



BURLINGTON NORTHERN

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No. **8-363A015**

Date **DEC 29 1978**

Fee \$ **50.00**

ICC Washington, D. C.

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Assistant General Counsel

9974

RECORDATION NO. Filed 1425

DEC 29 1978 - 9 45 AM

INTERSTATE COMMERCE COMMISSION
December 27, 1978

Office of the Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Gentlemen:

There is submitted herewith, for filing with the Commission pursuant to 49 CFR 1116.1 et seq. five original counterparts of a Conditional Sale Agreement and Agreement and Assignment, dated as of January 1, 1979, by and among ACF Industries, Incorporated; Bethlehem Steel Corporation; General Electric Company; General Motors Corporation (Electro-Motive Division); General American Transportation Corporation and Pullman Incorporated and Burlington Northern Inc.

Enclosed is check payable to the order of the Commission for \$50.00 in payment of the recordation.

The names and addresses of the parties to the above Conditional Sale Agreement and Agreement and Assignment and the respective capacities of said parties thereto are as follows:

Vendors - Manufacturers: ACF Industries, Incorporated
750 Third Avenue
New York, N.Y. 10017

Bethlehem Steel Corporation
Bethlehem, PA 18016

General Electric Company
2901 East Lake Road
Erie, PA 16501

General Motors Corporation
(Electro Motive Division)
LaGrange, IL 60525

Paul Snyder
Stanley

FEE OPERATION BR.
I.C.C.

DEC 29 9 36 AM '78

RECEIVED

GATX
120 South Riverside Plaza
Chicago, IL 60680

Pullman Standard Division
Pullman, Inc.
200 South Michigan Avenue
Chicago, IL 60604

Vendee: Burlington Northern Inc.
176 E. Fifth Street
St. Paul, Minnesota 55101

Agent - Assignee: Citibank, N.A.
Surface Transportation Department
399 Park Avenue
New York, N.Y. 10043

A general description of the equipment covered by the enclosed Conditional Sale Agreement and Agreement and Assignment is as follows:

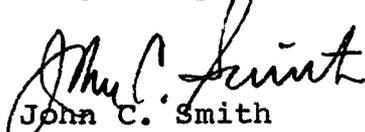
Each unit of the above-described equipment will have marked on both sides thereof in letters not less than one inch in height:

"Unit Subject to Security Interest of the Agent
Bank Under Conditional Sale Agreement Recorded
With the I.C.C."

Such equipment will also be lettered "Burlington Northern Inc.", "BNI", or "BN", or in some other appropriate manner for the purpose of identification of the interest of Burlington Northern Inc. therein.

Please return to the individual presenting these documents for recordation, Ms. Carolyn H. Kunkel, four of the enclosed documents, stamped and bearing notation as provided in 49 CFR 1116.5.

Very truly yours,


John C. Smith
Associate General Counsel

JCS:jt
Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

12/29/78

OFFICE OF THE SECRETARY

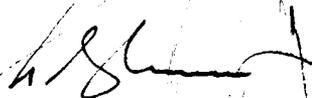
John C. Smith
Associate General Counsel
Burlington Northern Inc.
176 East Fifth Street
St. Paul, Minnesota 55101

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 12/29/78 at 9:45am and assigned recordation number(s) 9974

Sincerely Yours,



H.G. Homme, Jr.,
Secretary

Enclosure(s)

SE-30-T
(2/78)

9974

RECORDATION NO. Filed 1425

DEC 29 1978 -9 45 AM

[Execution Copy]

INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

CONDITIONAL SALE AGREEMENT dated as of January 1, 1979 among ACF INDUSTRIES, INCORPORATED, a New Jersey corporation (hereinafter called ACF), BETHLEHEM STEEL CORPORATION, a Delaware corporation (hereinafter called Bethlehem), GENERAL ELECTRIC COMPANY, a New York corporation (hereinafter called General Electric), GENERAL MOTORS CORPORATION (Electro-Motive Division), a Delaware corporation (hereinafter called General Motors), GENERAL AMERICAN TRANSPORTATION CORPORATION, a New York corporation (hereinafter called GATX), and PULLMAN INCORPORATED, a Delaware corporation (hereinafter called Pullman) (the foregoing companies being hereinafter collectively called the Manufacturers, or severally, a Manufacturer) and BURLINGTON NORTHERN INC. (the "Railroad").

WHEREAS, each Manufacturer is willing to construct, sell and deliver to the Railroad, and the Railroad is willing to purchase, the railroad equipment to be built by such Manufacturer as described in Schedules A, B, C, D, E and F attached hereto (collectively the "Equipment" or "Items" and individually "Item of Equipment" or "Item"); and

WHEREAS, except as otherwise provided in Section 3.1 hereof, each Manufacturer and the Railroad have agreed that this Agreement shall exclusively and completely state the rights of such Manufacturer and the Railroad with respect to the Equipment and shall supersede all other agreements, oral or written, with respect to the Equipment; and

WHEREAS, it is proposed that Hayden-Murphy Equipment Company, Transportation Products Company, LeTourneau Rail Services Inc., and Raygo Wagner Equipment Company enter into a Conditional Sale Agreement dated as of the date hereof (such Conditional Sale Agreement, when and if signed, being hereinafter called the "Other Agreement") with the Railroad covering railroad equipment as described in the Schedules attached thereto;

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

SECTION 1. CONSTRUCTION AND SALE.

Each Manufacturer will construct, sell and deliver to the Railroad, and the Railroad will purchase from

such Manufacturer and accept delivery of and pay for as hereinafter provided, those Items of Equipment which are indicated on Schedules A, B, C, D, E and F attached hereto to be constructed and sold by such Manufacturer, each Item of which shall be constructed in accordance with the applicable specifications referred to in said Schedules A, B, C, D, E and F with such modifications thereof as may be agreed upon in writing by the Railroad and the Manufacturer thereof (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design and quality of equipment and material used in the manufacture of such Items shall conform to all Department of Transportation and Interstate Commerce Commission requirements and specifications for new equipment in effect on the date such Items are delivered hereunder, and to all Rules of the Association of American Railroads, applicable to new railroad equipment of the character of such Items as of the date of this Agreement.

SECTION 2. DELIVERY.

2.1. Each Manufacturer will deliver the various Items of Equipment to be manufactured by it to the Railroad in accordance with the delivery schedule set forth in Schedules A, B, C, D, E and F attached hereto; provided, however, that the Manufacturers shall have no obligation to deliver any Item of Equipment hereunder if an Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute an Event of Default, has occurred and is continuing.

2.2. Each Manufacturer's obligation as to time of delivery is subject, however, to delays resulting from causes beyond such 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.

2.3. Notwithstanding the foregoing provisions, any Item of Equipment not delivered and accepted on or before the outside delivery date provided therefor in Schedules A, B, C, D, E and F 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 of such excluded Item of Equipment shall

remain obligated to construct, sell and deliver to the Railroad, and the Railroad shall remain obligated to purchase from such Manufacturer, accept delivery of and pay for, any such Item of Equipment thus excluded from this Agreement, and the Railroad and such Manufacturer shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not excluded herefrom, and such Manufacturer and the Railroad shall further execute a separate agreement providing for the sale of such excluded Equipment by such 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 such Manufacturer.

2.4. The Equipment during construction shall be subject to inspection by one or more inspectors or other authorized representatives of the Railroad. Upon completion of each Item of Equipment by the Manufacturer thereof, 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 such 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. Such Certificate of Acceptance shall be conclusive evidence that the Items of Equipment covered thereby have been delivered to the Railroad and conform to the Specifications and are acceptable to the Railroad in all details; provided, however, that the Manufacturer of such Items of Equipment shall not be relieved of its warranties.

2.5. The Manufacturer of each Item of Equipment shall bear the risk of loss of each Item of Equipment or damage thereto until delivery (at such place as specified in such Manufacturer's Schedule attached hereto) to and acceptance by the Railroad. Upon such delivery to and acceptance by the Railroad of each such Item of Equipment the Railroad shall bear the risk of loss of or damage to such Item.

SECTION 3. PURCHASE PRICE AND PAYMENT.

3.1. The base price per Item of Equipment, including freight charges, if any, to place of destination, but exclusive of interest and all other charges, is as set forth in Schedules A, B, C, D, E and F attached hereto. The base price per Item of Equipment shall be subject to increase or decrease (a) as may have been agreed to by the Manufacturer thereof and the Railroad in accordance with agreements, if any, providing for price escalations heretofore entered into, which agreements shall remain in effect for the limited purpose of determining the price of the Equipment between the Railroad and the Manufacturer under this Section 3.1 or (b) as may be agreed to in writing by the Manufacturer thereof and the Railroad, and the term "Purchase Price" as used herein shall mean the base price as so increased or decreased.

3.2. For the purpose of making settlement for the Equipment, the Equipment hereunder and under the Other Agreement shall be divided into not more than 20 groups of Items of Equipment, or such other number as shall be agreed to by the parties hereto (each such group of Items being hereinafter called a "Group").

3.3. The Railroad hereby acknowledges itself to be indebted to the respective Manufacturers in the amount of, and hereby promises to pay to the respective Manufacturers at such bank or trust company in the United States as each of the Manufacturers or its assignee shall designate for payment to it in funds immediately available at such place of payment, the Purchase Price of the Equipment (hereinafter sometimes referred to as the "Conditional Sale Indebtedness") in installments as follows:

(a) On July 1, 1979 and on each January 1 and July 1 thereafter, an installment of interest accrued on the unpaid portion of the Conditional Sale Indebtedness from time to time outstanding until the same shall have become due and payable, at a fluctuating interest rate per annum equal at all times to 108% of the Alternate Base Rate (defined below) in effect from time to time;

(b) On January 1, 1983 and on each January 1 thereafter to and including January 1, 1987, in addition to the installment of interest then

payable, an installment equal to \$8,600,000; provided, however, that in no event shall an installment made under this subsection (b) be in excess of the entire principal balance remaining unpaid as of the date of such installment; and

(c) On January 1, 1988, in addition to the installment of interest then payable, an installment equal to the entire principal balance, if any, remaining unpaid as of said date.

Each change in the fluctuating interest rate hereunder shall take effect simultaneously with the corresponding change in the Alternate Base Rate. As used herein the term "Alternate Base Rate" means a fluctuating interest rate per annum as shall be in effect from time to time from the date hereof until the principal amount hereof is paid in full, which rate per annum shall at all times be equal to the higher of:

(i) The base rate of Citibank, N.A. on 90-day loans to responsible and substantial commercial borrowers in effect from time to time; or

(ii) 1/2 of one percent above the latest three-week moving average interest rate payable on 90 to 119 day dealer-placed commercial paper as published weekly by the Federal Reserve Bank of New York or, if such publication shall be suspended or terminated, such three-week moving average interest rate determined weekly by Citibank, N.A. on the basis of quotations received by it from three New York commercial paper dealers of recognized standing, in either case adjusted to the nearest 1/4 of one percent, or, if none, to the next higher 1/4 of one percent.

