

RECORDATION NO. 9653-A Filed & Recorded

RECORDATION NO. 9653 Filed & Recorded

Interstate Commerce Commission
Washington, D. C. AUG 23 1978 9 45 AM

AUG 23 1978 9 45 AM

INTERSTATE COMMERCE COMMISSION

INTERSTATE COMMERCE COMMISSION

Gentlemen:

Enclosed for recordation under the provisions of Section 20c of the Interstate Commerce Act, as amended, are the original and two counterparts each of a Conditional Sale Agreement dated as of August 2, 1978 and ~~two separate~~ Agreements and Assignments dated as of August 2, 1978 relating thereto.

The general description of the railroad equipment covered by the enclosed documents is set forth in Schedule A attached to this letter and made a part hereof. RECORDATION NO. 9653-B Filed & Recorded

AUG 23 1978 9 45 AM

The names and addresses of the parties are:

INTERSTATE COMMERCE COMMISSION

Vendor under Conditional Sale Agreement and Assignor under Agreements and Assignments:

Greenville Steel Car Company
Greenville, Pennsylvania
8-235A020

Vendee under Conditional Sale Agreement:

Lake Erie, Franklin & Clarion Railroad Company
P.O. Box 430
Clarion, Pennsylvania 16214

Assignees under Agreements and Assignments:

Nationwide Life Insurance Company
246 North High Street.
Columbus, Ohio 43216
and
~~Unionmutual Stock Life Insurance Co. of America
2211 Congress Street
Portland, Maine 04112~~

STET

The undersigned is the Vendee named above and has knowledge of the matters set forth in the enclosed documents.

Please return the original and one copy of the Conditional Sale Agreement and each Agreement and Assignment to John L. Tuohy, Chapman and Cutler, 111 West Monroe Street, Chicago, Illinois 60603.

Enclosed is a check in the amount of \$50.00 covering the required recording fee.

Very truly yours,

LAKE ERIE, FRANKLIN & CLARION RAILROAD COMPANY

By Jay T. Miller
Its President

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AUG 23 9 44 AM '78
I.C.C.
FEE OPERATION BR

C. J. Kandler

Interstate Commerce Commission
Washington, D.C. 20423

8/23/78

OFFICE OF THE SECRETARY

Jay T. Miller, President
Lake Erie, Franklin & Clarion RR. Co.
P.O. Box 430
Clarion, Pennsylvania 16214

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on **8/23/78** at **9:45am**, and assigned recordation number(s) **9653 & 9653-A** & **9653-B**

Sincerely yours,

H.G. Homme, Jr.,
Acting Secretary

Enclosure(s)

SE-30-T
(2/78)

CONDITIONAL SALE AGREEMENT

9653

RECORDATION NO. Filed & Recorded

Dated as of August 2, 1978

AUG 23 1978 - 9 45 AM

INTESTATE COMMERCE COMMISSION

Between

GREENVILLE STEEL CAR COMPANY

Manufacturer

and

LAKE ERIE, FRANKLIN & CLARION RAILROAD COMPANY

Vendee

Re:

\$3,025,000 Maximum Principal Amount

9-3/4% Conditional Sale Indebtedness due 1981 - 1993

(100 100-ton Coal Hopper Cars)
(LEF & C 78-3)

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Attachments to Conditional Sale Agreement

Schedule A - Description of Equipment

CONDITIONAL SALE AGREEMENT dated as of August 2, 1978 between GREENVILLE STEEL CAR COMPANY, a Pennsylvania corporation (the "Manufacturer") and LAKE ERIE, FRANKLIN & CLARION RAILROAD COMPANY, a Pennsylvania corporation (the "Vendee" or the "Railroad").

WHEREAS, the Manufacturer is willing to construct, sell and deliver to the Vendee, and the Vendee is willing to purchase, the railroad equipment described in Schedules A-1 and A-2 attached hereto (collectively the "Items of Equipment" or "Equipment" and individually an "Item" or "Item of Equipment");

WHEREAS, the Vendee has entered into separate Finance Agreements dated as of August 2, 1978 (the "Finance Agreements") with Nationwide Life Insurance Company and Unionmutual Stock Life Insurance Co. of America (the "Investors"), providing for the financing of the cost of the Equipment;

WHEREAS, the Manufacturer and each Investor, concurrently herewith, are entering into an Agreement and Assignment dated as of August 2, 1978 (the "Agreement and Assignment"), providing for the assignment of the Manufacturer's right, title and interest in and to this Conditional Sale Agreement and the Equipment described in one of the Schedules hereby to the Investor; and

WHEREAS, the Manufacturer and the Vendee have agreed that this Agreement shall exclusively and completely state the rights of the Manufacturer and the Vendee with respect to the Equipment and shall supersede all other agreements, oral or written with respect to the Equipment;

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

SECTION 1. CONSTRUCTION AND SALE.

The Manufacturer will construct, sell and deliver to the Vendee, and the Vendee will purchase from the Manufacturer and accept delivery of and pay for as hereinafter provided, the Equipment, each Item of which shall be constructed in accordance with the applicable specifications referred to in Schedules A-1 and A-2 hereto, with such modifications thereof as may be agreed upon in writing by the Vendee and the Manufacturer (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design and quality of equipment and material in such Items shall conform to all Department of Transportation requirements and specifications for new equipment, and to all standards of the Association of American Railroads, if any, interpreted as being applicable to new railroad equipment of the character of such Items as of the date of this Agreement.

SECTION 2. DELIVERY.

2.1. The Manufacturer will deliver the various Items of Equipment to be manufactured by it to the Vendee in accordance with the applicable delivery schedule set forth in Schedules A-1 and A-2 attached hereto; provided, however, that the Manufacturer shall have no obligation to deliver any Item of Equipment hereunder so long as any Event of Default pursuant to Section 16.1 hereof shall have occurred and be continuing. The Manufacturer agrees not to deliver and the Vendee shall have no obligation to accept any Items of Equipment following notice to the Manufacturer from the Vendee, the Railroad or any assignee of the Manufacturer that any Event of Default pursuant to Section 16.1 hereof has occurred and is continuing.

