

DULUTH **MISSABE** AND IRON RANGE RAILWAY COMPANY

MISSABE BUILDING • DULUTH, MINNESOTA 55802

Please reply to:
P. O. Box 536
Pittsburgh, Pa. 15230

September 23, 1977

9013

RECORDATION NO. Filed & Recorded

SEP 26 1977 - 10 50 AM

Interstate Commerce Commission
Washington, D. C. 20423

INTERSTATE COMMERCE COMMISSION

Gentlemen:

Enclosed for recordation under the provisions of Section 20(c) of the Interstate Commerce Act, as amended, are the original and three (3) counterparts of an Equal Exchange Agreement dated as of March 25, 1977.

The general description of the Railroad equipment covered by the enclosed Agreement is set forth in Schedule A attached to this letter and made a part hereof.

The names and addresses of the parties are:

Duluth, Missabe and Iron Range Railway Company
500 Missabe Building
Duluth, Minnesota 55802

Lake Superior & Ishpeming Railroad Company
108 East Washington Street
Marquette, Michigan

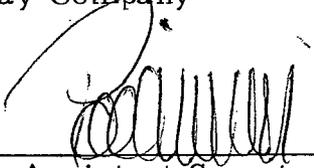
Please return the original and two (2) copies of the Agreement to Paul M. Willard, Esq., Duluth, Missabe and Iron Range Railway Company P. O. Box 536, Pittsburgh, Pennsylvania 15230.

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

7-269A059

Very truly yours,

Duluth, Missabe and Iron Range
Railway Company

By 
Assistant Secretary

Stephen W. Childs

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SCHEDULE A

To Equal Exchange Agreement

VENDOR. Duluth, Missabe and Iron
Range Railway Company

DESCRIPTION OF EQUIPMENT. Six Hundred (600) 70-ton
capacity ore cars bearing
Duluth, Missabe and Iron
Range Railway Company
Identifying Numbers more
particularly described on
Pages 2 to 4 of this Schedule A

BASE PRICE. \$4,475.00 per car
(\$2,685,000 for Six Hundred (600)
Cars)

DELIVER TO. Lake Superior & Ishpeming
Railroad Company

PLACE OF DELIVERY. F.o.t. Vendor's Track

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MINNESOTA COMMERCE COMMISSION

Made as of March 25, 1977, but actually on this 23rd day of September, 1977.

BETWEEN

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY, a corporation organized under the laws of the State of Minnesota, having an office at 500 Missabe Building, Duluth, Minnesota 55802, hereinafter called "the DM&IR":

AND

LAKE SUPERIOR & ISHPEMING RAILROAD COMPANY, a corporation organized under the laws of the State of Michigan, having an office at 105 East Washington Street, in Marquette, Michigan 49855, hereinafter called "the LS&I".

WITNESSETH THAT:

WHEREAS, the DM&IR holds title to certain equipment, consisting of six hundred (600) used seventy (70) ton ore cars, Series U-19, U-20, and U-21, hereinafter referred to as the "DM&IR Property", said ore cars bearing the DM&IR's identifying numbers shown on the statement attached hereto as Exhibit A and hereby made a part hereof; and

WHEREAS, the DM&IR holds said DM&IR Property for productive use in trade or business or for investment, as those terms are used in Section 1031 of the Internal Revenue Code of 1954; and

WHEREAS; the DM&IR is unwilling to enter into a conventional sale of said DM&IR Property but is willing to transfer said DM&IR Property having a fair market value of Two Million Six Hundred Eighty-Five Thousand Dollars (\$2,685,000), in exchange for other properties, to be acquired by the LS&I and suitable to the DM&IR to be held by it for productive use in trade or business or for investment within the meaning of said Section 1031 of the Internal Revenue Code; and

WHEREAS, the LS&I is willing pursuant to this Agreement to acquire certain properties acceptable to the DM&IR, herein-

after referred to as the "LS&I Properties", and to transfer title to the same to the DM&IR or its nominee in exchange for said DM&IR Property, on the understanding that the LS&I will accept cash to the extent that the LS&I Properties exceed the fair market value of the DM&IR Property, which is Two Million Six Hundred Eighty-Five Thousand Dollars (\$2,685,000).