3.4. Upon payment in full of the Conditional Sale Indebtedness and interest thereon and any and all other amounts owing hereunder and under the Other Agreement, the Manufacturers hereunder and under the Other Agreement will refund to the Railroad an amount equal to the excess, if any, of the aggregate of all interest actually paid by the Railroad under Section 3.3(a) hereof and of the Other Agreement over the aggregate amount which the Railroad would have paid if the interest rate hereunder and under the Other Agreement had been a fixed rate of 10-1/2% per annum; provided, however, that for the purposes of the foregoing calculation the following interest shall be excluded: (i) all interest paid for any period on any principal amount

prepaid pursuant to Section 3.10 hereof or of the Other Agreement; (ii) all interest paid for any period on any principal prepaid pursuant to clause (i) of the first sentence of Section 6.2 hereof or of the Other Agreement to the extent that such principal was prepaid with funds paid by the Railroad under Section 6.1 hereof or of the Other Agreement as the Depreciated Value (as defined in Section 6.3) of Items of Equipment the aggregate Purchase Price of which Items exceeded \$10,000,000, computed on a cumulative basis with respect to all such Items the Depreciated Value of which was from time to time paid under Section 6.1 hereof and of the Other Agreement and applied to the prepayment of principal; and (iii) all interest paid for any period on overdue principal, whether overdue by acceleration or otherwise. If this Agreement is assigned as contemplated by Section 14.4 and if the Agent (as defined in Section 14.4) shall participate to other investors interests hereunder and such investors shall agree to pay to the Agent portions of the refund required to be paid to the Railroad as above provided, then, in such case, the Agent shall be obligated to pay such portions of the refund to the Railroad only to the extent, if any, that such investors pay such portions to the Agent.

3.5. The term "Closing Date" with respect to each Group shall mean such date not later than March 31, 1980 which is not more than twenty business days following presentation, by the Manufacturers of the Items of Equipment included in such Group, to the Railroad of the invoice, or invoices, and the Certificate or Certificates of Acceptance with respect to such Group, as shall be fixed by the Railroad by written or telegraphic notice delivered to such Manufacturer or Manufacturers and any assignee thereof at least five business days prior to the Closing Date designated therein.

3.6. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and holidays on which banks in the State of New York are authorized or required to close. If any date on which a payment is to be made hereunder is not a business day, the amount otherwise payable on such date shall be payable on the next succeeding business day, and no interest on such amount shall accrue for the period from and after the nominal date for payment thereof to such next succeeding business day.

3.7. Interest under this Agreement shall be determined on a basis of a year of 365 or 366 days, as the case may be, for the actual number of days (including the first day but excluding the last day) elapsed.

3.8. The Railroad will pay interest, payable on demand, on all unpaid balances of indebtedness, after the same shall have become due and payable pursuant to the terms hereof (whether at stated maturity, by acceleration or otherwise), at a fluctuating interest rate per annum equal at all times to one percent per annum above 108% of the Alternate Base Rate in effect from time to time.

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

3.10. The Railroad may, upon at least five business days' notice to the Manufacturers, prepay the Conditional Sale Indebtedness in whole or in part with accrued interest to the date of such prepayment on the amount prepaid, provided that each partial prepayment shall be in an amount (exclusive of interest) equal to \$100,000 or an integral multiple thereof and shall be applied to the installments in the inverse order of their maturities.

3.11. If this Agreement shall be assigned as contemplated by Section 14.4, the Railroad agrees to pay to the Agent a commitment fee at the rate of 1/2 of 1% per annum on the unused portion of the aggregate \$65,300,000 commitment arranged by the Agent to finance the purchase of the Equipment hereunder and under the Other Agreement, computed from December 15, 1978 to the earlier of the final Closing Date hereunder and under the Other Agreement or March 31, 1980, payable quarter annually for the period just ended on the first day of each calendar quarter, commencing March 1, 1979, and on the earlier of the final Closing Date hereunder and under the Other Agreement or April 1, 1980.

SECTION 4. TITLE TO THE EQUIPMENT.

4.1. Each Manufacturer shall and hereby does retain the full legal title to and property in the Equipment built by it until the Railroad 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 Railroad 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 terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

4.2. When and only when the Manufacturers shall have been paid in full the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon and all other payments as herein provided, and all the Railroad's other obligations herein contained shall have been performed, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Manufacturers except that each Manufacturer, if requested by the Railroad so to do, will execute a bill or bills of sale of the Equipment transferring such Manufacturer's title thereto and property therein to the Railroad or upon its order free of all liens and encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address specified in Section 21 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 Railroad to the Equipment, and will pay to the Railroad any money paid to such Manufacturer pursuant to Section 6 hereof and not theretofore applied as therein provided. The Railroad hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale to file such certificate within a reasonable time after written demand by the Railroad.

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, B, C, D, E and F 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 "Unit Subject to Security Interest of the Agent Bank under Conditional Sale Agreement Recorded with the 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 title of the Manufacturer thereof 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 and will replace promptly any such names and word or words which may be removed, defaced, obliterated or destroyed. The Railroad will not change the road number of any Item of Equipment except with the consent of the Manufacturer thereof and 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, 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 for 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 or rendered permanently unfit for use from any cause whatsoever (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 30 days after a responsible officer of the Railroad shall have received notice that such Item of Equipment has suffered a Casualty Occurrence, but in no event later than 180 days after such Item of Equipment has suffered a Casualty Occurrence, fully inform the Manufacturers in regard thereto. Whenever from time to time the total Depreciated Value (as defined in Section 6.3) of Items of Equipment hereunder and under the Other Agreement which have suffered a Casualty Occurrence (exclusive of Items of Equipment having suffered a Casualty Occurrence with respect to which payments or replacements shall have been made to the Manufacturers pursuant to this Section 6 or Section 6 of the Other Agreement) shall exceed \$500,000 (or such lesser amount as the Railroad shall elect), the Railroad shall, within 30 days of such event, pay the Manufacturers and the Manufacturers under the Other Agreement a sum equal to the aggregate Depreciated Value, as of such date of payment, of such Items of Equipment under this Agreement and under the Other Agreement; provided, however, that if prior to the date such payment is required to be made the Railroad, at its election, shall have transferred, in accordance with Section 6.6, to the Manufacturers hereunder or under the Other Agreement, title to a replacement Unit or Units of Equipment meeting the requirements of clause (iii) of Section 6.2, then, in such case, there shall be deducted from the amount of such payment an amount equal to the aggregate Depreciated Value, as of such date of payment, of all such replacement Items of Equipment. The Railroad shall file with the Manufacturers a certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad setting forth the Depreciated Value, as of such date of payment, of each Item of Equipment suffering a Casualty Occurrence.

6.2. Any money paid to the Manufacturers 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 Manufacturers, either (i) to prepay indebtedness in respect of the Purchase Price of the Equipment hereunder or under the Other Agreement, (ii) 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 Schedules A, B, C, D, E and F 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 or (iii) to be released to the Railroad against transfer, in accordance with Section 6.6, to the Manufacturers of title to an Item or Items of used standard gauge railroad equipment which shall be free of all liens and charges except as permitted by Section 10 and shall be of the same character as the Equipment described in Schedules A, B, C, D, E and F hereto (or of such other character as may be acceptable to the Manufacturers) to replace such Item or Items of Equipment having suffered a Casualty Occurrence. In case any such money shall be applied to prepay indebtedness, it shall be so applied, on such date as the Railroad shall specify in such written direction, to prepay without penalty or premium (except as provided in clause (ii) of the first sentence of Section 3.4), the unpaid balance of the principal installments of the Purchase Price of the Equipment hereunder and under the Other Agreement thereafter falling due in the inverse order of the maturity of such installments and ratably as between such installments due hereunder and under the Other Agreement. In case of replacement pursuant to clause (ii) of the first sentence of this Section 6.2, the amount to be paid by the Manufacturers 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 Manufacturers, and the Railroad shall pay any additional cost of such Item. Under no circumstance shall Manufacturers be required under this Section 6.2 to make prepayments or to pay for replacements except out of funds paid to Manufacturers pursuant to Section 6.1 hereof. In the case of any replacement pursuant to clause (ii) of the first sentence of this Section 6.2, the Purchase Price of such replacing Item shall for the purpose of this Agreement be the amount of money advanced by the Manufacturers in payment therefor, but shall not include any portion of the cost thereof paid by the Railroad. 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 Manufacturers 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. In the case of each release of money to the Railroad pursuant to clause (iii) of the first sentence of this Section 6.2, the amount of money so released shall be equal to the Depreciated Value, as of the date such money was paid to the Manufacturers pursuant to Section 6.1, of the used replacement Item or Items transferred to the Manufacturers pursuant to said clause (iii), as the amount of such Depreciated Value shall be certified to by the Railroad in connection with such release as provided in Section 6.6.

6.3. The "Depreciated Value" as of any date of determination of any original or replacement Item of Equipment shall mean the purchase price paid for such Item when new depreciated to such date of determination on a straight line basis from the date such Item was originally delivered by the manufacturer thereof to a residual value of zero, computed at the rate of 6.667% of such purchase price per year pro rated on a daily basis. For the purpose of computing the Depreciated Value of any Item of Equipment which has suffered a Casualty Occurrence, such Depreciated Value shall be computed on a daily basis to the date of the occurrence of such Casualty Occurrence.

6.4. So long as no Event of Default shall have occurred and be continuing, any money paid to the Manufacturers pursuant to this Section 6 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in (i) such direct obligations of the United States of America or any agency or instrumentality thereof or obligations for which the faith of the United States is pledged to provide for the payment of principal and interest or (ii) commercial paper or finance company paper rated "A-1" or "P-1" or their equivalent by Standard & Poor's Corporation or a comparable national rating agency or (iii) obligations issued or guaranteed by any state of the United States or the District of Columbia or any political subdivision of any such state or district rated "AA" or better by a national rating service, or (iv) repurchase agreements fully secured by any one or more of the obligations referred to in clause (i) above, or (v) in certificates of deposit issued by or bankers' acceptances drawn on and accepted by commercial banks in the United States of America which are members of the Federal Reserve System having total assets aggregating at least \$200,000,000, in each case maturing in not more than one year from the date of such investment (all such investments being hereinafter called "Investments"), as may be specified in such written direction. Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest or earned discount received by the Manufacturers on any Investments shall be held by the Manufacturers and applied as herein provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus any interest received by the Manufacturers thereon, up to the cost (including accrued interest or earned discount) thereof, shall be held by the Manufacturers for application pursuant to this Section 6, and any excess shall be paid to the Railroad. If such pro-

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

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 replacements 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 Manufacturers 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 applicable law and the deposit with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and publication of notice of such deposit in The Canada Gazette in accordance with said Section 86 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 Manufacturers 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 Manufacturers, 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 the like manner as the Manufacturers are in respect of the original Equipment delivered hereunder.