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

2.3. Notwithstanding the foregoing provisions of this Section 2, any Equipment not delivered and accepted on or before the outside delivery date provided therefor in Schedules A-1 and A-2 attached hereto 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 Manufacturer shall remain obligated to construct, sell and deliver to the Vendee, and the Vendee shall remain obligated to purchase from the Manufacturer, accept delivery of and pay for, any of the Equipment thus excluded from this Agreement, and the Vendee and the Manufacturer shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not excluded herefrom, and the Manufacturer and the Railroad shall further execute a separate agreement providing for the sale of such excluded Equipment by the Manufacturer to the Railroad upon the same terms and conditions as those contained herein, modified only to the extent necessary to provide for payment in cash upon delivery of the Equipment, either directly or indirectly by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Railroad may determine and as may be reasonably satisfactory to the Manufacturer.

2.4. The Equipment during construction shall be subject to inspection by one or more inspectors or other authorized representatives of the Vendee. Upon completion of each Item of Equipment by the Manufacturer, it shall be presented to such inspectors or representatives for inspection at the place designated herein for delivery of such Item of Equipment, and, if such Item of Equipment conforms to the Specifications applicable thereto,

such inspectors or representatives shall execute and deliver to the Manufacturer a certificate or certificates of acceptance (hereinafter called the "Certificate of Acceptance") stating that such Item of Equipment has been inspected and is accepted by them on behalf of the Railroad and is marked in accordance with Section 5.1 hereof. Any Certificate of Acceptance may cover any number of Items of Equipment.

2.5. The Manufacturer shall bear the risk of loss of each Item of Equipment or damage thereto until delivery to and acceptance by the Vendee. Upon delivery and acceptance by the Vendee of each of such Items of Equipment, the Vendee shall bear the risk of loss of or damage to such Items.

SECTION 3. PURCHASE PRICE AND PAYMENT.

3.1. The base price per Item of Equipment including freight charges, if any, to place of delivery, but exclusive of interest, insurance and all other charges, is as set forth in Schedules A-1 and A-2 attached hereto. Such base price per Item of Equipment shall be subject to increase or decrease as may be agreed to in writing by the Manufacturer thereof and the Vendee, and the term "Purchase Price" as used herein shall mean such base price as so increased or decreased, provided, however, that the aggregate Purchase Price of all Items of Equipment described in Schedules A-1 and A-2, respectively, shall in no event exceed the maximum amount set forth in such Schedule.

3.2. For the purpose of making settlement for the Equipment, all Items of Equipment shall constitute one group (the "Group").

3.3. The Vendee hereby acknowledges itself to be indebted to the Manufacturer in the amount of, and hereby promises to pay to the Manufacturer at such bank or trust company in the United States of America as the Manufacturer shall designate for payment to it, the Purchase Price of the Items of Equipment as follows:

(a) On the Closing Date (as defined in Section 3.4 below) an amount for each Item of Equipment for which settlement is then being made equal to 10% of the Purchase Price, as stated in the Manufacturer's invoice or invoices presented in respect of such Item of Equipment; and

(b) an amount equal to 90% of the Purchase Price of each Item of Equipment in the Group (herein sometimes called the "Conditional Sale Indebtedness") plus interest on the unpaid balance thereof, payable in installments as follows:

(1) Four (4) installments of interest only on the unpaid balance of the Conditional Sale Indebtedness at the rate of 9-3/4% per annum from and including the Closing Date payable on September 30, 1978, March 31, 1979, September 30, 1979, March 31, 1980 and September 30, 1980; followed by

(2) Twenty-five (25) semiannual installments, each in the amount of 3.85% of the Conditional Sale Indebtedness, plus accrued interest at the rate of 9-3/4% per annum, payable on March 31, 1981 and on the last day of each September and March thereafter to and including March 31, 1993; followed by

(3) One (1) installment, payable September 30, 1993, in an amount equal to the remaining unpaid balance of the Conditional Sale Indebtedness and all accrued and unpaid interest at the rate of 9-3/4% per annum thereon.

3.4. The term "Closing Date" with respect to the Group shall mean such business day, not later than September 30, 1978, which is not more than five business days following presentation by the Manufacturer to the Vendee of the invoice, or invoices, and the Certificate of Certificates of Acceptance with respect to such Group, as shall be fixed by the Vendee by written or telegraphic notice delivered to the Manufacturer and any assignee of the Manufacturer at least five business days prior to the Closing Date designated therein, or such other date as shall be agreed upon by the Manufacturer, the Investor, and the Vendee.

3.5. The term "business day" as used herein means calendar days, excluding Saturdays, Sundays and holidays on which banks in the States of Illinois or Maine or Ohio are authorized or required to be closed.

3.6. The Vendee will pay interest at the rate of 10-3/4% per annum upon all unpaid balances of indebtedness and (to the extent legally enforceable) upon interest, after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

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

3.8. 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. All payments of installments of the Conditional Sale Indebtedness and/or interest thereon and all payments due pursuant to Section 6 hereof shall be made by wire transfer of immediately available funds to such bank in the United

States for the account of the Manufacturer or its assignee as the Manufacturer or its assignee shall from time to time direct the Vendee in writing. If any payment provided for in this Agreement falls due on any day which is not a business day, such payment shall be due and payable on the most recent preceding day which is a business day.

3.9. The Vendee shall have the privilege (which shall be non-cumulative), upon not less than 30 days, nor more than 60 days' notice to the Manufacturer, of prepaying on any date on which an installment of the Conditional Sale Indebtedness is payable an amount (in addition to such installment) not exceeding the principal portion of such installment. Any such prepayment shall be applied toward the final installment of the Conditional Sale Indebtedness. Except as provided in this Section 3.9 and in Section 6 hereof the Vendee shall not have the privilege of prepaying any installment of the Conditional Sale Indebtedness prior to the date it becomes due hereunder.

SECTION 4. TITLE TO THE EQUIPMENT.

4.1. The Manufacturer shall and hereby does retain the full security title to and property in the Equipment built by it 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 (not including, however, any parts installed on and additions to any Item of Equipment, any portion of whose cost is furnished by the Vendee and which are readily removable without causing material damage to such Item of Equipment, but including parts installed on and replacements made to any Item of Equipment which constitute ordinary maintenance and repairs made by the Railroad pursuant to Section 9 hereof) and any and all replacements of the Equipment and of parts thereof shall constitute accessions to the Equipment and shall be subject to all terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

4.2. When and only when the Manufacturer shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment built by it, together with interest and all other payments as herein provided and all the Vendee's other obligations herein contained shall have been performed, absolute right to the possession of, title to and property in such 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 execute a bill or bills of sale of such Equipment releasing its security title thereto and property therein to the Vendee or upon its order free of all liens and encumbrances created or retained hereby and deliver such bill or bills of sale to the Vendee at its address specified in Section 20 hereof, and will execute in the same manner and deliver at the same place, for filing, registering, recording or depositing in

all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to such Equipment, and will pay to the Vendee any money paid to the Manufacturer, pursuant to Section 6.1 hereof and not theretofore applied as provided in Section 6.2 hereof. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bills or bills of sale or to file such certificate within a reasonable time after written demand by the Vendee.