NOW, THEREFORE, THIS AGREEMENT, WITNESSETH:

That the parties hereto, in consideration of the mutual covenants and undertaking hereinafter contained, each intending to be legally bound by these presents, do hereby covenant and agree as follows, viz:

FIRST: Upon the signing hereof DM&IR has delivered possession of said DM&IR Property to LS&I in the manner specified in Paragraph SIXTH hereof, and has delivered its Bill of Sale of even date transferring legal title, but not security title (a Bill of Sale transferring security title to the LS&I will be delivered by the DM&IR to LS&I upon receipt by the Mellon Bank, N.A. of deposit or deposits in addition to the deposit of Two Hundred Fifty Thousand Dollars (\$250,000) in this paragraph hereinafter mentioned, to that portion of the DM&IR Property consisting of the number of ore cars at Four Thousand Four Hundred Seventy-Five Dollars (\$4,475) each equal to the amount of such deposit or deposits, and after such additional deposit or deposits equal to the total of Two Million Four Hundred Thirty-Five Thousand Dollars (\$2,435,000) a like Bill of Sale to LS&I for the remaining ore cars consisting of the balance of the DM&IR Property) to the LS&I of said DM&IR Property "as is", "where is", and "with all faults", as of March 25, 1977, without any warranty as to merchantability or fitness for a particular purpose and in exchange therefor the LS&I shall transfer LS&I Properties to the DM&IR on or before January 31, 1979, by Bill of Sale in the same form and containing the same terms and conditions as DM&IR's Bills of Sale referred to hereinabove, i.e., "as is", "where is", and "with all faults", without any warranty as to condition or

utility; provided, however, the LS&I will assign in its Bill of Sale to the DM&IR but not guarantee the enforceability thereof, all warranties made by the seller to the LS&I in connection with the purchase of such LS&I Properties, such of said LS&I Properties as the LS&I shall acquire and are acceptable to the DM&IR, and the DM&IR shall pay to the LS&I the difference, if any, between Two Million Six Hundred Eighty-Five Thousand Dollars (\$2,685,000) and the total cost of acquiring and delivering said LS&I Properties to the DM&IR and to that end the LS&I has deposited the sum of Two Hundred Fifty Thousand Dollars (\$250,000) with the Mellon Bank, N.A. in escrow to partially cover the obligation of the LS&I hereunder, with the remaining Two Million Four Hundred Thirty-Five Thousand Dollars (\$2,435,000) to be deposited by LS&I with Mellon Bank, N.A. on or before January 31, 1979, to cover the remaining monetary obligation of the LS&I. It is understood and agreed that the LS&I shall not be obligated to incur any expenses hereunder nor purchase any particular LS&I Properties until the specific LS&I Properties have been designated and approved by the DM&IR in writing as acceptable in exchange under this Agreement. Such advance written designation and approval shall include approval of the total cost to be incurred by the LS&I in acquiring such LS&I Properties. Such total cost approved in writing in advance by the DM&IR shall be the amount (up to the entire amount held in escrow) which the Mellon Bank, N.A. will disburse to the LS&I pursuant to the Escrow Agreement.

SECOND: The LS&I is supplying the full consideration by which the LS&I shall acquire the said LS&I Properties for exchange and agrees to supply cash to the extent that the LS&I does not acquire such properties to the full market value of Two Million Six Hundred Eighty-Five Thousand Dollars (\$2,685,000).

THIRD: It is recognized by both parties that the LS&I may be unable to acquire all of said LS&I Properties in a single acquisition so that a single transaction may not be

feasible as of a given date. Therefore, solely for the convenience of the parties, the transfer may take place in such segments and under and subject to such conditions as the parties hereto may mutually agree are reasonable under the circumstances.