6.6. Whenever the Railroad shall file with the Manufacturers, 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 or to release money to the Railroad against transfer of title to the Manufacturers of a replacing Item of used standard gauge railroad equipment, or whenever the Railroad shall transfer title to the Manufacturers of such a replacing Item of used standard gauge railroad equipment

pursuant to Section 6.1, the Railroad shall file with the Manufacturers in such number of counterparts as may reasonably be requested:

(a) a certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad certifying: (i) if such replacing Item is a new, unused Item, that such Item is new standard gauge railroad equipment (other than work or passenger equipment) and has been plated or marked as required by the provisions of this Section 6 and certifying the cost of such replacing Item, the amount which such replacing Item would have cost if acquired on the earliest date when any such money was paid to the Manufacturers and that the cost thereof does not exceed the fair value of such Item and that such replacing Item have a quality and value and utility at least equal to the Item or Items replaced; and (ii) if such replacing Item is a used Item, that such Item is used standard gauge railroad equipment (other than work or passenger equipment) and has been plated and marked as required by the provisions of this Section 6 and certifying the Depreciated Value of such Item, as of the earliest date any such money was paid to the Manufacturers, and that such replacing Item is of the character required by the terms of clause (iii) of the first sentence of Section 6.2;

(b) an opinion of counsel for the Railroad that title to each replacing Item is vested in the Manufacturers free and clear of all liens and encumbrances, and that such Item has come under and become subject to this Agreement; and

(c) a bill of sale in favor of the Manufacturers or their assignee covering such replacement Item from, if a new Item, the manufacturer thereof or, if a used Item, the Railroad.

6.7. In the event that any moneys paid to, or held by, the Manufacturers pursuant to this Section 6 are applied to the prepayment of indebtedness in respect of the Purchase Price, the Railroad will pay to the Manufacturers 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 Manufacturers pursuant to this Section 6 shall be applied by the Manufacturers 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 Manufacturers shall upon request of the Railroad, provided the Railroad shall then be in compliance with the terms of this Section 6, execute and deliver to the Railroad or the Railroad's vendee, assignee or nominee, a bill of sale (without warranties) for such Equipment, and such other documents as may be required to release such Equipment from the terms and scope of this 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.

6.10. The Railroad represents and warrants that not more than \$3,000,000 in aggregate Purchase Price of Items of Equipment under this Agreement and under the Other Agreements constitutes Equipment which is not operable on railroad tracks; and the Railroad agrees that no purchase of new Equipment or replacement of used Equipment under this Section 6 or Section 6 of the Other Agreement will at any time result in a greater proportion of all Equipment hereunder and under the Other Agreement (computed on the basis of Depreciated Value as of such time) constituting Equipment not operable on railroad tracks than the ratio of \$3,000,000 to \$65,300,000.

SECTION 7. TAXES.

All payments to be made by the Railroad hereunder will be free of expense to the Manufacturers for collection or other charges and will be free of expense to the Manufacturers 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 other amounts payable by it pursuant to this Agreement. 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 Manufacturers 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 Manufacturers 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 Manufacturers, adversely affect the property or rights of the Manufacturers hereunder. If any such expenses, taxes, assessments, licenses, charges, fines or penalties shall have been charged or levied against the Manufacturers directly and paid by the Manufacturers, the Railroad shall reimburse the Manufacturers on presentation of an invoice therefor; provided, however, that the Railroad shall not be obligated to reimburse the Manufacturers for any expenses, taxes, assessments, licenses, charges, fines or penalties so paid unless the Manufacturers shall have submitted notice in writing to the Railroad at least one business day in advance of payment thereof.

SECTION 8. REPORTS AND INSPECTIONS.

8.1. On or before April 1 in each year, commencing with the year 1980, the Railroad will furnish to the Manufacturers an accurate statement, as of the preceding

December 31, (a) showing the amount, description and road numbers of the Items of Equipment then subject to this Agreement, the amount, description and road 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 the Manufacturers may reasonably request, and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the markings required by Section 5.1 hereof shall have been preserved or replaced.

8.2. In addition to the statements described in Section 8.1 above, the Railroad will furnish to the Manufacturers: (i) as soon as available and in any event within 120 days after the end of each fiscal year of the Railroad, a copy of the annual report for such year for the Railroad, containing financial statements for such year certified in a manner acceptable to the Manufacturers by independent public accountants acceptable to the Manufacturers; (ii) promptly after the sending or filing thereof, copies of all reports which the Railroad sends to any of its security holders, and copies of all reports and registration statements which the Railroad files with the Securities and Exchange Commission or any national securities exchange; (iii) as soon as possible and in any event within 30 days after a Casualty Occurrence, a statement showing the amount, description and road numbers of all Items of Equipment that suffered such Casualty Occurrence; and (iv) such other information respecting the condition or operations, financial or otherwise, of the Railroad as the Manufacturers may from time to time reasonably request.

8.3. The Manufacturers shall have the right, at their sole cost and expense by their 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 Manufacturers 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 no Event of Default has occurred and is continuing under this Agreement, shall have absolute right, from and after delivery of the Equipment

by the Manufacturers to the Railroad, to the possession of the Equipment and the use thereof upon the railroad lines owned or operated by it either alone or jointly with another and whether under lease or otherwise, or upon the railroad lines owned or operated by any railroad company controlled by or controlling the Railroad, or over which it has trackage rights, and the Equipment may also be used upon connecting and other railroads in the usual interchange of traffic or leased to other railroads, from and after delivery of the Equipment by the Manufacturers to the Railroad; provided, however, that such use and lease shall be subject to all the terms and conditions of this Agreement and that the Railroad shall not assign or permit the assignment of any Item of Equipment to service involving the regular operation and maintenance thereof outside the continental United States. The Railroad agrees that it will not permit at any time more than 2% in aggregate Depreciated Value, as of such time, of the Items of Equipment hereunder and under the Other Agreement to be located in Mexico.

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, suitable for use in interchange. The Railroad shall not modify any Item of Equipment without the written authority and approval of the Manufacturers which approval shall not be unreasonably withheld, provided that no such approval shall be necessary 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 Manufacturers, without cost or expense to the Manufacturers.

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 Manufacturers, 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 Manufacturers, adversely affect the property or rights of the Manufacturers hereunder.

10.2. The covenant of Section 10.1 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 or other liens arising in the ordinary course of business and 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. COMPLIANCE WITH 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, the Interstate Commerce Commission, and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the 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 Manufacturers, adversely affect the property or rights of the Manufacturers hereunder.

SECTION 12. INDEMNITIES.

12.1. The Railroad agrees to indemnify, protect and hold harmless the Manufacturers against all losses, damages, injuries, liabilities, claims and demands whatso-

ever, 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 Manufacturers of security title to the Equipment, or out of the use and operation thereof during the period when security title thereto remains in the Manufacturers. This covenant of indemnity shall continue in full force and effect notwithstanding payment in full of the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and the conveyance of the Equipment, as provided in Section 4.2 hereof, or the termination or assignment of this Agreement in any manner whatsoever; provided, that any assignee under Section 14 hereof shall receive the full benefit of this Section 12.1 notwithstanding the retention by the Manufacturers of their rights hereunder.

12.2. The Railroad, after delivery to and acceptance by the Railroad pursuant to Section 2.5 hereof of each Item of Equipment, 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 such Item of Equipment.

12.3. The warranties of each Manufacturer with respect to defects in material or workmanship of the Items of Equipment to be built by such Manufacturer are set forth in Schedules A, B, C, D, E and F hereto.

SECTION 13. PATENT INDEMNITIES.

13.1. Except in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by a Manufacturer, and articles and materials specified by the Railroad and not manufactured by a Manufacturer, each 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 such Manufacturer, of any design, article or material which infringes or is claimed to infringe on or to constitute contributory infringement with respect to any patent or other right. The Railroad likewise will indemnify, protect and hold harmless each 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 such Manufacturer because of the use in or about the construction or operation of any Item of Equipment to be built by such Manufacturer, of any

design, systems, processes, formulae and combinations specified by the Railroad and not developed or purported to be developed by the Manufacturer, or any article or material specified by the Railroad and not manufactured by the Manufacturer, which infringes or is claimed to infringe on or 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 any similar right in respect of which liability may be charged against a Manufacturer, and the use of any Item of Equipment to be built by such Manufacturer is enjoined, such 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 noninfringing equipment or modify it so that it becomes noninfringing, or remove the infringing portion of such Item of Equipment and refund the purchase price and the transportation and installation costs of such portion. Without intending any limitation of the foregoing, each 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 Railroad every claim, right and cause of action which such 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 such Manufacturer for use in or about the construction or operation of the Items of Equipment to be built by such Manufacturer 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 each Manufacturer further agrees to execute and deliver to the Railroad all and every such further assurance as may be reasonably requested by the Railroad, more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. Each Manufacturer will give notice to the Railroad of any claim known to such Manufacturer from which liability may be charged against the Railroad hereunder and the Railroad will give notice to each Manufacturer of any claim known to it from which liability may be charged against such Manufacturer hereunder.

13.2. The patent indemnity set forth in Section 13.1 shall not be applicable to General Electric, and the following patent indemnity shall be applicable instead: Except in cases of designs specified by the Railroad and not developed or purported to be developed by General Electric, and articles and materials specified by the Railroad and not manufactured by General Electric, General Electric warrants for itself that Equipment furnished hereunder, and any part thereof, shall be delivered free of any rightful claim of any third party for infringement of any United States patent. If notified promptly in writing and given authority, information and assistance, General Electric shall defend, or may settle, at its expense, any suit or proceeding against the Railroad so far as based on a claimed infringement which would result in a breach of this warranty and General Electric shall pay all damages and costs awarded therein against the Railroad due to such breach. In case any Equipment or part thereof is in such suit or proceeding found to constitute such an infringement and the use of such Equipment or part thereof is enjoined, General Electric shall, at its expense and option, either procure for the Railroad the right to continue using said Equipment or part thereof or replace same within six months of such injunction with non-infringing Equipment or part thereof acceptable to the Railroad, or modify same so it becomes non-infringing, or remove the Equipment or part thereof and refund the Purchase Price (less reasonable depreciation for any period of use) and any transportation costs separately paid by the Railroad but in each case without impairing the operational capability of such Equipment. The preceding shall not apply to the use of any Equipment or part thereof furnished hereunder in conjunction with any other product in a combination not furnished by General Electric as a part of this transaction. As to any such combination, General Electric assumes no liability whatsoever for patent infringement and the Railroad will hold General Electric harmless against any infringement claims arising therefrom. General Electric will give notice to the Railroad of any claim known to General Electric from which liability may be charged against the Railroad hereunder and the Railroad will give notice to General Electric of any claim known to them from which liability may be charged against General Electric hereunder.