SECTION 5. MARKING OF EQUIPMENT.

5.1. The Railroad will cause each Item of Equipment to be kept numbered with its road number as set forth in Schedules A-1 and A-2 hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon both sides of each Item of Equipment in letters not less than one inch in height, the words "This Unit subject to Conditional Sale Agreement recorded with I.C.C.", with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the security title of the Manufacturer to such Item of Equipment, its rights under this Agreement and the rights of any assignee under Section 14 hereof. The Railroad will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Railroad will not change the road number of any Item of Equipment except with the consent of the Manufacturer or any assignee pursuant to Section 14 hereof and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed with the Manufacturer by the Railroad and filed, recorded or deposited in all public offices where this Agreement shall have been filed, recorded or deposited.

5.2. Except as above provided, the Railroad will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Railroad or its affiliates on railroad equipment used by it of the same or a similar type of convenience of identification of the right of the Railroad to use the Equipment under this Agreement.

SECTION 6. CASUALTY OCCURRENCES.

6.1. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or irreparably damaged, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise (each such occurrence, except for any requisition which by its terms is indefinite or does not exceed the original term of this Agreement, being hereinafter called a "Casualty Occurrence"), prior to the payment of the indebtedness in respect of the purchase price of such Item, together with interest thereon and all other payments required hereby, the Railroad shall, within fifteen days after it shall have been determined that such Item of Equipment has suffered a Casualty Occurrence, fully inform the Manufacturer in regard thereto. The Railroad shall, within 30 days of such determination, pay to the Manufacturer a sum equal to the aggregate Casualty Payment (as defined in Section 6.3 hereof) of such Item of Equipment as of the date of such payment and shall file with the Manufacturer a certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad setting forth the Casualty Payment of the Item of Equipment suffering a Casualty Occurrence.

6.2. Any money paid to the Manufacturer pursuant to Section 6.1 hereof shall, so long as no Event of Default shall have occurred and be continuing, be applied, in whole or in part, as the Railroad shall direct in a written instrument filed with the Manufacturer, to prepay indebtedness in respect of the Purchase Price of the Equipment hereunder or to or toward the cost of an Item or Items of Equipment of new standard gauge railroad equipment which shall be of the same character as the Equipment described in Schedule A-1 or Schedule A-2, as the case may be, hereto to replace such Item of Equipment having suffered a Casualty Occurrence and which new Item or Items of Equipment shall be of a quality and have a value and utility at least equal to such Item of Equipment having suffered a Casualty Occurrence, as the Railroad shall direct in such written instrument. In case any such money shall be applied to prepay indebtedness, it shall be so applied, on the first date set for the payment of an installment (consisting of either principal or interest on) of the Conditional Sale Indebtedness next following receipt by the Manufacturer of such written direction, to prepay installments of the Conditional Sale Indebtedness thereafter falling due in the inverse order of their maturities, but without premium, and whether or not such amount shall be sufficient to prepay one or more entire installments (or portions thereof) of the Conditional Sale Indebtedness. In case of replacement the amount to be paid by the Manufacturer in respect of any replacing Item shall not exceed the lesser of the cost of such Item or the amount which such Item would have cost if acquired on the earliest date when any of such money was paid to the Manufacturer, and the Railroad shall pay any additional cost of such Item. The amount which any such replacing Item would have cost if acquired on the earliest date when any

of such money was paid to the Manufacturer shall be conclusively determined by the certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad to be filed as hereinafter provided. If for any reason moneys shall have been deposited with the Manufacturer and shall have remained on deposit for a period of eighteen (18) months, such moneys shall be applied by the Manufacturer to the prepayment of the Conditional Sale Indebtedness, on the first date set for the payment of an installment of the Conditional Sale Indebtedness next following the expiration of such eighteen-month period.

6.3. The payment to be made to the Manufacturer in respect of each Item of Equipment having suffered a Casualty Occurrence (the "Casualty Payment") shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the date as of which such Casualty Payment shall be determined, plus interest accrued thereon but unpaid as of such date.

6.4. So long as no Event of Default shall have occurred and be continuing, any money paid to the Manufacturer pursuant to this Section 6 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in an interest bearing account at a bank or trust company selected by the Manufacturer and not unacceptable to the Railroad. Upon the withdrawal of such money from such account, such money shall be held by the Manufacturer for application pursuant to this Section 6, and any interest thereon shall be paid to the Railroad. The Railroad will pay all expenses incurred by the Manufacturer in connection with such investment.

6.5. The Railroad will cause any replacing Item to be plated or marked as provided in Section 5.1 hereof. Any and all such replacement of Equipment shall constitute accessions to the Equipment and shall be subject to all of the terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and shall be included in the term "Equipment" as used in this Agreement. Title to all such replacements shall be free and clear of all liens and encumbrances and shall be taken initially and shall remain in the name of the Manufacturer subject to the provisions hereof, and the Railroad shall promptly execute, acknowledge, deliver, file and record all such documents (including the filing with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act of an appropriate supplemental agreement describing such replacements) and do any and all such acts as may be necessary to cause such replacements to come under and be subject to this Agreement and to protect the title of the Manufacturer to such replacements. All such replacements shall be warranted in like manner as the Items replaced, and the vendor of the replacements shall, if other than the Manufacturer, duly consent to the subjection thereof to this Agreement and agree to be bound by all the terms and provisions contained herein in respect of such replacements in like manner as the Manufacturer is in respect of the original Equipment delivered hereunder.

6.6. Whenever the Railroad shall file with the Manufacturer, pursuant to the foregoing provisions of this Section 6, a written direction to apply money to or toward the cost of a replacing Item of new standard gauge railroad equipment, the Railroad shall file therewith in such number of counterparts as may reasonably be requested:

(a) a certificate of a Vice President or a Comptroller or other Chief Accounting Officer of the Railroad certifying that such replacing Item is new standard gauge equipment and has been plated or marked as required by the provisions of this Section 6 and certifying the cost of such replacing unit, the amount which such replacing Item would have cost if acquired on the earliest date when any such money was paid to the Manufacturer and that the cost thereof does not exceed the fair value of such Item and that such replacing Item is of a quality and has a value and utility at least equal to the Item replaced; and

(b) an opinion of counsel for the Railroad that security title to such replacing Item is validly vested in the Manufacturer free and clear of all claims, liens and encumbrances, and that such Item has come under and become subject to this Agreement, and that no other filing or recordation is necessary for the protection of the rights of the Manufacturer in the United States of America.