FOURTH: The terms contained in Paragraph Third are solely for the convenience of the parties and in no way are to be construed as creating a series of exchanges. It is the intent of the parties that said DM&IR Property is being transferred to the LS&I in exchange for said LS&I Properties to the extent that the LS&I acquires such LS&I Properties on or before January 31, 1979. Any such prior individual transfers mutually agreed upon and perfected as aforesaid shall be considered as part performance hereunder.

FIFTH: The exchange herein contemplated must be completed by both parties hereto on or before the 31st day of January, 1979. If the exchange has not been completed by January 31, 1979, then it is the DM&IR's right hereunder to receive disbursement from the Mellon Bank, N.A. of any remaining balance of the Two Million Six Hundred Eighty-Five Thousand Dollars (\$2,685,000) deposited with said bank by the LS&I.

SIXTH: The delivery or deliveries of the DM&IR Property to the LS&I shall be F.O.T. DM&IR tracks. The DM&IR will prepare each car for interchange for a fee of \$100.00 per car which shall be payable by the LS&I to the DM&IR under separate invoice.

SEVENTH: The LS&I shall bear the risk of loss of each of the ore cars or damage thereto from and after delivery thereof and delivery of the Bill of Sale from the DM&IR to the LS&I transferring legal title.

EIGHTH: All payments provided for in this Agreement to Mellon Bank, N.A. shall be made by the LS&I in such coin or currency of the United States of America as the time of payment shall be legal tender for the payment of public and private debts.

NINTH: The DM&IR shall and hereby does retain the full security title to and property in the DM&IR Property, except as to that portion of the DM&IR Property paid for by LS&I and for which DM&IR has delivered its Bill of Sale transferring security title, until the LS&I shall have made all of the payments herein provided to Mellon Bank, N.A. pursuant to the Escrow Agreement of even date, and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the DM&IR Property to and the possession and use thereof by the LS&I as herein provided. Any and all parts hereof and additions thereto shall constitute accessions to the DM&IR Property and shall be subject to all terms and conditions of this Agreement and included in the term DM&IR Property as used in this Agreement.

TENTH: When and only when the LS&I shall have paid to Mellon Bank, N.A. in excess of the Two Hundred Fifty Thousand Dollars (\$250,000) deposit referred to herein, amounts which equal Four Thousand Four Hundred Seventy-Five Dollars (\$4,475) or multiples in excess thereof, absolute right to the possession and title to the portion of the DM&IR Property consisting of the number of ore cars for each such multiple payment, shall pass to and vest in LS&I, and after the payment of Two Million Four Hundred Thirty-Five Thousand Dollars (\$2,435,000) all of the remaining DM&IR Property shall pass to and vest in LS&I, without further transfer or action on the part of the DM&IR, except that the DM&IR, if requested by the LS&I so to do, will execute a bill or bills of sale of the DM&IR Property releasing its security title thereto and property therein to the LS&I or upon its order free of all liens and encumbrances created or retained hereby and deliver such bill or bills of sale to the LS&I at its address specified herein, 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 LS&I to the DM&IR Property.

ELEVENTH: The ^{LS&I} ~~DM&IR~~ will cause the DM&IR Property to be kept numbered with its road number as set forth in Schedule A hereto. The ^{LS&I} ~~DM&IR~~ will not change the road number of any DM&IR Property except with the consent of the ^{DM&IR} ~~LS&I~~ and in accordance with the statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed with the ^{DM&IR} ~~LS&I~~ by the ^{LS&I} ~~DM&IR~~ and filed, recorded or deposited in all public offices where this Agreement shall have been filed, recorded or deposited.

