or destroyed by any cause during the term of this Agreement.

Prior to the delivery of each Box car to B&O under this Agreement, it will be numbered with a road number as hereinbefore indicated, and there shall be plainly, distinctly, permanently and conspicuously marked upon each side of each Box car in contemplation of the financing heretofore referred to, the following legend in letters not less than one inch in height:

"OWNED BY A BANK OR TRUST COMPANY UNDER A
SECURITY AGREEMENT FILED UNDER THE INTER-
STATE COMMERCE ACT, SECTION 20c."

B&O hereby agrees to indemnify the Manufacturer against any liability, loss or expense incurred by it as a result of the placing of the aforementioned markings on the Box cars.

In case, during the effective period of this Agreement, such markings shall at any time be removed, defaced or destroyed on any Box car, B&O shall immediately cause the same to be restored or replaced.

All or any of the rights, benefits or advantages of the Manufacturer, including the right to receive the purchase price of the Box cars as provided in the Letter Agreement, may be assigned by the Manufacturer 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 Manufacturer's warranties, indemnities or any other obligations con-

tained in this Agreement or in the Letter Agreement relating to the Box cars. In the event the Manufacturer assigns its rights to receive the payments herein and/or under the Letter Agreement, and B&O receives written notice thereof from the Manufacturer 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 B&O under this Agreement shall, to the extent so assigned, be made to the assignee against proper receipt therefor in a form satisfactory to B&O.

In the event of any assignment by the Manufacturer of its rights to receive any payments under this Agreement or under the Letter 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 out of any breach of any obligation of the Manufacturer in respect to the Box cars, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to B&O by the Manufacturer. Any and all of such obligations howsoever arising, shall be and will remain enforceable by B&O, its successors and assigns (other than assignees as such of rights, benefits or advantages assigned pursuant to this Agreement).

B&O agrees with the Manufacturer that the execution by the Manufacturer of this Agreement or the delivery by the Manufacturer to B&O of the Box cars, as contemplated by this Agreement, shall not relieve B&O of its obligations to accept, take and pay for the Box cars in accordance with the terms of

the Letter Agreement, or impair any of the Manufacturer's rights under the Letter Agreement.

WHITTAKER CORPORATION
(Berwick Forge & Fabricating
Division)

ATTEST:

George F. [Signature] [Signature]
Controller President

[Corporate Seal]



ATTEST:

BALTIMORE AND OHIO RAILROAD
COMPANY

Patricia J. [Signature] L. C. [Signature]
Assistant Secretary Assistant Vice President and
Treasurer

[Corporate Seal]

APPROVED AS TO FORM
[Signature]
Attorney.

STATE OF PENNSYLVANIA)
COUNTY OF COLUMBIA) SS:

On this 1st of MAY, 1975, before me personally appeared James J. Malatras, to me personally known, who being by me duly sworn, says that he is — President of Whittaker Corporation (Berwick Forge & Fabricating 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.

[Notarial Seal]

Lloyd H Adams
Notary Public
LOYD H. ADAMS, NOTARY PUBLIC
BERWICK BOROUGH, COLUMBIA COUNTY
MY COMMISSION EXPIRES SEPT. 19, 1978
Member, Pennsylvania Association of Notaries

STATE OF OHIO)
COUNTY OF CUYAHOGA) SS:

On this 24TH of APRIL, 1975, before me personally appeared L. C. Roig, Jr., to me personally known, who, being by me duly sworn, says that he is Assistant Vice President and Treasurer of The Baltimore and Ohio 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 President and Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

Clara Masuga
Notary Public
CLARA MASUGA
Notary Public, Cuyahoga County, Ohio
My Commission Expires April 21, 1979