13.3 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, to the extent that it may effectively do so under applicable law, covenants not to sell, assign, transfer or otherwise dispose of all or any 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 Manufacturers. An assignment or transfer to a railroad company or other purchaser (including a successor corporation by consolidation or merger) which shall acquire all or substantially all the railroad lines of the Railroad, and which by execution of an appropriate instrument satisfactory to the Manufacturers 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 Manufacturers under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Manufacturers and reassigned by an assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve any Manufacturer from, any of the obligations of such 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 (subject always to any DISCLAIMER OF IMPLIED WARRANTIES and limitation of remedies) and 13 hereof, or relieve the Railroad of its obligations to the Manufacturers hereunder or any other obligation which, according to its terms and context, is intended to survive an assignment.

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 Manufacturers' 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 Manufacturers are executing and delivering an Agreement and Assignment dated as of the date hereof (the "Assignment") among the Manufacturers and Citibank, N.A., as agent and assignee (the "Agent"), pursuant to which the Manufacturers are assigning certain of their respective rights and interests hereunder. The Railroad expressly acknowledges and agrees with the Agent and its successors and assigns, for the purpose of inducing the execution and delivery of the Assignment by the Agent and its advance to the Manufacturers in consideration therefor of an amount equal to the aggregate Purchase Price of the Equipment, that the rights of the Agent and its successors and assigns to the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, or any part thereof as so assigned, as well as all other rights hereunder so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever, whether arising out of any breach of any obligation of any Manufacturer in respect of the Equipment or the manufacture, construction, 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 whenever arising, at any time owing to the Railroad by any 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 an intentionally wrongful act on the part of the Agent or its successors and assigns, the Railroad shall be unconditionally and absolutely obligated to pay the Agent the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, all in the manner and upon the dates set forth in Section 3 hereof. Any and all such obligations, if any and howsoever arising, shall be and remain enforceable by the Railroad against and only against the Manufacturers. Nothing contained in this Section 14.4 is intended to expand the scope of the Manufacturers' warranties which are always subject to the DISCLAIMERS OF IMPLIED WARRANTIES and limitations of remedy set forth therein.

14.5. In the event of any such assignment, or successive assignment, by the Manufacturers of security title to the Equipment and of the Manufacturers' 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 specified 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 Agent (or to any successor assignee of the Agent) 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 of the Agent) 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 such Group, all documents required by the terms of such assignment to be delivered to the assignee in connection with such settlement, in such number of counterparts as may reasonably be requested, except for any opinion of counsel for the assignee.

14.7. If this Agreement shall have been assigned by any of the Manufacturers or all of the Manufacturers (hereafter collectively called the "Assigning Manufacturers" and severally called an "Assigning Manufacturer"), and the assignee shall not, whether by reason of an insufficiency of funds or otherwise, make payment to an Assigning Manufacturer on the Closing Date with respect to any Item of Equipment manufactured by such Assigning Manufacturer and designated for settlement on such Closing Date of an amount equal to that portion of the Purchase Price of such Item of Equipment as provided in the instrument of assignment, such Assigning Manufacturer will promptly notify the Railroad of such event, such Item of Equipment shall be excluded from settlement on such Closing Date but fully preserving such Assigning Manufacturer's security title to such Item in a manner acceptable to such Assigning Manufacturer and the Railroad shall not later than 60 days after such Closing Date pay or

cause to be paid to such Assigning Manufacturer the Purchase Price of all such Items of Equipment, or the portion thereof unpaid by the assignee, such payment to be in cash, together with interest for the period from and including the Closing Date on which settlement was to have been made to but not including the deferred date of payment of the Purchase Price under this Section 14.7 at a rate per annum equal to the Alternate Base Rate in effect on such Closing Date, or, if such Assigning 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 such Assigning Manufacturer.

(d) Prior to October 1, 1979, 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 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) On or after October 1, 1979 a case shall be commenced under subchapter IV of chapter 11 of Public Law 95-598, 11 U.S.C. 1161 et seq. (as said Law may be amended from time to time) by or against the Railroad and (unless such case shall within 30 days from the commencement thereof be dismissed, nullified, stayed or otherwise rendered ineffective, but then only so long as such stay shall continue in force or such ineffectiveness shall continue) either (i) the trustee or trustees in such proceeding, with the approval of the court having jurisdiction, shall not have agreed in writing, within the period specified in section 1168(a)(1) of said Law, to perform all obligations of the Railroad under this Agreement or (ii) any Event of Default (other than under this paragraph (e)) occurring prior to or at any time after the commencement of such case shall not have been duly cured within the respective period specified in section 1168(a)(2) of said Law; or

(f) 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, readjustments 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 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 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

(g) 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 Equipment; or

(h) Any Event of Default as defined in the Other Agreement shall occur and be continuing;

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 (including, without limitation, the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness), together with the interest thereon then accrued and unpaid, and all other amounts payable by the Railroad under this Agreement, immediately due and payable, without further demand, 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 consequences 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 Event of 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.

SECTION 17. REMEDIES.

17.1. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such default, the Manufacturer may, upon such further notice, if any, as may be required for compliance with any mandatory requirements of law then in force and applicable to the action to be taken by the Manufacturer, take or cause to be taken by its agent or agents immediate possession of the Equipment, or any Item thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as herein-after in this Section 17 expressly provided, and may remove the same from possession and use of the Railroad and for such purpose may enter upon the premises of the Railroad or where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad, with or without process of law.

17.2. 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 the Railroad for the delivery of the Equipment to the Manufacturer, the Railroad 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 reasonably 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 railroad lines or premises of the Railroad until the Manufacturer shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Manufacturer reasonably convenient. The agreement to deliver the Equipment as hereinbefore provided is of the essence of this 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 Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Manufacturer and its agent or agents for damages of whatever nature in connection with any retaking of any Item of Equipment in any reasonable manner.

17.3. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time thereafter during the continuance of such Event of Default and after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided (unless such declaration has been rescinded and annulled as provided in Section 16.2 hereof), the Manufacturer (after retaking possession of the Equipment as hereinbefore in this Section 17 provided) may at its election and upon such notice as is hereinafter set forth retain the Equipment in satisfaction of the entire unpaid indebtedness in respect of the Purchase Price thereof, together with interest thereon and all other payments due hereunder and make such disposition thereof as the Manufacturer shall deem fit. Written notice of the Manufacturer's election to retain the Equipment shall be given to the Railroad by telegram or registered mail, addressed as provided in Section 21 hereof, and to any other persons to whom the law may require notice, within 30 days after the indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable by the Manufacturer as above provided. In the event that the Manufacturer should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all of the Railroad's rights in the Equipment shall thereupon terminate and all payments made by the Railroad may be retained by the Manufacturer as compensation for the use of the Equipment; provided, however, that if the Railroad, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Manufacturer the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness), together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of title to any property in the Equipment shall pass to and vest in the Railroad;

provided, further, that if the Railroad or any other persons notified under the terms of this Section 17.3 object in writing to the Manufacturer within 30 days from the receipt of notice of the Manufacturer's election to retain the Equipment, then the Manufacturer may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold the Equipment pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Manufacturer shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Section 17.

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 30 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 30 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 17), 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 interest on the indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the Conditional Sale Indebtedness), third to the payment, ratably in accordance with the unpaid balance of each installment, of the installments of indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the Conditional Sale Indebtedness) accrued and unpaid, and fourth to any unpaid commitment fee due hereunder. 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 Manufacturers 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 Manufacturers' 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 Manufacturers shall impair or affect the Manufacturers' 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 Manufacturers' rights or the obligations of the Railroad hereunder. The Manufacturers' 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 Manufacturers' rights hereunder with respect to any subsequent payments or Events of Default.

SECTION 20. RECORDING.

The Railroad at its expense 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 the Registrar General of Canada (with notice of such deposit to be published in The Canada Gazette in accordance with Section 86 of the Railway Act of Canada), and otherwise as may be required by law or reasonably requested by the Manufacturers (including, without limitation, in accordance with the laws of Mexico) for the purpose of proper protection, to the satisfaction of counsel for the Manufacturers, of their security title to the Equipment and their rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and

the Railroad will promptly furnish to the Manufacturers 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 Manufacturers.

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:

Burlington Northern Inc.
Burlington Northern Building
176 East Fifth Street
St. Paul, Minnesota 55101
Attention: Assistant Vice President,
Financial Planning and Treasurer

(b) to ACF:

750 Third Avenue
New York, N.Y. 10017
Attention: Mr. Robert W. Montgomery

(c) to Bethlehem:

Bethlehem, Pennsylvania 18016
Attention: Manager of Railroad
Product Sales

(d) to General Electric:

2901 East Lake Road
Erie, Pennsylvania 16501
Attention: Ira Miller, Esq.

(e) to General Motors:

La Grange, Illinois 60525
Attention: William H. Thomas

(f) to GATX:

120 South Riverside Plaza
Chicago, Illinois 60680
Attention: Mr. Edward L. Overtree

(g) to Pullman:

200 South Michigan Avenue
Chicago, Illinois 60604
Attention: Mr. David Wood

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 the construction or interpretation of this Agreement.

SECTION 23. EFFECT AND MODIFICATION OF AGREEMENTS.

Except as provided in Section 3.1 hereof, this Agreement and the Schedules relating hereto exclusively and completely state the rights and agreements of the Manufacturers 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 Manufacturers 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 State of New York; provided, however, that the parties shall be entitled to all rights conferred by applicable federal law and such additional rights arising out of the filing, recording or 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 "Manufacturers", whenever used in this Agreement, means, before any assignment of any of their rights hereunder, ACF, Bethlehem, General Electric, General

Motors, GATX, and Pullman and any successor or successors for the time being to the properties and business of each, respectively, 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. The rights and undertakings of each Manufacturer and the rights and obligations of the Railroad with respect to each Manufacturer hereunder are several and not joint.

SECTION 26. PAYMENT OF EXPENSES.