6.7. In the event that any moneys paid to, or held by, the Manufacturer pursuant to this Section 6 are applied to the prepayment of indebtedness in respect of the Purchase Price, the Railroad will pay to the Manufacturer on the date of such application interest then accrued and unpaid on the indebtedness so prepaid.

If an Event of Default shall have occurred and be continuing, then so long as such Event of Default shall continue all money then held by the Manufacturer pursuant to this Section 6 shall be applied by the Manufacturer as if such money were money received upon the sale of Equipment pursuant to Section 16 hereof.

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

6.9. In the event that prior to the expiration of the term of this Agreement, the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of

eminent domain or otherwise for an indefinite period or for a stated period ending on or before said date, the Railroad's duty to pay the indebtedness in respect of the purchase price thereof shall continue for the duration of such requisitioning or taking. The Railroad shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

SECTION 7. TAXES.

All payments to be made by the Railroad 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, license and registration fees, assessments, charges, fines, penalties, sales, use and property taxes, gross receipts taxes arising out of receipts from use or operation of the Equipment, and other taxes, fees and governmental charges similar or dissimilar to the foregoing (other than net income, excess profits and similar taxes) 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 Railroad assumes and agrees to pay on demand in addition to the indebtedness in respect of the purchase price of the Equipment. The Railroad will also pay promptly all taxes and assessments which may be imposed upon the Equipment or for the use or operation thereof by the Railroad or upon the earnings arising therefrom or upon the Manufacturer solely by reason of its ownership thereof and will keep at all times all and every part 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 Item of Equipment; provided, however, that the Railroad 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 nonpayment 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 a Manufacturer directly and paid by such Manufacturer, the Railroad shall reimburse such Manufacturer on presentation of invoice therefor; provided, however, that the Railroad 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 submitted notice in writing to the Railroad at least five business days in advance of payment thereof.

SECTION 8. REPORTS AND INSPECTIONS.

8.1. On or before May 1 in each year, commencing with the year 1979, the Railroad will furnish to the Manufacturer an accurate statement, as of the preceding December 31, (a) showing the amount, description and numbers of the Items of Equipment

then subject to this Agreement, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as Manufacturer may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 5.1 hereof shall have been preserved or replaced.

8.2. The Manufacturer shall have the right, at its sole cost and expense by its authorized representative, to inspect the Equipment and the Railroad's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Manufacturer the existence and proper maintenance thereof during the continuance of this Agreement.

SECTION 9. POSSESSION, USE AND MAINTENANCE.

9.1. The Railroad, so long as it shall not be in default under the Agreement, shall be entitled, from and after delivery of the Equipment by the Manufacturer to the Railroad, to the possession of the Equipment and the use thereof by it, any affiliate of the Railroad upon the lines of railroad owned or operated by any such affiliate or by it either alone or jointly with another and whether under lease or otherwise, or upon the lines of railroad owned or operated by any company controlled by or controlling the Railroad, or over which it or any such affiliate has trackage rights, or run through or operating agreements, including the possession and use of the Equipment upon connecting and other carriers in the usual interchange of traffic (without notice to the Manufacturer), from and after delivery of the Equipment by the Manufacturer to the Railroad, provided, however, that such use shall be subject to all the terms and conditions of this Agreement only within the United States of America. The Railroad may lease the Equipment to an affiliate (or to another party upon the consent of the Manufacturer, such consent not to be unreasonably withheld) but only upon and subject to all the terms and conditions of the Agreement and provided that no such lease shall relieve the Railroad of any liability or obligations hereunder which shall be those of a principal and not a surety.

9.2. The Railroad shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Railroad shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted. The Railroad shall not modify any Item of Equipment without the written authority and approval of the Manufacturer which shall not be unreasonably withheld, provided that no such approval shall be required if and to the extent such modification is required by Section 11 hereof. Any parts (except communications, signal and automatic control equipment and devices having a similar use which are added to any Item of Equipment by the Railroad, the cost

of which is not included in the Purchase Price of such Item and which are not required for the operation or use of such Item by the Interstate Commerce Commission, the Department of Transportation or any other regulatory body) installed or replacements made by the Railroad upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Manufacturer, without cost or expense to the Manufacturer.

SECTION 10. PROHIBITION AGAINST LIENS.

10.1. The Railroad will pay or satisfy and discharge any and all sums claimed by any party by, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien or a charge upon any Item of Equipment equal or superior to the security title of the Manufacturer, and any liens, encumbrances or charges which might be levied against or imposed upon any Item of Equipment as a result of the failure of the Railroad to perform or observe any of its covenants or agreements under this Agreement, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested by the Railroad in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder.

10.2. This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other liens arising in the ordinary course of business and, in each case, not delinquent (such liens being herein called "permitted liens").

SECTION 11. RULES, LAWS AND REGULATIONS.

During the term of this Agreement the Railroad will comply in all respects with all laws of the jurisdictions in which its operations involving the Equipment may extend, with the Interchange Rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the operation or use of the Equipment; and in the event that such laws or rules require the alteration of the Equipment, the Railroad will conform therewith at its expense, and will maintain the same in proper condition for operation under such laws and rules; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder.

SECTION 12. INDEMNITIES.

12.1. The Railroad agrees to indemnify, protect and hold harmless the Manufacturer against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including claims for strict liability in tort and counsel fees, arising out of retention by the Manufacturer of security title to the Equipment, or out of the use and operation thereof during the period when security title thereto remains in the Manufacturer. 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 and the conveyance of the Equipment as provided in Section 4.2 hereof, or the termination of this Agreement in any manner whatsoever.

12.2. As between the Manufacturer and the Vendee, the Vendee, after delivery to and acceptance by the Railroad pursuant to Section 2.5 hereof, will bear the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any Item or of all the Equipment.