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

THIRTEENTH: In the event that any DM&IR Property, except for ore cars which have been paid for by LS&I and for which a Bill of Sale transferring security title has been given by DM&IR to LS&I, shall be or become lost, stolen, destroyed, or irreparably damaged, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise (each such occurrence, except for any requisition which by its terms is indefinite or does not exceed the original term of this Agreement, being hereinafter called a "Casualty Occurrence"), prior to full payment by the LS&I to Mellon Bank, N.A. and all other payments required hereby, the party first aware of such Casualty Occurrence shall, within

within ten days after it shall have been determined that such DM&IR Property has suffered a Casualty Occurrence, fully inform the other party in regard thereto. In the event of such Casualty Occurrence, the LS&I shall within 30 days of such determination pay to Mellon Bank, N.A. a sum equal to Four Thousand Four Hundred Seventy-Five Dollars (\$4,475) times the number of cars involved in such Casualty Occurrence.

FOURTEENTH: The LS&I will pay or satisfy and discharge any and all sums claimed by any party by, through or under the LS&I or its successors or assigns which, if unpaid, might become a lien or a charge upon any DM&IR Property in which DM&IR has retained security title equal or superior to the security title of the DM&IR, and any liens, encumbrances or charges which might be levied against or imposed upon any such DM&IR Property as a result of the failure of the LS&I 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 LS&I in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the DM&IR, adversely affect the property or rights of the DM&IR hereunder.

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

SIXTEENTH: During the term of this Agreement the LS&I will comply in all respects with all laws of the jurisdictions in which its operations involving the DM&IR Property may extend, with the Interchange Rules of the Association of American Railroads and with all lawful rules of the United

States Department of Transportation and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the DM&IR Property, to the extent that such laws and rules affect the operation or use of the DM&IR Property; and in the event that such laws or rules require the alteration of the DM&IR Property, the LS&I will conform therewith at its expense, and will maintain or have maintained the same in proper condition for operation under such laws and rules; provided, however, the the LS&I 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 DM&IR, adversely affect the property or rights of the DM&IR hereunder provided however the LS&I shall not alter the DM&IR Property prior to the termination of this Agreement, without the written permission of D. B. Shank, Vice President, DM&IR, it being further provided, however, that LS&I may modify in any manner that portion of DM&IR Property represented by ore cars paid for by LS&I and in which DM&IR does not retain security title without written permission or consent.

SEVENTEENTH: The LS&I agrees to indemnify, protect and hold harmless the DM&IR against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including claims for strict liability in tort and counsel fees, arising out of retention by the DM&IR of security title to the DM&IR Property or out of the use and operation thereof by LS&I during the period when security title thereto remains in the DM&IR.

EIGHTEENTH: As between the LS&I and the DM&IR, the LS&I, after delivery to and acceptance by the LS&I pursuant to Section SIXTH hereof, will bear the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any or of all the DM&IR Property.

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

(a) The LS&I shall fail to pay in full any sum payable by the LS&I when payment thereof shall be due and payable to Mellon Bank, N.A. pursuant to the Escrow Agreement and such default shall continue for five days; or

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

(c) Any representation or warranty made by the LS&I herein or in any statement or certificate furnished to the DM&IR or Mellon Bank, N.A. pursuant to or in connection with this Agreement, the Escrow Agreement dated as of the date hereof shall prove to be untrue; or

(d) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the LS&I 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 DM&IR under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees within 30 days after such appointment or 60 days after such petition shall have been filed, whichever shall be earlier, or

(e) Any other proceedings shall be commenced by or against the LS&I 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 readjustments of the amount 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 LS&I under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the LS&I or for the property of the LS&I in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(f) The LS&I 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 DM&IR Property;

then at any time after the occurrence and during the continuance of such an Event of Default the DM&IR may, upon written notice to the LS&I and upon compliance with any legal requirements then in force and applicable to such action by the DM&IR, declare the entire amount in respect of the DM&IR Property, immediately due and payable, without further demand, and the aggregate of the unpaid balance of such amount and interest shall bear interest from the date of such declaration from the date hereof at the rate of 9.75% per annum, to the extent

legally enforceable, and the DM&IR shall thereupon be entitled to recover judgment for the entire unpaid balance of the amount not paid to the Escrow Bank for the DM&IR Property, with interest as aforesaid, and to collect such judgment out of any property of the LS&I wherever situated.