The Railroad will pay all stamp or other taxes and all reasonable costs and expenses incident to this Agreement, the Assignment, and the first assignment of this Agreement, and any instrument supplemental or related thereto, including but not limited to all fees and expenses of the first assignee of this Agreement and of counsel for the first assignee of this Agreement and for any party acquiring interests in such first assignment, and all reasonable costs and expenses in connection with the transfer by any party of interests acquired in such first assignment. For the purposes of this Section 26, if the first assignee is the Agent, then any successor agent to the Agent shall also be considered the first assignee.

SECTION 27. CONSOLIDATION OR MERGER.

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

SECTION 28. EXECUTION.

This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all of the parties so long as at least one counterpart is signed by each party hereto.

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.

[Corporate Seal]

ACF INDUSTRIES, INCORPORATED

Attest:

By _____
Vice President

Assistant Secretary

[Corporate Seal]

BETHLEHEM STEEL CORPORATION

Attest:

By David Blum
Vice President

RJ Masters
Assistant Secretary

[Corporate Seal]

GENERAL ELECTRIC COMPANY

Attest:

By _____
General Manager
Locomotive Marketing Department

Attesting Secretary

[Corporate Seal]

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

Attest:

By _____
Vice President

Assistant Secretary

[Corporate Seal]

GENERAL AMERICAN TRANSPORTATION
CORPORATION

Attest:

By _____
Vice President

Assistant Secretary

[Corporate Seal]

PULLMAN INCORPORATED
(Pullman Standard Division)

Attest:

By *James B. Klein*
Vice President-
Freight Unit

William Odridge
Assistant Secretary

[Corporate Seal]

BURLINGTON NORTHERN INC.

Attest:

By/s/ _____
Executive Vice President-
Finance and Administration

By/s/ _____
Assistant Secretary

[Corporate Seal]

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

Attest:

By _____
Vice President

Assistant Secretary

[Corporate Seal]

GENERAL AMERICAN TRANSPORTATION
CORPORATION

Attest:

By *E. H. Reynolds*
Vice President

Edward L. Overtree
Assistant Secretary

[Corporate Seal]

PULLMAN INCORPORATED

Attest:

By _____
Vice President-
Freight Unit

Assistant Secretary

[Corporate Seal]

BURLINGTON NORTHERN INC.

Attest:

By/s/ _____
Executive Vice President-
Finance and Administration

By/s/ _____
Assistant Secretary

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.

[Corporate Seal]

ACF INDUSTRIES, INCORPORATED

Attest:

By _____
Vice President

Assistant Secretary

[Corporate Seal]

BETHLEHEM STEEL CORPORATION

Attest:

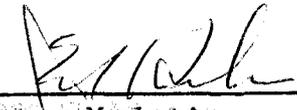
By _____
Vice President

Assistant Secretary

[Corporate Seal]

GENERAL ELECTRIC COMPANY

Attest:

By  _____
Manager-Marketing
Locomotive Marketing Departme


Attesting Secretary

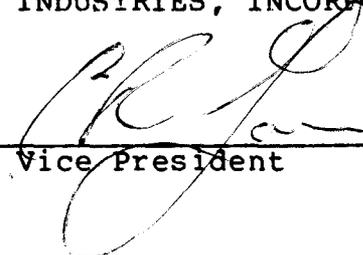
Although this Agreement is dated for convenience as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

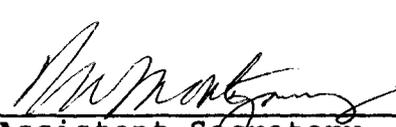
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by their officers or representatives, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

[Corporate Seal]

ACF INDUSTRIES, INCORPORATED

Attest:

By 
SIL Vice President


Assistant Secretary

[Corporate Seal]

BETHLEHEM STEEL CORPORATION

Attest:

By _____
Vice President

Assistant Secretary

[Corporate Seal]

GENERAL ELECTRIC COMPANY

Attest:

By _____
General Manager
Locomotive Marketing Departme

Attesting Secretary

[Corporate Seal]

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

Attest:

By *H. Smith*
Vice President

Garrett Cross
Assistant Secretary

[Corporate Seal]

GENERAL AMERICAN TRANSPORTATION
CORPORATION

Attest:

By _____
Vice President

Assistant Secretary

[Corporate Seal]

PULLMAN INCORPORATED

Attest:

By _____
Vice President-
Freight Unit

Assistant Secretary

[Corporate Seal]

BURLINGTON NORTHERN INC.

Attest:

By/s/ _____
Executive Vice President-
Finance and Administration

By/s/ _____
Assistant Secretary

[Corporate Seal]

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

Attest:

By _____
Vice President

Assistant Secretary

[Corporate Seal]

GENERAL AMERICAN TRANSPORTATION
CORPORATION

Attest:

By _____
Vice President

Assistant Secretary

[Corporate Seal]

PULLMAN INCORPORATED

Attest:

By _____
Vice President-
Freight Unit

Assistant Secretary

[Corporate Seal]

BURLINGTON NORTHERN INC.

Attest:

By/s/ Frank H. Coyne
Executive Vice President-
Finance and Administration

By/s/ [Signature]
Assistant Secretary

STATE OF)
) SS.:
COUNTY OF)

On this _____ day of _____, 197_, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a _____ of _____, 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.

(Seal)

/s/ _____
Notary Public

STATE OF *Pennsylvania*)
) SS.:
COUNTY OF *Lehigh*)

On this *22nd* day of *December*, 197*8*, before me personally appeared *David Adams IV*, to me personally known, who, being by me duly sworn, says that he is a *Vice President* of *Bethlehem Steel Corporation*, 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.

(Seal)

/s/ *John H. Vary*
Notary Public

My Commission Expires
July 17, 1982
City of Bethlehem
Lehigh County

STATE OF)
) ss.:
COUNTY OF)

On this _____ day of _____, 197_, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a _____ of _____, 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.

(Seal)

/s/ _____
Notary Public

STATE OF)
) ss.:
COUNTY OF)

On this 26th day of December, 1978, before me personally appeared James B. Shan, to me personally known, who, being by me duly sworn, says that he is a Vice President - Freight Unit 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.

(Seal)

/s/ James K. Renteria
Notary Public

my commission expires
8-8-79

STATE OF ILLINOIS)
) ss.:
COUNTY OF COOK)

On this 22nd day of December, 1978, before me personally appeared E. J. Rymarenuk, to me personally known, who, being by me duly sworn, says that he is a Vice President of TRANSNATIONAL CORPORATION 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.

(Seal)

/s/ Debra A. Zyzanski
Notary Public

STATE OF)
) ss.:
COUNTY OF)

On this ____ day of _____, 197__, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a _____ of _____, 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.

(Seal)

/s/ _____
Notary Public

STATE OF PA)
)
COUNTY OF Erie) ss.:

On this 26 day of December, 1978, before me personally appeared Sam Keeber, to me personally known, who, being by me duly sworn, says that he is a Manager of Manhattan General Electric Co. 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.

(Seal)

/s/ Collette Wronek
Notary Public

COLLETTE WRONEK, NOTARY PUBLIC
LAWRENCE PARK TWP. ERIE CO., PENN.
MY COMMISSION EXPIRES FEB. 10, 1979

STATE OF)
)
COUNTY OF) ss.:

On this _____ day of _____, 197_, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a _____ of _____, 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.

(Seal)

/s/
Notary Public

STATE OF New York)
) ss.:
COUNTY OF New York)

On this 22nd day of December, 1978, before me personally appeared C. R. GARR, to me personally known, who, being by me duly sworn, says that he is a SENIOR VICE PRESIDENT of ACF INDUSTRIES, INCORPORATED 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.



/s/ Edwin F. Meyer
Notary Public

EDWIN F. MEYER
NOTARY PUBLIC, State of New York
No. 30-7917803
Qualified in Nassau County
Certificate filed in New York County
Commission Expires March 30, 1980

STATE OF)
) ss.:
COUNTY OF)

On this _____ day of _____, 197_, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a _____ of _____, 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.

(Seal)

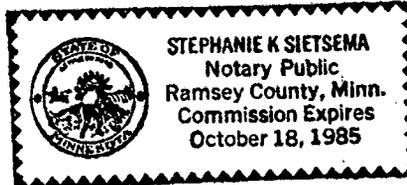
/s/ _____
Notary Public

STATE OF Minnesota)
) ss.:
COUNTY OF Ramsey)

On this 22nd day of December, 1978, before me personally appeared Frank H. Coyne, to me personally known, who, being by me duly sworn, says that he is a EXECUTIVE VICE PRESIDENT - FINANCE of BURLINGTON NORTHERN INC., 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.

(Seal)

Stephanie K. Sietsema
Notary Public



SCHEDULE A

(to Conditional Sales Agreement)

MANUFACTURER	ACF Industries, Incorporated
DESCRIPTION OF EQUIPMENT	100-Ton Center Flow Covered Hopper Cars bearing identifying numbers BN 481200-481299
SPECIFICATIONS	Per Burlington Northern Purchase Order DB-08588-8
BASE PRICE	\$41,870.49 per Item (\$4,187,049 for 100 Items)
DELIVER TO	Burlington Northern Inc.
PLACE OF DELIVERY	FOB Manufacturer's Plant, or such other place as agreed to between ACF Industries, Incorporated and Burlington Northern Inc.
ESTIMATED DELIVERY DATES	July through August, 1979
OUTSIDE DELIVERY DATE	March 31, 1980
WARRANTY	See Annex 1 attached hereto

ANNEX 1 TO SCHEDULE A

Warranty of ACF Industries, Incorporated

ACF Industries, Incorporated (the "Manufacturer") warrants that each Item of Equipment to be built by it will be free from defects in material (except as to articles of materials incorporated therein which have been furnished by the Railroad or by a supplier or suppliers specified by the Railroad) and workmanship under normal use and service; the obligation of the Manufacturer with respect to any Item of Equipment to be built by it to be limited to repairing or replacing at the Manufacturer's plant any part or parts of such Item which shall, within one year after the delivery of such Item, be returned to the Manufacturer with transportation charges prepaid, and which the Manufacturer's examination shall disclose to the Manufacturer's satisfaction to have been defective. The Manufacturer shall not be liable for any damages, whether direct, indirect or consequential except as aforesaid. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

SCHEDULE B

(to Conditional Sales Agreement)

MANUFACTURER	Bethlehem Steel Corporation	
DESCRIPTION OF EQUIPMENT	100-Ton Open Top Hopper Cars bearing identifying nos. C&S 529500-529599	100-Ton Open Top Hopper Cars bearing identifying nos. BN 529400-529499
SPECIFICATIONS	DF 3400-511	DF 3400-511
BASE PRICE	\$33,725 per Item (\$3,372,500 for 100 Items)	\$34,234 per Item (\$3,423,400 for 100 Items)
DELIVER TO	Burlington Northern Inc.	
PLACE OF DELIVERY	Manufacturer's Plant or such other place as agreed to between Bethlehem Steel Corporation and Burlington Northern Inc.	
ESTIMATED DELIVERY DATES	June 1979	May 1979
OUTSIDE DELIVERY DATE	March 31, 1980	
WARRANTY	See Annex 1 attached hereto	

ANNEX 1 TO SCHEDULE B

Warranty of Bethlehem Steel Corporation

The Manufacturer warrants that its units of the Equipment will be built in accordance with the Specifications and with the other requirements, specifications and standards set forth or referred to in the Conditional Sale Agreement and Schedule B thereto to which this Annex 1 is attached (hereinafter called the Agreement) and warrants that its Equipment will be free from defects in material (except as to specialties, if any, incorporated therein which were specified or supplied by the Railroad and not manufactured by the Manufacturer) and workmanship under normal use and service; the Manufacturer's obligation under this paragraph being limited to making good at its plant (or at the option of the Manufacturer at a place designated by the Manufacturer and agreed upon by the Railroad) any part or parts of any unit which shall be returned to the Manufacturer with transportation charges prepaid within one year after the delivery of such unit to the Railroad, and which the Manufacturer's examination shall disclose to its satisfaction to have been thus defective. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE MANUFACTURER. 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. It is further agreed that in no event shall the Manufacturer be liable for indirect or consequential damages of any kind.