12.3. The Manufacturer warrants that the Items of Equipment will be built in accordance with the Specifications therefor and warrants that such Items of Equipment will be free from defects in material (except as to specialties incorporated therein specified by the Railroad and not manufactured by the Manufacturer, in respect of which the Manufacturer hereby appoints and constitutes the Railroad its Agent and attorney-in-fact to assert and enforce from time to time in the name of the Manufacturer but for the account of the Railroad and the Manufacturer as their interests may appear and in all cases at the sole cost and expense of the Railroad whatever claims and rights the Manufacturer may have against the manufacturer of the specialty) or workmanship under normal use and service, the Manufacturer's obligation under this Section being limited to making good at its plant any part or parts of any such Item of Equipment which shall, within one year after the delivery of such Item of Equipment to the Vendee, be returned to the Manufacturer with transportation charges prepaid and which the Manufacturer's examination shall disclose to its satisfaction to have been thus defective; provided, however, that this warranty shall not apply to (i) any components which shall have been repaired or altered unless repaired and altered by the Manufacturer or its authorized service representatives, if, in its judgment, such repairs or alterations affect the stability of any such Item of Equipment or (ii) any such Item of Equipment which has been subject to misuse, negligence or accident. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE MANUFACTURER, EXCEPT FOR ITS OBLIGATIONS HEREUNDER AS LIMITED HEREBY, AND THE MANUFACTURER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY

OF THE EQUIPMENT EXCEPT AS AFORESAID. IN NO EVENT SHALL THE MANUFACTURER BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR COMMERCIAL LOSS. The Manufacturer reserves the right to make changes in the design of, or add any improvements to, any Items of Equipment to be built by it at any time with the approval of the Railroad without incurring any obligation to make similar changes or additions in respect of other Items of Equipment previously delivered to the Railroad. The Manufacturer further agrees with the Vendee that acceptance of any Items of Equipment under Section 2.4 hereof shall not be deemed a waiver by the Vendee of any of its rights under this Section 12.3.

SECTION 13. PATENT INDEMNITIES.

13.1. Except in cases of designs specified by the Railroad and not developed or purported to be developed by the Manufacturer, and articles and materials specified by the Railroad and not manufactured by the Manufacturer, the Manufacturer agrees to indemnify, protect and hold harmless the Railroad 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 Railroad because of the use in or about the construction or operation of any Item of Equipment to be built by it, of any design, article or material which infringes or is claimed to infringe on or which is claimed to constitute contributory infringement with respect to any patent or other right. The Railroad likewise will indemnify, protect and hold harmless the Manufacturer 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 Manufacturer because of the use in or about the construction or operation of any Item of Equipment thereof, of any design specified by the Railroad and not developed or purported to be developed by the Manufacturer, or article or material specified by the Railroad and not manufactured by the Manufacturer, which infringes or is claimed to infringe on or which is claimed to constitute contributory infringement with respect to any patent or other right. In case any Item of Equipment is held to constitute infringement of any patent or other similar right in respect of which liability may be charged against the Manufacturer, and the use of any Item of Equipment is enjoined, the Manufacturer shall, at its own expense and at its option, either procure for the Railroad the right to continue using such Item of Equipment or replace the same with non-infringing equipment, or modify it so it becomes non-infringing. Without intending any limitation of the foregoing, the Manufacturer agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to the Vendee every claim, right and cause of action which the Manufacturer has or hereafter shall have against the originator of any design or against the seller or sellers of any designs or articles or materials purchased or otherwise acquired by the Manufacturer for use in or about the construction

or operation of the Items of Equipment to be built by it on the ground that any such design, article or material or operation thereof infringes or is claimed to infringe on or to constitute contributory infringement with respect to any patent or other right and the Manufacturer further agrees to execute and deliver to the Vendee all and every such further assurance as may be reasonably requested by the Vendee, more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. The Manufacturer will give notice to the Railroad of any claim known to the Manufacturer from which liability may be charged against the Railroad hereunder and the Vendee will give notice to the Manufacturer of any claim known to it from which liability may be charged against the Manufacturer hereunder.

13.2. The term "design" wherever used in this Agreement or in any assignment of this Agreement shall be deemed to include formulae, systems, processes and combinations.

SECTION 14. ASSIGNMENTS.

14.1. Except as otherwise provided in Section 9.1 hereof, the Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or transfer the right to possession of any Item of Equipment without first obtaining the written consent of the Manufacturer. An assignment or transfer to a railroad company or other purchaser which shall acquire all or substantially all the lines of railroad of the Railroad, and which by execution of an appropriate instrument satisfactory to the Manufacturer, shall assume and agree to perform each and all of the obligations and covenants of the Railroad hereunder, shall not be deemed a breach of this covenant.

14.2. All or any of the rights, benefits and advantages of the Manufacturer under this Agreement, including the right to receive the payments herein provided to be made by the Railroad may be assigned by the Manufacturer and reassigned by an assignee at any time or from time to time. The Manufacturer or other assignor agrees to notify the Railroad of any such assignment within 30 days following such assignment. No such assignment shall subject any assignee to, or relieve the Manufacturer from, any of the obligations of the Manufacturer to construct and deliver the Equipment in accordance with Sections 1 and 2.1 hereof, or to respond to its warranties and indemnities contained in Sections 12.3 and 13 hereof, or relieve the Railroad of its obligations to the Manufacturer hereunder.

14.3. Upon any such assignment either the assignor or the assignee shall give written notice to the Railroad together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all of the Manufacturer's right, security title and interest in and to the Equipment subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad of the notification

of any such assignment, all payments thereafter to be made by the Railroad hereunder shall, to the extent so assigned, be made to the assignee at the address of the assignee specified in the aforesaid notice.

14.4. The Railroad hereby acknowledges that, concurrently with the execution and delivery of this Agreement and in accordance with the custom of railroad equipment manufacturers, the Railroad has made arrangements for and the Manufacturer is executing and delivering separate Agreements and Assignments dated as of August 2, 1978 between the Manufacturer and Nationwide Life Insurance Company and Unionmutual Stock Life Insurance Co. of America, as Assignees (the "Investors"), respectively, pursuant to which the Manufacturer is assigning certain of its rights and interest hereunder. The Railroad expressly acknowledges and agrees with each Investor and its successors and assigns, for the purpose of inducing the execution and delivery of said Agreement and Assignment by such Investor and its advance to the Manufacturer in consideration therefor of an amount equal to the difference between the Purchase Price of the Equipment and the aggregate amount paid by the Railroad pursuant to subparagraph (a) of Section 3.3 hereof, that the rights of such Investor and its successors and assigns to the entire unpaid indebtedness in respect of the Purchase Price of the Equipment or such part thereof as may be assigned, together with interest thereon, as well as all other rights hereunder so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever, whether by reason of any breach of any obligation of the Manufacturer with respect to the Equipment or the delivery or warranty thereof or with respect to any indemnity herein contained or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and when arising, at any time owing to the Railroad by the Manufacturer or to any other person, firm or corporation or to any governmental authority, or for any cause whatsoever, it being the intent hereof that, except in the case of a wrongful act on the part of such Investor or its successors and assigns, the Railroad shall be unconditionally and absolutely obligated to pay such Investor the entire unpaid indebtedness in respect of the Purchase Price of such Items of Equipment as may be assigned to it, together with interest thereon, all in the manner and upon the dates set forth in Section 3.3(b) hereof and as otherwise provided herein. Any and all such obligations, if any and howsoever arising, shall be and remain enforceable by the Railroad against and only against the Manufacturer.

