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RECORDATION NO. \_\_\_\_\_ Filed & Recorded

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INTERSTATE COMMERCE COMMISSION

**ASSIGNMENT OF LEASE AND AGREEMENT** dated as of June 15, 1974 (hereinafter called "this Assignment"), by and between AMERICAN FLETCHER LEASING CORPORATION, an Illinois corporation (hereinafter called the Lessor), and AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Agent under a Finance Agreement dated the date hereof (hereinafter called the Vendor).

WHEREAS the Lessor and the Vendor are entering into a Reconstruction and Conditional Sale Agreement dated as of the date hereof (hereinafter called the Reconstruction and Conditional Sale Agreement), with BURLINGTON NORTHERN INC. (hereinafter called the Railroad or the Lessee) providing for the reconstruction by the Railroad of the Hulks (as defined in the Reconstruction and Conditional Sale Agreement) into the Units of railroad equipment (hereinafter called the Units) described in Schedule A thereto as are delivered to and accepted by the Lessor thereunder; and

WHEREAS the Lessor and the Lessee have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease), providing for the leasing by the Lessor to the Lessee of the Units; and

WHEREAS in order to provide security for the obligations of the Lessor under the Reconstruction and Conditional Sale Agreement and as an inducement to the Vendor to invest in the Conditional Sale Indebtedness (as defined in the Reconstruction and Conditional Sale Agreement), the Lessor has agreed to assign for security purposes its rights in, to and under the Lease to the Vendor.

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. Subject to the provisions of Paragraph 10 hereof, the Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the Lessor's obligations under the Reconstruc-

tion and Conditional Sale Agreement, all the Lessor's right, title and interest, powers, privileges, and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all sums to which the Lessor is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations then accrued of the Lessor under the Reconstruction and Conditional Sale Agreement, subject to the limitations contained in the last paragraph of Article 3 of the Reconstruction and Conditional Sale Agreement, and any balance shall be paid within five business days to and retained by the Lessor. If the Vendor shall not receive any rental payment under Section 2 of the Lease when due, the Vendor shall notify the Lessor at the addresses set forth in the Lease.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor.

3. To protect the security afforded by this Assignment, the Lessor agrees that it will faithfully abide by, perform and discharge each and every

obligation, covenant and agreement which the Lease provides are to be performed by the Lessor; without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void.

4. Subject to the provisions of Paragraph 10 hereof, the Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or to take any action or institute any proceedings which to the Vendor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Lessee's and the Lessor's obligations under the Reconstruction and Conditional Sale Agreement, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor.

6. The Lessor will, on each Closing Date (as defined in the Reconstruction and Conditional Sale Agreement), furnish the Vendor with an opinion of counsel that this Assignment has been duly authorized, executed and delivered by the Lessor and is a legal and valid agreement binding on the Lessor.

7. The Lessor will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rerecord or redeposit whenever required) any and all

further instruments required by law or reasonably requested by the Vendor in order to confirm or further assure, the interests of the Vendor hereunder.

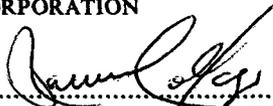
8. This Assignment shall be governed by the laws of the State of Illinois, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and by Section 86 of the Railway Act of Canada.

9. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor at its address set forth in Article 21 of the Reconstruction and Conditional Sale Agreement, or at such other address as the Vendor shall designate.

10. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as an Event of Default under the Lease or an event of default under the Reconstruction and Conditional Sale Agreement has not occurred and is not then continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to apply the Payments as provided in Paragraph 1 hereof.

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

AMERICAN FLETCHER LEASING  
CORPORATION

by  .....  
*Vice President*

[CORPORATE SEAL]

ATTEST:

 .....  
*Assistant Secretary*

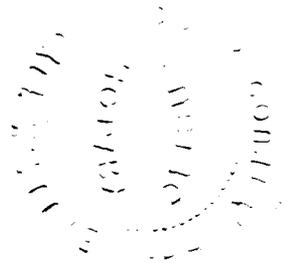
AMERICAN NATIONAL BANK AND  
TRUST COMPANY OF CHICAGO

by *Paul S. Fisher*  
Second Vice President

[CORPORATE SEAL]

ATTEST:

*J. K. ...*  
Assistant Secretary



STATE OF *Illinois*, }  
COUNTY OF *COOK*, } ss.:

On this *25<sup>th</sup>* day of June 1974, before me personally appeared *RAMIRO COLLEZO*, to me personally known, who, being by me duly sworn, says that he is Vice President of AMERICAN FLETCHER LEASING CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and 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.

*Joyce M. Moore*  
.....  
Notary Public

[NOTARIAL SEAL]  
My Commission expires *10-31-77*

STATE OF ILLINOIS, }  
COUNTY OF COOK, } ss.:

On this *25<sup>th</sup>* day of June 1974, before me personally appeared *Richard Y. Guthrie* *Second* to me personally known, who, being by me duly sworn, says that he is Vice President of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, that one of the seals affixed to the foregoing instrument is the corporate seal of said trust company and that said instrument was signed and sealed on behalf of said trust company 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 trust company.

*Richard C. Urie*  
.....  
Notary Public

[NOTARIAL SEAL]  
My commission expires ~~My~~ Commission Expires on January 28, 1975

*Seal of the State of Illinois*

**ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT**

Receipt of a copy of, and due notice of the assignment made by, the foregoing Assignment of Lease and Agreement is hereby acknowledged as of June 15, 1974.

BURLINGTON NORTHERN INC.,

by WK Bush.....  
*Vice President*