SCHEDULE C

(to Conditional Sales Agreement)

MANUFACTURER	General Electric Company
DESCRIPTION OF EQUIPMENT	3,000 h.p. Model C-30-7 diesel-electric locomotive bearing identifying nos. BN 5567-BN5581
SPECIFICATIONS	Per General Electric Specification 3390G
BASE PRICE	\$681,341 per Item (\$10,220,115 for 15 Items)
DELIVER TO	Burlington Northern Inc.
PLACE OF DELIVERY	FOB Erie, Pennsylvania, or such other place as agreed to between General Electric Company and Burlington Northern Inc.
ESTIMATED DELIVERY DATES	January and February 1979
OUTSIDE DELIVERY DATE	March 31, 1980
WARRANTY	See Annex 1 attached hereto

ANNEX 1 TO SCHEDULE C

Warranty of General Electric Company

GE warrants to the Railroad that each unit of Equipment manufactured by it hereunder will be free from defects in material, workmanship and title under normal use and service, and will be of the kind and quality designated or described in the Specifications referred to in Schedule C to which this Annex 1 is attached. The foregoing warranty is exclusive and in lieu of all other warranties, whether written, oral, implied or statutory (except as to title). NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR PURPOSE SHALL APPLY. If it appears within two (2) years from the date of shipment by GE, or within 250,000 miles of operation, whichever event shall first occur, that the Equipment delivered by GE under this Agreement does not meet the warranties specified above, and the Railroad notifies GE promptly, GE, after verification as to condition and usage, shall correct any defect, including nonconformance with the Specifications, at its option, either by repairing any defective part or parts made available to GE, or by making available at GE's plant or warehouse, a repaired or replacement part. If requested by GE, the Railroad will ship the defective part or parts, with shipping charges prepaid, to the plant or warehouse designated by GE. The foregoing shall constitute the sole remedy of the Railroad and the sole liability of GE.

The liability of GE to the Railroad (except as to title) arising out of the supplying of any unit of Equipment hereunder, or its use, whether on warranty, contract or negligence, shall not in any case exceed the cost of correcting defects in the Equipment as herein provided, and upon the expiration of the warranty period specified above, all such liability shall terminate. GE shall have no liability for any unit of Equipment or part thereof which becomes defective by reason of improper storage or application, misuse, negligence, accident or improper operation, maintenance, repairs or alterations on the part of the Railroad or any third party other than GE. In no event, whether as a result of breach of contract, warranty, tort (including negligence) or otherwise, shall GE or its suppliers be liable for any special, consequential, incidental or penal damages, including, but not limited to, loss of profits or revenues, loss of the use of the Equipment or any associated equipment, damage to the associated equipment, cost of capital, cost of substitute products, facilities, services or replacements, downtime costs or claims of customers of the Railroad for such damages.

SCHEDULE D

(to Conditional Sales Agreement)

MANUFACTURER	General Motors Corporation (Electro-Motive Division)
DESCRIPTION OF EQUIPMENT	3,000 h.p. Model SD-40-2 diesel-electric locomotive bearing identifying nos. BN 7126-7160 & BN 7869-7888
SPECIFICATIONS	Per Burlington Northern Inc. Purchase Order DK-08538-8
BASE PRICE	\$662,825 per Item (\$36,455,376 for 55 Items)
DELIVER TO	Burlington Northern Inc.
PLACE OF DELIVERY	FOB Manufacturer's Plant or such other place as agreed to between General Motors Corporation and Burlington Northern Inc.
ESTIMATED DELIVERY DATES	January through March 1979
OUTSIDE DELIVERY DATE	March 31, 1980
WARRANTY	See Annex 1 attached hereto

ANNEX 1 TO SCHEDULE D

Warranty of General Motors Corporation
(Electro-Motive Division)

General Motors warrants that the Equipment manufactured by it hereunder is of the kind and quality described in, or will be built in accordance with, the Specifications referred to in Schedule D of the Conditional Sale Agreement (hereinafter in this Annex 1 called this Agreement) and is suitable for the ordinary purposes for which such Equipment is used and warrants each unit of such Equipment to be free from defects in material and workmanship which may develop under normal use and service within two years from date of delivery of such unit or before such unit has been operated 250,000 miles, whichever event shall first occur. General Motors agrees to correct such defects, which examination shall disclose to General Motors's satisfaction to be defective, by repair or replacement F.O.B. factory and such correction shall constitute fulfillment of General Motors's obligation with respect to such defect under this warranty.

General Motors warrants specialties not of its own specification or design to the same extent that the suppliers of such specialties warrant such items to General Motors.

General Motors further agrees with the Railroad that neither the inspection, nor any examination, nor the acceptance of any units of the Equipment, shall be deemed a waiver or modification by the Railroad of any of its rights under this Warranty.

THERE ARE NO WARRANTIES WITH RESPECT TO MATERIAL AND WORKMANSHIP, EXPRESSED OR IMPLIED, MADE BY GENERAL MOTORS EXCEPT THE WARRANTIES SET OUT ABOVE.

SCHEDULE E

(to Conditional Sales Agreement)

MANUFACTURER	General American Transportation Corporation
DESCRIPTION OF EQUIPMENT	100-Ton Airslide Covered Hopper Cars bearing identifying nos. BN 410540-410564
SPECIFICATIONS	Per Burlington Northern Inc. Purchase Order number DB-08572-8
BASE PRICE	\$45,090 per Item (\$1,127,250 for 25 Items)
DELIVER TO	Burlington Northern Inc.
PLACE OF DELIVERY	FOB Manufacturer's Plant at Masury, Ohio, or such other place as agreed to between GATX and Burlington Northern Inc.
ESTIMATED DELIVERY DATES	September through October 1979
OUTSIDE DELIVERY DATE	March 31, 1980
WARRANTY	See Annex 1 attached hereto

ANNEX 1 TO SCHEDULE E

Warranty of General American Transportation Corporation

GATX warrants that the Equipment built by it will be built in accordance with the Specifications and the standards and requirements set forth in Schedule E of the Conditional Sales Agreement to which this Annex is attached (hereinafter called the Agreement) and warrants that the Equipment will be free from defects in material (except as to specialties, if any, incorporated therein and workmanship with respect thereto specified by the Railroad and not manufactured by GATX) and workmanship under normal use and service. GATX's liability under this Warranty is limited to repair or replacement at its plant of any part or parts of any unit of its Equipment which shall, within one year after the delivery of such unit of Equipment to the Railroad (or, in the case of patent defects, within 10 days after delivery), be returned to GATX with transportation charges prepaid and which examination by GATX shall disclose to its satisfaction to have been thus defective. Any unit of GATX's Equipment repaired, replaced or altered outside of GATX's plant, the repair, replacement or alteration of which in GATX's judgment has adversely affected in any way the strength and performance of such unit of Equipment, is removed from this Warranty. IN NO EVENT SHALL THE BUILDER BE LIABLE TO ANYONE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND. THE FOREGOING WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, and the Builder neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of the Equipment, except for the patent indemnification included in Item 4 hereof and as aforesaid.

The Builder further agrees with the Vendee that neither the inspection as provided in Article 3 of the Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 3 shall be deemed a waiver or a modification by the Vendee of any of its rights under this Item 3.

SCHEDULE F

(to Conditional Sales Agreement)

MANUFACTURER	Pullman Incorporated
DESCRIPTION OF EQUIPMENT	100-Ton Covered Hopper Cars bearing identifying nos. FW&D 459550-459649
SPECIFICATIONS	Per Manufacturer Specification No. 3812 dated May 25, 1978, as amended.
BASE PRICE	\$37,450 per Item (\$3,745,000 for 100 Items)
DELIVER TO	Burlington Northern Inc.
PLACE OF DELIVERY	FOB Manufacturer's Plant at Butler, Pennsylvania, or such other place as agreed to between Pullman Incorporated and Burlington Northern Inc.
ESTIMATED DELIVERY DATES	January 1980
OUTSIDE DELIVERY DATE	March 31, 1980
WARRANTY	See Annex 1 attached hereto

ANNEX 1 TO SCHEDULE F

Warranty of Pullman Incorporated

Pullman warrants that the Equipment will be built in accordance with the Specifications and the standards and requirements set forth in Schedule F of the Conditional Sales Agreement to which this Annex is attached (hereinafter called the Agreement) and warrants the Equipment will be free from defects in material (except as to specialties, if any, incorporated therein and workmanship with respect thereto specified by the Railroad and not manufactured by Pullman) and workmanship under normal use and service. Pullman's liability is limited to making good at its plant any part or parts of any unit of Equipment which shall, within one year after the delivery of such unit of Equipment to the Railroad, be returned to Pullman with transportation charges prepaid and which examination by Pullman shall disclose to its satisfaction to have been thus defective; provided, however, that this warranty will be subject to the following limitations: (i) warranty coverage on unit running gear and contact points to unit structure is restricted to one year or 25,000 miles, whichever first occurs; and (ii) normal use and service is deemed to require inspection, adjustment, maintenance, and compliance with Pullman's written instructions and any applicable Federal, state or local laws or regulations.

The foregoing warranty is expressly in lieu of all other warranties, expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and Pullman neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of its Equipment, except as aforesaid. It is further understood that in no event shall Pullman be liable for indirect, consequential or special damages of any kind.