14.5. In the event of any such assignment or successive assignment by the Manufacturer of security title to the Equipment and of the Manufacturer's rights hereunder with respect thereto, the Railroad will, whenever requested by such assignee, change the names and word or words to be marked on each side of each Item of Equipment so as to indicate the security title of such assignee to the Equipment with such names and word or words as shall be speci-

fied by such assignee, subject to the requirements of the laws of the jurisdictions in which the Equipment shall be operated relating to such names and word or words for use on equipment covered by conditional sale agreements with respect to railroad equipment. The cost of marking such names and word or words with respect to the first assignee for this Agreement (or to any successor assignee in case the first assignee is an agent or trustee) shall be borne by the Railroad. The cost of marking such names and word or words in connection with any subsequent assignment (other than to a successor agent or trustee if the first assignee is an agent or trustee) will be borne by the subsequent assignee.

14.6. In the event of any such assignment prior to the completion of delivery of the Equipment, the Railroad will, in connection with settlement for the Group subsequent to such assignment, deliver to the assignee, at the time of delivery by the Railroad of notice fixing the Closing Date with respect to the Group, all documents reasonably required by the terms of such assignment to be delivered by the Railroad to the assignee in connection with such settlement, in such number or counterparts as may reasonably be requested.

14.7. If this Agreement shall have been assigned by the Manufacturer and the assignee shall not make payment to the Manufacturer on the Closing Date with respect to the Group of an amount equal to that portion of the purchase price of such Items of Equipment included in the Group as provided in the instrument of assignment, the Manufacturer will promptly notify the Railroad of such event, such Items of Equipment included in the Group shall be excluded thereupon and the Railroad shall not later than 60 days after the Closing Date diligently pursue and secure alternative financing for the purchase price of all such Items of Equipment, and the Railroad shall not later than 120 days after the Closing Date pay or cause to be paid to the Manufacturer the purchase price of all such Items of Equipment, or the portion thereof unpaid by the assignee, together with interest on such purchase price or portion thereof from the Closing Date to the date of payment of such purchase price at the prime rate of interest in effect on the Closing Date at Mellon Bank, N.A., such payment to be in cash or if the Manufacturer and the Railroad shall mutually agree, by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Railroad shall determine and as may be reasonably satisfactory to the Manufacturer.

SECTION 15. SEPARATE ASSIGNMENTS BY MANUFACTURER.

It is contemplated that the Manufacturer will, coincidentally with the execution and delivery of this Agreement, assign certain of its rights under this Agreement, and all of its right, title and interest in and to the Equipment insofar as they relate to the Items of Equipment described in Schedules A-1 and A-2, respectively, to the separate Investors. It is desired by the parties hereto that this Agreement shall be deemed to be and shall be construed as a divisible and severable contract among the parties hereto and each such Investor shall upon such assignment be entitled to exercise all of the rights and remedies of the Manufacturer

in respect of the Items of Equipment covered by the separate assignment to such Investor, all to the same extent and with the same force and effect as though a separate agreement had been entered into by the parties hereto in respect of such Items of Equipment.

SECTION 16. DEFAULTS

16.1. In the event that any one or more of the following events of default ("Events of Default") shall occur and be continuing, to-wit:

(a) The Railroad shall fail to pay in full any sum payable by the Railroad when payment thereof shall be due under Section 3 or 6 hereof and such default shall continue for ten days; or

(b) The Railroad shall fail or refuse to comply with any covenant, agreement, term or provision of this Agreement on its part to be kept and performed or to make provision satisfactory to the Manufacturer for such compliance for more than 30 days after written notice from the Manufacturer specifying the default and demanding the same to be remedied; or

(c) Any representation or warranty made by the Railroad herein or in any statement or certificate furnished to the Manufacturer or any assignee of the Manufacturer pursuant to or in connection with this Agreement, the separate Agreements and Assignments dated as of August 2, 1978 or the separate Finance Agreements dated as of August 2, 1978 proves untrue in any material respect as of the date of issuance or making thereof; or

(d) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Railroad and (unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective but then only so long as such stay shall continue in force or such ineffectiveness shall continue) all the obligations of the Railroad under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees within 30 days after such appointment or 60 days after such petition shall have been filed, whichever shall be earlier; or

(e) Any other proceedings shall be commenced by or against the Railroad for any relief under any bankruptcy or insolvency laws, or laws relating to

the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder) and (unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective but then only so long as such stay shall continue in force or such ineffectiveness shall continue) all the obligations of the Railroad under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Railroad or for the property of the Railroad in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

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

then at any time after the occurrence and during the continuance of such an Event of Default the Manufacturer may, upon written notice to the Railroad and upon compliance with any legal requirements then in force and applicable to such action by the Manufacturer, declare the entire indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such declaration at the rate of 10-3/4% per annum to the extent legally enforceable, and the Manufacturer shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated.