TWENTIETH: The DM&IR may waive any such Event of Default and its consequences and rescind and annul any such declaration by notice to the LS&I in writing to that effect. Upon any such waiver the respective rights of the parties shall be as they would have been if no such default had existed and no such declaration had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the LS&I 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.

TWENTY-FIRST: If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time after the entire amount not yet received by the Mellon Bank, N.A. pursuant to the Escrow Agreement in respect to the Purchase Price for the DM&IR Property shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such default, the DM&IR 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 DM&IR, take or cause to be taken by its agent or agents immediate possession of the DM&IR Property except that portion thereof paid for by LS&I and for which a Bill of Sale has been given by DM&IR to LS&I transferring security title or any item thereof, without liability to return to the LS&I any sums theretofore paid and free from all claims whatsoever and may remove the same from possession and use of the LS&I and for such purpose may enter upon the premises of the LS&I or where the DM&IR Property may be located and may use and

employ in connection such removal any supplies, services and aids and any available trackage and other facilities or means of the LS&I, with or without process of law.

TWENTY-SECOND: In case the DM&IR shall rightfully demand possession of that portion of the DM&IR Property defined in the preceding paragraph pursuant to this Agreement and shall reasonably designate a point or points upon the lines of the LS&I for the delivery of the DM&IR Property to the DM&IR, the LS&I shall, at its own expense, forthwith and in the usual manner, cause the DM&IR Property to be moved to such point or points as shall be reasonably designated by the DM&IR and shall there deliver the DM&IR Property or cause it to be delivered to the DM&IR; and, at the option of the DM&IR, the DM&IR may keep the DM&IR Property on any of the lines of railroad or premises of the LS&I, for a period not exceeding 180 days, until the DM&IR shall have leased, sold or otherwise disposed of the same, and for such purpose the LS&I agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the DM&IR reasonably convenient. The agreement to deliver the DM&IR Property as hereinbefore provided is for the essence of this Agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the DM&IR shall be entitled to a decree against the LS&I requiring specific performance hereof. The LS&I hereby expressly waives any and all claims against the DM&IR and its agent or agents for damages of whatever nature in connection with any retaking of any DM&IR Property in any reasonable manner.

TWENTY-THIRD: If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time thereafter during the continuance of such default and after the entire amount yet payable to Mellon Bank, N.A. pursuant to the Escrow Agreement shall have been declared immediately due

and payable as hereinbefore provided (unless such declaration has been rescinded and annulled as provided in Section TWENTY-FIRST hereof), the DM&IR (after retaking possession of the DM&IR Property as hereinbefore in this Section provided) may at its election retain the DM&IR Property as its own and make such disposition thereof as the DM&IR shall deem fit (including, if the DM&IR so elects, the leasing of the DM&IR Property on such terms as it shall deem fit), and in such event all the LS&I's rights in the DM&IR Property will thereupon terminate and, to the extent not prohibited by any mandatory requirements of law, all payments made by the LS&I may be retained by the DM&IR as compensation for the use of the DM&IR Property by the LS&I; provided, however, that if the LS&I, within 30 days of receipt of notice of the DM&IR's election to retain the DM&IR Property for its own use, as hereinafter provided, shall pay or cause to be paid to Mellon Bank, N.A. pursuant to the Escrow Agreement or the DM&IR the total unpaid balance of the amount to be payable to Mellon Bank, N.A., then in such event absolute right to the possession of, title to and property in such DM&IR Property shall pass to and vest in the LS&I; or the DM&IR, with or without the retaking of possession thereof may, at its election, sell the DM&IR Property, or any item thereof, free from any and all claims of the LS&I, or of any other party claiming by, through or under the LS&I, at law or in equity, at public or private sale and with or without advertisement as the DM&IR may determine; and the proceeds of such sale, less the attorney's fees and any other expenses incurred by the DM&IR in taking possession of, removing, storing and selling the DM&IR Property shall be credited to the amount due to the Mellon Bank, N.A. and the DM&IR under the provisions of this Agreement. Written notice of the DM&IR's election to retain the DM&IR Property for its own use may be given to the LS&I by telegram or registered mail addressed to the LS&I as provided herein at any time during a period of 30 days after