[Execution Copy]

AGREEMENT AND ASSIGNMENT dated as of January 1, 1979 among ACF INDUSTRIES, INCORPORATED, a New Jersey corporation (hereinafter called ACF), BETHLEHEM STEEL CORPORATION, a Delaware corporation (hereinafter called Bethlehem), GENERAL ELECTRIC COMPANY, a New York corporation (hereinafter called General Electric), GENERAL MOTORS CORPORATION (Electro-Motive Division), a Delaware corporation (hereinafter called General Motors), GENERAL AMERICAN TRANSPORTATION CORPORATION, a New York corporation (hereinafter called GATX) and PULLMAN INCORPORATED (Pullman-Standard Division), a Delaware corporation (hereinafter called Pullman), (the foregoing companies being hereinafter collectively called the Manufacturers, or severally, a Manufacturer), and CITIBANK, N.A., a national banking association organized under the laws of the United States of America, acting as Agent under a Finance Agreement dated as of the date hereof (hereinafter called the Finance Agreement) (said bank so acting being hereinafter called the Assignee).

WHEREAS, the Manufacturers and Burlington Northern Inc., a corporation duly organized and existing under the laws of the State of Delaware (hereinafter called the Railroad), have entered into a Conditional Sale Agreement, dated as of the date hereof (hereinafter called the Conditional Sale Agreement), covering the construction, sale and delivery, on the conditions therein set forth, by the respective Manufacturers and the purchase by the Railroad of the railroad equipment described in Schedules A, B, C, D, E and F to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment);

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Assignee to the respective Manufacturers, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. Each Manufacturer hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) All the right, security title and interest of such Manufacturer in and to the Equipment and each unit thereof to be constructed and sold by such Manu-

facturer when and as severally delivered and accepted and upon payment by the Assignee to such Manufacturer of the amounts required to be paid under Section 6 hereof with respect to such unit;

(b) All the right, title and interest of such Manufacturer in and to the Conditional Sale Agreement in respect of the Equipment to be constructed and sold by such Manufacturer thereunder (except the rights to cause to be constructed and to deliver the Equipment and the right to receive the payments specified in Sections 2.3 and 14.7 thereof and the right to reimbursement for taxes as provided in Article 7 of the Conditional Sale Agreement, and provided that such Manufacturer retains a right to indemnity as provided in Section 12.1 thereof notwithstanding assignment of such right hereunder), and in and to any and all amounts which may be or become due or owing to such Manufacturer under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) All of such Manufacturer's rights (except as herein provided), powers, privileges and remedies under the Conditional Sale Agreement

(without any recourse, however, against such Manufacturer for or on account of the failure of the Railroad 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 obligations of each such Manufacturer to cause to be constructed and to deliver the Equipment to be sold by such Manufacturer in accordance with the Conditional Sale Agreement or in respect of its warranties and indemnities contained in Sections 12.3 and 13 of, and Schedules A, B, C, D, E and F to, the Conditional Sale Agreement or relieve the Railroad from its obligations to such Manufacturer under the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Section 14 of the Conditional Sale Agreement, all obligations of such Manufacturer to the Railroad in

respect of the Equipment shall be and remain enforceable by the Railroad, its successors and assigns, against and only against such Manufacturer. In furtherance of the foregoing assignment and transfer, each Manufacturer hereby authorizes and empowers the Assignee in the Assignee's own name, in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for such Manufacturer 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 Railroad 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.

Each Manufacturer agrees that any amount payable to such Manufacturer by the Railroad, 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 any of the units of Equipment.

SECTION 2. Each Manufacturer covenants and agrees that it will cause the Equipment to be sold by such Manufacturer under the Conditional Sale Agreement to be constructed in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Railroad 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 to the Conditional Sale Agreement set forth to be performed and complied with by such Manufacturer. Each Manufacturer further covenants and agrees that it will warrant to the Assignee and the Railroad that at the time of delivery of each unit of the Equipment to be constructed and sold by such Manufacturer 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 Railroad under the Conditional Sale Agreement; and each Manufacturer further covenants and agrees that it will defend such title against all claims and demands whatsoever. Each Manufacturer will not deliver any of the Equipment to be constructed and sold by such Manufacturer to the Railroad until the filings and recordations referred to in Article 20 of the Conditional Sale Agreement have been effected.

SECTION 3. Each Manufacturer covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any amount which may be due or owing by the Railroad on account of its indebtedness in respect of the aggregate Purchase Price of the Equipment and interest thereon, and any other sums becoming due under the Conditional Sale Agreement, or to enforce any provision of the Conditional Sale Agreement, each such Manufacturer 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 Railroad arising out a breach by such Manufacturer of any obligation in respect of the Equipment, or the manufacture, construction, delivery or warranty thereof, or under Sections 12 and 13 of, or Schedules A, B, C, D, E or F to, 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 Railroad by such Manufacturer. Any and all such obligations shall be and remain enforceable by the Railroad against and only against the respective Manufacturers and shall not be enforceable against the Assignee or any party or parties in whom security title to the Equipment, or any unit thereof, or any of the rights of the respective Manufacturers under the Conditional Sale Agreement shall vest by reason of this Assignment or of successive assignments or transfers. The respective Manufacturers shall have no liability under the foregoing provisions of this Section 3 unless (a) the Assignee, in any such suit, proceeding or action by the Assignee, hereinabove described, promptly moves or takes other appropriate action on the basis of Section 14.4 of the Conditional Sale Agreement, to strike any such defense, setoff, counterclaim or recoupment asserted by the Railroad and the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, and (b) upon any such denial and acceptance, the Assignee promptly notifies the Manufacturer of the Equipment of any such defense, setoff, counterclaim or recoupment asserted by the Railroad and such Manufacturer is given the right by the Assignee to compromise, settle or defend against, at its expense, such defense, setoff, counterclaim or recoupment. Each Manufacturer 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 of the Equipment, or any unit thereof, to be constructed and sold by such Manufacturer, of any design, article or material which infringes, or is claimed to infringe, on any patent or other right, except for any design specified by the Railroad and not developed or purported to be developed by such Manufacturer or any article or material specified by the Railroad and not manufactured by such Manufacturer. Nothing in this Section 3 is intended to extend the scope of the Manufacturers' warranties which are always subject to the DISCLAIMERS OF IMPLIED WARRANTIES and limitations of remedy set forth therein.

SECTION 4. Each Manufacturer will cause to be plainly, distinctly, permanently and conspicuously marked on each side of each unit of the Equipment, to be constructed and sold by such Manufacturer, at the time of delivery thereof to the Railroad, in letters not less than one inch in height, the following legend:

UNIT SUBJECT TO SECURITY INTEREST OF
THE AGENT BANK UNDER CONDITIONAL SALE
AGREEMENT RECORDED WITH THE I.C.C.

SECTION 5. Upon request of the Assignee, its successors and assigns, each Manufacturer 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 such Manufacturer therein or in the Equipment.

SECTION 6. Subject to timely receipt by the Assignee of funds sufficient for the purpose, the Assignee, on each Closing Date as provided in Section 3 of the Conditional Sale Agreement with respect to a Group of Equipment (as defined in said Section 3) or as otherwise hereinafter set forth, shall pay to the Manufacturer of each unit of Equipment in such Group an amount equal to the Purchase Price of such unit, provided that there shall have been delivered to the Assignee, as provided in the Conditional Sale Agreement, the following documents, in such number of counterparts or copies as may reasonably be requested, in form and substance satisfactory to it and to the special counsel for the Investors hereinafter mentioned:

(a) Bills of Sale from the Manufacturers of such Equipment to the Assignee, dated as of such Closing Date, transferring to the Assignee security title to the units of the Equipment in such Group and warranting to the Assignee and to the Railroad that at the time of delivery to the Railroad under the Conditional Sale Agreement such Manufacturers had legal title to such units and good

and lawful right to sell such units and title to such units was free of all claims, liens and encumbrances of any nature except only the rights of the Railroad under the Conditional Sale Agreement;

(b) Certificate or Certificates of Acceptance signed by an authorized representative of the Railroad stating that the units of the Equipment in such Group have been inspected and accepted by him on behalf of the Railroad and further stating that there was plainly, distinctly, permanently and conspicuously marked on each side of each of such units at the time of its acceptance, in letters not less than one inch in height, the following legend:

UNIT SUBJECT TO SECURITY INTEREST OF
THE AGENT BANK UNDER CONDITIONAL SALE
AGREEMENT RECORDED WITH THE I.C.C.

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

(d) Opinion of counsel for the Railroad, dated as of such Closing Date, to the effect that (i) the Railroad is a duly organized and existing corporation in good standing under the laws of Delaware, 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 execution, delivery and performance by the Railroad of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-laws of the Railroad, or any indenture, agreement, or other instrument to which the Railroad is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Railroad, (iii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Railroad and is a valid instrument binding upon and enforceable against the Railroad in accordance with its terms, (iv) the Conditional Sale Agreement and this Assignment have been duly filed and recorded in accordance with Section 20 of the Conditional

Sale Agreement, (v) security title to the units of Equipment in such Group is validly vested in the Assignee, and such units, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, were free of all claims, liens and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement, and (vi) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or this Assignment, or, if any authority is necessary, that it has been obtained;

(e) In respect of the Closing Date relating to the initial settlement for Equipment under this Section 6, an opinion of counsel for each Manufacturer, dated as of such Closing Date, stating that (i) such Manufacturer is a duly organized and existing corporation in good standing under the laws of the state of its 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 such Manufacturer and is a valid instrument binding upon and enforceable against such Manufacturer in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by such Manufacturer and is a valid instrument binding upon and enforceable against such Manufacturer in accordance with its terms, and (iv) the Assignee is vested with all the right, title and interest of such Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date (including the Closing Date relating to the initial settlement for Equipment), an opinion of counsel for each Manufacturer of the Equipment in such Group, dated as of such Closing Date, reaffirming the opinion of such counsel delivered in respect of the initial Closing Date and stating that security title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, were free of all claims, liens and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement;

(f) Opinion of Messrs. Shearman & Sterling, counsel for the Assignee, dated as of such Closing Date, stating that the documents delivered to

the Assignee on such Closing Date, pursuant to this Section 6, are substantially responsive to the requirements hereof and are in substantially acceptable legal form;

(g) Certificate of a Vice President of the Railroad to the effect that no Event of Default as specified in the Conditional Sale Agreement, or event which with the lapse of time and/or notice provided for in the Conditional Sale Agreement would constitute such an Event of Default, has occurred and is continuing, and to the effect that, since December 31, 1977, there has been no material adverse change in the affairs or financial condition of the Railroad.

In giving the opinions specified in subparagraphs (d) and (e) of the first paragraph of this Section 6, counsel may qualify any opinion to the effect that any agreement is enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally. Any opinion delivered hereunder after the Closing Date relating to the initial settlement for Equipment under this Section 6 may state that counsel signing such opinion reaffirms any statement contained in any opinion of the same counsel theretofore delivered hereunder without repeating the substance of such earlier opinion.