16.2. The Manufacturer may waive any such Event of Default and its consequence and rescind and annul any such declaration by notice to the Railroad in writing to that effect. Upon any such waiver the respective rights of the parties shall be as they would have been if no such default had existed and no such declaration had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

possession of the Equipment as hereinbefore in this Section 17 provided) may at its election retain the Equipment as its own and make such disposition thereof as the Manufacturer shall deem fit (including, if the Manufacturer so elects, the leasing of the Equipment on such terms as it shall deem fit), and in such event all the Railroad's rights in the Equipment will thereupon terminate and, to the extent not prohibited by any mandatory requirements of law, all payments made by the Railroad may be retained by the Manufacturer as compensation for the use of the Equipment by the Railroad; provided, however, that if the Railroad within 21 days of receipt of notice of the Manufacturer's election to retain the Equipment for its own use, as hereinafter provided, shall pay or cause to be paid to the Manufacturer the total unpaid balance of the indebtedness in respect of the Purchase Price of all the Equipment, together with interest thereon accrued and unpaid and all other payments due by the Railroad under this Agreement, then in such event absolute right to the possession of, title to and property in such Equipment shall pass to and vest in the Railroad; or the Manufacturer, with or without the retaking of possession thereof, may, at its election, sell the Equipment, or any Item thereof, free from any and all claims of the Railroad, or of any other party claiming by, through or under the Railroad, at law or in equity, at public or private sale and with or without advertisement as the Manufacturer may determine; and the proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Manufacturer in taking possession of, removing, storing and selling the Equipment, shall be credited to the amount due to the Manufacturer under the provisions of this Agreement.

17.4. Any sale hereunder may be held or conducted at such place or places and at such time or times as the Manufacturer may specify, in one lot and as an entirety, or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Manufacturer may determine, provided that the Railroad shall be given written notice of such sale not less than 21 days prior thereto, by mail addressed as provided herein. If such sale shall be a private sale, it shall be subject to the rights of the Railroad to purchase or provide a purchaser, within 21 days after notice of the proposed sale price, at the same price offered in writing by the intending purchaser or a better price. In the event that the Railroad does not exercise said right to purchase or provide a purchaser for the Equipment, the Manufacturer may bid for and become the purchaser of the Equipment, or any Item thereof, so offered for sale without accountability to the Railroad (except to the extent of surplus money received as hereinafter provided in this Section), and in payment of the Purchase Price therefor the Manufacturer shall be entitled to have credited on account thereof all sums due to the Manufacturer from the Railroad hereunder.

17.5. 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.

17.6. All sums of money realized by the Manufacturer under the remedies herein provided shall be applied, first to the payment of the expenses and liabilities of the Manufacturer herein undertaken to be paid, second to the payment of the indebtedness in respect of the Purchase Price of the Equipment and third to the payment of interest on the indebtedness in respect of the Purchase Price of the Equipment accrued and unpaid. If, after applying as aforesaid all sums of money realized by the Manufacturer, there shall remain any amount due to it under the provisions of this Agreement, the Manufacturer may bring suit therefor and shall be entitled to recover a judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Manufacturer, there shall remain a surplus in the possession of the Manufacturer, such surplus shall be paid to the Railroad.

17.7. The Railroad 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.

17.8. The foregoing provisions of this Section are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

SECTION 18. APPLICABLE STATE LAWS.

18.1. 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 Railroad to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale agreement and enforced as such.

18.2. Except as otherwise provided in this Agreement, the Railroad, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell the

Equipment, or any Item thereof, and any other requirements as to the time, place and terms of sale thereof, and other requirements with respect to the enforcement of the Manufacturer's rights hereunder and any and all rights of redemption.

SECTION 19. EXTENSION NOT A WAIVER.

No delay or omission in the exercise of any power or remedy herein provided or otherwise available to the Manufacturer shall impair or affect the Manufacturer's right thereafter to exercise the same. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Manufacturer's rights or the obligations of the Railroad hereunder. The Manufacturer's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Railroad's obligations or the Manufacturer's rights hereunder with respect to any subsequent payments or defaults therein.

SECTION 20. RECORDING.

The Railroad will cause this Agreement, any assignment hereof and any supplements hereto and thereto to be filed, recorded or deposited and re-filed, re-recorded or re-deposited, if necessary, with the Interstate Commerce Commission, and otherwise as may be required by law or reasonably requested by the Manufacturer for the purpose of proper protection, to the satisfaction of counsel for the Manufacturer of its security title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Manufacturer certificates or other evidences of such filing, recording or depositing, and an opinion or opinions of counsel for the Railroad with respect thereto, satisfactory to the Manufacturer.

SECTION 21. NOTICE.

Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at the following specified addresses:

(a) to the Railroad: Lake Erie, Franklin & Clarion Railroad Company, P. O. Box 430, Clarion, Pennsylvania 16214, Attention: Vice President-Operations; and to Lake Erie, Franklin & Clarion Railroad Company, 316 Trust Company Building, Franklin, Pennsylvania 16323, Attention: President;

(b) to the Manufacturer: Greenville Steel Car Company, Greenville, Pennsylvania 16125, Attention: Treasurer;

(c) to the Investors:

- (1) Nationwide Life Insurance Company
One Nationwide Plaza
Columbus, Ohio 43216
Attention: Securities Investments-
Bond Department;
- (2) Unionmutual Stock Life Insurance Co.
of America
2211 Congress Street
Portland, Maine 04112
Attention: Investment Department;

(d) to any assignee of the Manufacturer, or of either Investor, or of the Railroad, at such address as may have been furnished in writing to the Railroad or the Manufacturer, or such Investor, as the case may be, by such assignee,

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

SECTION 22. HEADINGS

All section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

SECTION 23. EFFECT AND MODIFICATION OF AGREEMENTS.

This Agreement and the Schedule relating hereto, exclusively and completely state the rights and agreements of the Manufacturer and the Railroad with respect to the Equipment and supersede all other agreements, oral or written, with respect to the Equipment. No variation of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and duly executed on behalf of the Manufacturer and the Railroad.

SECTION 24. LAW GOVERNING.

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording and depositing hereof and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

SECTION 25. DEFINITIONS.

The term "Manufacturer", whenever used in this Agreement, means, before any assignment of any of its rights hereunder, Greenville Steel Car Company, and any successor or successors for the time being to the properties and business thereof, and, after any such assignment, any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained and excluded from any assignment.

SECTION 26. PAYMENT OF EXPENSES.

The Railroad will pay all reasonable costs, charges and expenses, except the counsel fees of the Manufacturer, but including the fees and expenses of special counsel for the Investors and including stamp and other taxes, if any, incident to the printing or other duplicating, execution, acknowledgment, delivery, filing or recording of this Agreement, of the first assignment, of any instrument supplemental to our amendatory of this Agreement or the first assignment, and of any certificate of the payment in full of the indebtedness in respect of purchase price due hereunder.

SECTION 27. CONSOLIDATION OR MERGER.