the entire amount in respect of the amount to be paid by the LS&I to Mellon Bank, N.A. pursuant to the Escrow Agreement shall have been declared immediately due and payable as hereinbefore provided; and if no such notice shall have been given, the DM&IR shall be deemed to have elected to sell the DM&IR Property in accordance with the provisions of this Section, excepting, however, rights herein granted to DM&IR in connection with DM&IR Property shall relate only to that portion thereof not then paid for by LS&I and for which a Bill of Sale has not been delivered to LS&I by DM&IR transferring security title.

TWENTY-FOURTH: Any sale hereunder may be held or conducted at such place or places and at such time or times as the DM&IR 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 DM&IR may determine, provided that the LS&I 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 LS&I 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 LS&I does not exercise said right to purchase or provide a purchaser for the DM&IR Property the LS&I may bid for and become the purchaser of the DM&IR Property, or any item thereof, so offered for sale without accountability to the LS&I (except to the extent of surplus money received as hereinafter provided in this Section), and in payment of the amount therefor the LS&I shall be entitled to have credited on account thereof all sums due to the DM&IR from the LS&I hereunder.

TWENTY-FIFTH: Each and every power and remedy hereby specifically given to the DM&IR 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 DM&IR. 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 DM&IR 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.

TWENTY-SIXTH: All sums of money realized by the DM&IR under the remedies herein provided shall be applied, first to the payment of the expenses and liabilities of the LS&I herein undertaken to be paid, second to the payment of the amount to be paid by the LS&I to Mellon Bank, N.A. with the Escrow Account. If, after applying as aforesaid all sums of money realized by the DM&IR, there shall remain any amount due to it under the provisions of this Agreement, the DM&IR may bring suit therefor and shall be entitled to recover a judgment therefor against the LS&I. If, after applying as aforesaid all sums realized by the LS&I, there shall remain a surplus in the possession of the DM&IR, such surplus shall be paid to the LS&I.

TWENTY-SEVENTH: The LS&I will pay all reasonable expenses, including attorneys' fees, incurred by the DM&IR in enforcing its remedies under the terms of this Agreement. In the event that the DM&IR shall bring any suit or enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the DM&IR may recover reasonable expenses, including attorneys' fees and the amount thereof shall be included in such judgment.

TWENTY-EIGHTH: The foregoing provisions of this Agreement are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

TWENTY-NINTH: No delay or omission in the exercise of any power or remedy herein provided or otherwise available to the DM&IR shall impair or affect the DM&IR's right thereafter to exercise the same. Any extension of time for payment hereunder or other indulgence duly granted to the LS&I shall not otherwise alter or affect the DM&IR's rights or the obligations of the LS&I hereunder.

THIRTIETH: Each of the parties represents to the other that there is no broker or dealer involved in this transaction as to any of said properties and that neither party shall be responsible for the payment of any brokerage commission or finder's fee in connection therewith.

THIRTY-FIRST: Each of the parties hereto hereby covenant not to assign this Agreement except after obtaining the written consent of the other party endorsed hereon or attached hereto; any attempted assignment without such consent shall constitute an immediate default hereunder. Subject to the foregoing, this Agreement and all of its terms and conditions shall extend to and be binding upon the parties hereto and upon their respective successors and assigns.