The obligation of the Assignee hereunder to make payments on each Closing Date is hereby expressly conditioned upon the prior receipt by the Assignee, as provided in the Finance Agreement, of all the funds to be furnished to the Assignee by the various parties to the Finance Agreement with respect to such Closing Date, or, if any of such parties default in furnishing such funds, the prior receipt by the Assignee from the Railroad of such funds as provided in the Finance Agreement; and, in the event of failure of any such party to furnish any such funds with respect thereto, such Closing Date shall be postponed for four business days. To the extent that the Railroad shall pay or cause to be paid to the Assignee, in accordance with the

Finance Agreement, any amount or amounts on account of the Purchase Price of the Equipment to be settled for on such Closing Date, the Railroad shall be relieved of its indebtedness in respect of the Purchase Price of the Equipment under Section 3.3 of the Conditional Sale Agreement to the extent of the amount or amounts so paid by the Railroad. By any such payment, however, the Railroad shall not acquire any rights under this Assignment. If the Assignee fails to pay any Manufacturer any amount required to be paid with respect to any unit of Equipment pursuant to this Section 6 at the time herein specified, then any right, title and interest in and to such unit, to the extent of such amount, including any right, title and interest under the Conditional Sale Agreement with respect to such unit, to the extent of such amount, which has been assigned, transferred or set over to the Assignee by such Manufacturer, shall automatically, and without further action on the part of the Assignee, be reassigned, transferred and set over back to such Manufacturer by the Assignee.

It is understood and agreed that the Assignee shall not be required to make (i) any payment in respect of any units of the Equipment excluded from the Conditional Sale Agreement pursuant to Section 2 thereof or (ii) any payment under this Section 6 at any time while an Event of Default, or any event which with the lapse of time and/or notice provided for in the Conditional Sale Agreement shall constitute an Event of Default, shall be subsisting under the Conditional Sale Agreement. It is also understood and agreed that, anything herein to the contrary notwithstanding, the Assignee hereunder shall not be obligated to make payment to any Manufacturer except out of funds furnished to it pursuant to the Finance Agreement.

SECTION 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payment due or to become due to it from the Railroad 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. The address of the Assignee for purposes of notices and payments is 399 Park Avenue, New York, New York 10043 or such other address as the Assignee shall have furnished in writing to the Railroad.

SECTION 8. Each Manufacturer hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the other Manufacturers and by the Railroad, the Conditional Sale Agreement is, in so far as such Manufacturer is concerned, a valid and existing agreement binding upon such Manufacturer and the Railroad 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 confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

SECTION 9. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all of the parties so long as at least one counterpart is signed by each party hereto. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Railroad. Although this Assignment is dated for convenience as of January 1, 1979, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

SECTION 10. The terms of this Assignment and the rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by applicable federal law and such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Assignment, as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment shall be filed, recorded or deposited.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly

authorized officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

ACF INDUSTRIES, INCORPORATED

[CORPORATE SEAL]

By _____
Vice President

Attest:

Assistant Secretary

BETHLEHEM STEEL CORPORATION

[CORPORATE SEAL]

By David Robinson
Vice President

Attest:

R. J. Masters
Assistant Secretary

GENERAL ELECTRIC COMPANY

[CORPORATE SEAL]

By _____
General Manager
Locomotive Marketing Department

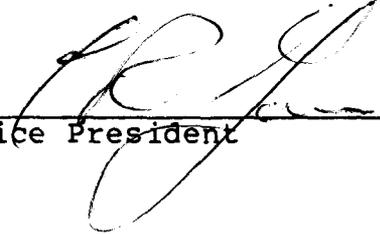
Attest:

Attesting Secretary

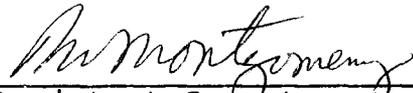
authorized officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

ACF INDUSTRIES, INCORPORATED

[CORPORATE SEAL]

By 
S.R. Vice President

Attest:


Assistant Secretary

BETHLEHEM STEEL CORPORATION

[CORPORATE SEAL]

By _____
Vice President

Attest:

Assistant Secretary

GENERAL ELECTRIC COMPANY

[CORPORATE SEAL]

By _____
General Manager
Locomotive Marketing Department

Attest:

Attesting Secretary

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

[CORPORATE SEAL]

By *H. Smith*
Vice President

Attest:

Raymond Conner
Assistant Secretary

GENERAL AMERICAN TRANSPORTATION
CORPORATION

[CORPORATE SEAL]

By _____
Vice President

Attest:

Assistant Secretary

PULLMAN INCORPORATED

[CORPORATE SEAL]

By _____
Vice President -
Freight Unit

Attest:

Assistant Secretary

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

[CORPORATE SEAL]

By _____
Vice President

Attest:

Assistant Secretary

GENERAL AMERICAN TRANSPORTATION
CORPORATION

[CORPORATE SEAL]

By Ed Rymaszuk
Vice President

Attest:

Edward L Overton
Assistant Secretary

PULLMAN INCORPORATED

[CORPORATE SEAL]

By _____
Vice President -
Freight Unit

Attest:

Assistant Secretary

authorized officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

ACF INDUSTRIES, INCORPORATED

[CORPORATE SEAL]

By _____
Vice President

Attest:

Assistant Secretary

BETHLEHEM STEEL CORPORATION

[CORPORATE SEAL]

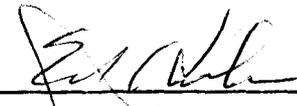
By _____
Vice President

Attest:

Assistant Secretary

GENERAL ELECTRIC COMPANY

[CORPORATE SEAL]

By  _____
Manager-Marketing
Locomotive Marketing Department

Attest:


Attesting Secretary

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

[CORPORATE SEAL]

By _____
Vice President

Attest:

Assistant Secretary

GENERAL AMERICAN TRANSPORTATION
CORPORATION

[CORPORATE SEAL]

By _____
Vice President

Attest:

Assistant Secretary

PULLMAN INCORPORATED
(Pullman Standard Division)

[CORPORATE SEAL]

By *Janet R. Klein*
Vice President -
Freight Unit

Attest:

William O. Aldridge
Assistant Secretary

CITIBANK, N.A., Agent

By *Gene A. Fatti*
Vice President

Attest:

Robert C. Williamson III
Account Officer

STATE OF NEW YORK)
) :SS.:
COUNTY OF NEW YORK)

On this th day of , 197 , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of ACF INDUSTRIES, INCORPORATED, 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]

Notary Public

COMMONWEALTH OF PENNSYLVANIA)
) :SS.:
COUNTY OF ~~NORTHAMPTON~~ ^{Lehigh})

On this 22nd day of December, 1978, before me personally appeared David Adams IV, to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL CORPORATION, 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]

John H. Vary
Notary Public

My Commission Expires
July 17, 1982
City of Bethlehem
Lehigh County

STATE OF NEW YORK)
:SS.:
COUNTY OF NEW YORK)

On this ^{22nd} day of *December*, 197*8*, before me personally appeared **C. R. GARR**, to me personally known, who, being by me duly sworn, says that he is a ^{Senior} Vice President of ACF INDUSTRIES, INCORPORATED, 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]

Edwin F. Meyer
Notary Public

EDWIN F. MEYER
NOTARY PUBLIC, State of New York
No. 30-7917803
Qualified in Nassau County
Certificate filed in New York County
Commission Expires March 30, 1980

COMMONWEALTH OF PENNSYLVANIA)
:SS.:
COUNTY OF NORTHAMPTON)

On this th day of , 197_ , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL CORPORATION, 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]

Notary Public

COMMONWEALTH OF PENNSYLVANIA)

:SS.:

COUNTY OF ERIE)

On this 26th day of December, 1978, before me personally appeared J. M. Kirker, to me personally known, who, being by me duly sworn, says that he is a Manager - Marketing of GENERAL ELECTRIC 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.

[Notarial Seal]

Collette Wronke
Notary Public

COLLETTE WRONKE, NOTARY PUBLIC
LAWRENCE PARK 1000, THE LODGE, ERIE, PA.
MY COMMISSION EXPIRES FEB. 10, 1979

STATE OF ILLINOIS)

:SS.:

COUNTY OF COOK)

On this th day of , 197_, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of GENERAL MOTORS CORPORATION (Electro-Motive 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]

Notary Public

STATE OF ILLINOIS

)
:SS.:

COUNTY OF COOK

)

On this 22nd day of December, 1978, before me personally appeared E. J. Rymarczuk, to me personally known, who, being by me duly sworn, says that he is a Vice President of GENERAL AMERICAN TRANSPORTATION CORPORATION, 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]

Dobros A. Zyzanski
Notary Public

STATE OF ILLINOIS)

:SS.:

COUNTY OF COOK)

On this th day of , 197, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of PULLMAN INCORPORATED, 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.

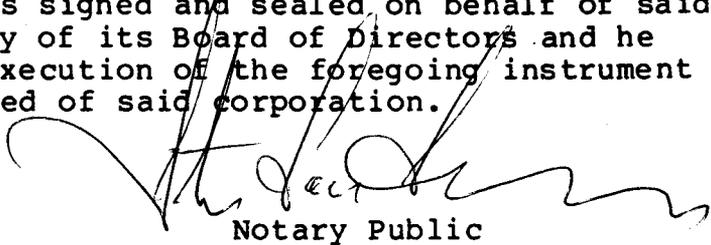
[Notarial Seal]

Notary Public

STATE OF NEW YORK)
 :SS.:
COUNTY OF NEW YORK)

On this 22th day of DECEMBER, 1978, before me personally appeared *Michael S. Friedman*, to me personally known, who, being by me duly sworn, says that he is a Vice President of CITIBANK, N.A., 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]



Notary Public

STEVE'S BANK, INC.
Notary Public, State of New York
No. 33-4800000
Qualified in New York County
Commission expires 3/31/79

ACKNOWLEDGEMENT OF NOTICE OF ASSIGNMENT

Receipt of a signed copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged.

BURLINGTON NORTHERN INC.

By _____
Executive Vice President-
Finance and Administration

Dated _____, 1979

STATE OF NEW YORK)
 :SS.:
COUNTY OF NEW YORK)

On this th day of , 197 , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of CITIBANK, N.A., 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]

Notary Public

ACKNOWLEDGEMENT OF NOTICE OF ASSIGNMENT

Receipt of a signed copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged.

BURLINGTON NORTHERN INC.

By Frank H. Coyne
Executive Vice President-
Finance and Administration

Dated December 22 , 1978⁸