In case of any consolidation or merger to which the Railroad or the Manufacturer shall be a part, or in case of any sale of all or substantially all the assets of the Railroad or the Manufacturer, the corporation resulting from such consolidation or merger (if other than the Railroad or the Manufacturer) or the corporation which shall acquire such assets, shall expressly assume all obligations hereunder, not then performed, of the Railroad or the Manufacturer, as the case may be, and shall become entitled to all rights hereunder of the Railroad or the Manufacturer, as the case may be.

SECTION 28. INSURANCE.

The Railroad will at all times after delivery and acceptance of each Item of Equipment, at its own expense, keep or cause to be kept each such Item insured by a reputable insurance company or companies in amounts and against risks customarily insured against by other railroad companies on similar equipment. Such insurance may provide that losses shall be adjusted with the Railroad and shall provide that the proceeds thereof shall be payable to the Manufacturer and the Railroad as their interest shall appear. All proceeds of insurance received by the Manufacturer with respect to any Items of Equipment not suffering a Casualty Occurrence (as hereinafter defined) shall be paid to the Railroad upon proof satisfactory to the Manufacturer that any damage to any Item with respect to which such proceeds were paid has been fully repaired. Any such proceeds of insurance received by the Manufacturer with respect to a Casualty Occurrence

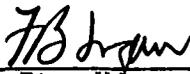
shall be credited toward the payment required by Section 6 with respect to such Casualty Occurrence.

SECTION 29. EXECUTION.

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

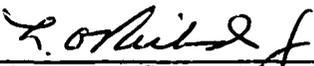
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by their officers or representatives, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

GREENVILLE STEEL CAR COMPANY

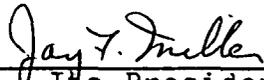
By 
Its Vice President

(Corporate Seal)

Attest:

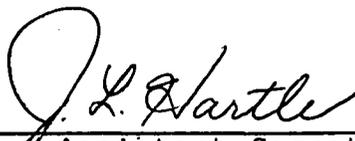

Assistant Secretary

LAKE ERIE, FRANKLIN & CLARION
RAILROAD COMPANY

BY 
Its President

(Corporate Seal)

Attest:


Assistant Secretary

SCHEDULE A-1
(to Conditional Sale Agreement)

Description of Equipment

MANUFACTURER:	Greenville Steel Car Company
PLANT OF MANUFACTURER:	Greenville, Pennsylvania
DESCRIPTION OF EQUIPMENT:	73 100-ton Coal Hopper Cars, bearing Railroad's Road Num- bers LEF 3681 through LEF 3753, both inclusive
SPECIFICATIONS:	H-3093
BASE PURCHASE PRICE (subject to change):	\$29,979.06 per Item (\$2,188,471.40 for 73 Items)
MAXIMUM PURCHASE PRICE:	\$33,485.53 per Item (\$2,444,444 for 73 Items)
DELIVERY TO:	Lake Erie, Franklin & Clarion Railroad Company
PLACE OF DELIVERY:	Greenville, Pennsylvania
ESTIMATED DELIVERY DATES:	August - September, 1978
OUTSIDE DELIVERY DATE:	September 30, 1978
VENDEE:	Lake Erie, Franklin & Clarion Railroad Company
ASSIGNEE OF MANUFACTURER:	Nationwide Life Insurance Company

SCHEDULE A-1
(to Conditional Sale Agreement)

Description of Equipment

MANUFACTURER: Greenville Steel Car Company

PLANT OF MANUFACTURER: Greenville, Pennsylvania

DESCRIPTION OF EQUIPMENT: 73 100-ton Coal Hopper Cars,
bearing Railroad's Road Num-
bers LEF 3681 through LEF 3753,
both inclusive

SPECIFICATIONS: H-3093

BASE PURCHASE PRICE (subject
to change): \$29,979.06 per Item (\$2,188,471.40
for 73 Items)

MAXIMUM PURCHASE PRICE: \$33,485.53 per Item (\$2,444,444
for 73 Items)

DELIVERY TO: Lake Erie, Franklin & Clarion
Railroad Company

PLACE OF DELIVERY: Greenville, Pennsylvania

ESTIMATED DELIVERY DATES: August - September, 1978

OUTSIDE DELIVERY DATE: September 30, 1978

VENDEE: Lake Erie, Franklin & Clarion
Railroad Company

ASSIGNEE OF MANUFACTURER: Nationwide Life Insurance
Company

SCHEDULE A-2
(to Conditional Sale Agreement)

Description of Equipment

MANUFACTURER:	Greenville Steel Car Company
PLANT OF MANUFACTURER:	Greenville, Pennsylvania
DESCRIPTION OF EQUIPMENT:	27 100-ton Coal Hopper Cars, bearing Railroad's Road Num- bers LEF 3754 through LEF 3780, both inclusive
SPECIFICATIONS:	H-3093
BASE PURCHASE PRICE (subject to change):	\$29,979.06 per Item (\$809,434.62 for 27 Items)
MAXIMUM PURCHASE PRICE:	\$33,950.59 per Item (\$916,666 for 27 Items)
DELIVERY TO:	Lake Erie, Franklin & Clarion Railroad Company
PLACE OF DELIVERY:	Greenville, Pennsylvania
ESTIMATED DELIVERY DATES:	August - September, 1978
OUTSIDE DELIVERY DATE:	September 30, 1978
VENDEE:	Lake Erie, Franklin & Clarion Railroad Company
ASSIGNEE OF MANUFACTURER:	Unionmutual Stock Life Insurance Co. of America

SCHEDULE A-2
(to Conditional Sale Agreement)

Description of Equipment

MANUFACTURER:	Greenville Steel Car Company
PLANT OF MANUFACTURER:	Greenville, Pennsylvania
DESCRIPTION OF EQUIPMENT:	27 100-ton Coal Hopper Cars, bearing Railroad's Road Numbers LEF 3754 through LEF 3780, both inclusive
SPECIFICATIONS:	H-3093
BASE PURCHASE PRICE (subject to change):	\$29,979.06 per Item (\$809,434.62 for 27 Items)
MAXIMUM PURCHASE PRICE:	\$33,950.59 per Item (\$916,666 for 27 Items)
DELIVERY TO:	Lake Erie, Franklin & Clarion Railroad Company
PLACE OF DELIVERY:	Greenville, Pennsylvania
ESTIMATED DELIVERY DATES:	August - September, 1978
OUTSIDE DELIVERY DATE:	September 30, 1978
VENDEE:	Lake Erie, Franklin & Clarion Railroad Company
ASSIGNEE OF MANUFACTURER:	Unionmutual Stock Life Insurance Co. of America