THIRTY-SECOND: The DM&IR represents that it is the lawful owner of the DM&IR Property transferred to the LS&I by said Bills of Sale, free and clear of any and all liens or encumbrances whatsoever except the rights of the DM&IR hereunder, and the LS&I agrees that the DM&IR shall not be required to accept the transfer of any LS&I Properties in exchange therefor unless title to such LS&I Properties is acceptable free and clear of liens or encumbrances which affect the marketability of the title thereto.

THIRTY-THIRD: The DM&IR will cause this Agreement, any assignment hereof and any supplements hereto and thereto to be filed, recorded or deposited and re-filed, re-recorded or re-deposited, if necessary, with the Interstate Commerce Commission, and otherwise as may be required by law for the purpose of proper protection, to the satisfaction of counsel

for the DM&IR of its security title to the DM&IR Property and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement.

THIRTY-FOURTH: 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) the the DM&IR: Duluth, Minnabe and Iron Range Railway Company, 500 Missabe Building, Duluth, Minnesota 55802 with a copy to V. W. Kraetsch, Vice President-Finance, Post Office Box 536, Pittsburgh, Pennsylvania 15230,

(b) to the LS&I: Lake Superior & Ishpeming Railroad Company, 105 East Washington Street, Marquette, Michigan 49855.

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

THIRTY-FIFTH: This Agreement and the Schedule relating hereto, exclusively and completely state the rights and agreements of the DM&IR and the LS&I with respect to the DM&IR Property and supersede all other agreements, oral or written, with respect to the DM&IR Property. 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 LS&I and the DM&IR.

THIRTY-SIXTH: The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or depositing hereof 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.

THIRTY-SEVENTH: In case of any consolidation or merger to which the LS&I or the DM&IR shall be a party, or in case of any sale of all or substantially all the assets of the LS&I

or the DM&IR, the corporation resulting from such consolidation or merger (if other than the LS&I or the DM&IR) or the corporation which shall acquire such assets, shall expressly assume all obligations hereunder, not then performed, or the LS&I or the DM&IR, as the case may be, and shall become entitled to all rights hereunder of the LS&I or the DM&IR, as the case may be.

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

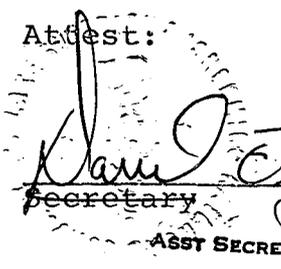
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by their officers or representatives, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

Attest:

Assistant Secretary

DULUTH, MISSABE AND IRON RANGE
RAILWAY COMPANY

By 
Vice President-Finance

Attest:

Secretary
ASST SECRETARY

LAKE SUPERIOR & ISHPEMING
RAILROAD COMPANY

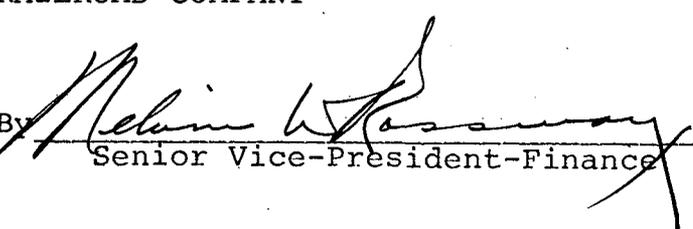
By 
Senior Vice-President-Finance

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EXHIBIT A

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Interstate Commerce Commission
Washington, D.C. 20423

9/26/77

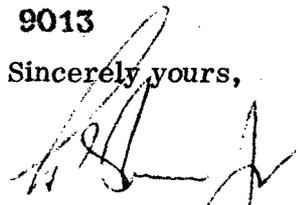
OFFICE OF THE SECRETARY

Paul M. Willard, Esq.
Duluth, Missabe and Iron Range Rwy. Co
P.O. Box 536
Pittsburgh, Pennsylvania 15230

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 **9/26/77** at **10:50am** and assigned recordation number(s) **9013**

Sincerely yours,


H.G. Homme, Jr.
Acting Secretary

Enclosure(s)

SE-30-T
(6/77)