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RECORDATION NO. 7584 *A*

JUL 26 1974 - 2 22 PM

INTERSTATE COMMERCE COMMISSION

**ASSIGNMENT OF LEASE AND AGREEMENT**

**Dated as of May 15, 1974**

**between**

**UNITED STATES TRUST COMPANY OF NEW YORK,**  
*as Trustee*

**and**

**CONTINENTAL ILLINOIS NATIONAL BANK  
AND TRUST COMPANY OF CHICAGO,**  
*as Agent*

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**ASSIGNMENT OF LEASE AND AGREEMENT** dated as of May 15, 1974 between UNITED STATES TRUST COMPANY OF NEW YORK, as Trustee (hereinafter, together with its successors and assigns, called the Vendee) under a Trust Agreement dated as of the date hereof with GENERAL ELECTRIC CREDIT CORPORATION (hereinafter called the Beneficiary), and CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Agent (hereinafter, together with its successors and assigns, called the Assignee) under a Finance Agreement dated as of the date hereof (hereinafter called the Finance Agreement).

WHEREAS, the Vendee; THRALL CAR MANUFACTURING COMPANY (hereinafter called the Builder); and WISCONSIN POWER AND LIGHT COMPANY, WISCONSIN PUBLIC SERVICE CORPORATION and MADISON GAS AND ELECTRIC COMPANY (hereinafter called collectively the Lessees) 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 Builder and the purchase by the Vendee of the railroad equipment described in Annex A to the Conditional Sale Agreement (hereinafter called the Equipment);

WHEREAS, the Builder and the Assignee have entered into an Agreement and Assignment dated as of the date hereof (hereinafter called the Conditional Sale Assignment) assigning to the Assignee the right, security title and interest of the Builder under the Conditional Sale Agreement as security for the payment of the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreement);

WHEREAS, the Vendee and the Lessees have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease) providing for the lease to the Lessees of the Equipment; and

WHEREAS, in order to provide further security for the payment of the Conditional Sale Indebtedness and as an inducement to the Investor (as defined in the Finance Agreement) to invest in the Conditional Sale Indebtedness, the Vendee has agreed to assign for security purposes certain of its rights in, to and under the Lease to the Assignee;

NOW, THEREFORE, THIS ASSIGNMENT OF LEASE AND AGREEMENT (hereinafter called this Assignment) WITNESSETH That, in consideration of the sum of One Dollar and other good and valuable consideration paid by the Assignee to the Vendee, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto do hereby agree as follows:

SECTION 1. The Vendee hereby assigns, transfers and sets over unto the Assignee, its successors and assigns, (i) all the Vendee's right, title and interest as lessor under the Lease, together with all rights, powers, privileges and other benefits of the Vendee as lessor 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 Vendee under or pursuant to the provisions of the Lease, whether as rent, casualty payment, termination payment, indemnity, liquidated damages or otherwise (other than payments pursuant to Section 18 which shall be made directly to the Beneficiary) (such moneys being hereinafter called the Payments), it being expressly understood and agreed by the Assignee that such assignment of the Payments shall not thereby increase the amount of funds applicable to the payment or prepayment of the Conditional Sale Indebtedness or interest or premium, if any, thereon as provided in the last paragraph of Article 4 of the Conditional Sale Agreement; and (ii) 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 Vendee as lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment and transfer, the Vendee hereby authorizes and empowers the Assignee, in the Assignee's own name or in the name of the Assignee's nominee, or in the name of or as attorney hereby irrevocably constituted for the Vendee as lessor, 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 Lessees with the terms and agreements on their part to be performed under the Lease.

The Assignee agrees to accept any Payments made by the Lessees for the account of the Vendee as lessor pursuant to the Lease. To the extent received, the Assignee will apply such Payments to satisfy the obligations of the Vendee under the Conditional Sale Agreement, subject to the limitations contained in the last paragraph of Article 4 of the Conditional Sale Agreement, and any balance shall be paid as promptly as possible, and in any event within five Business Days, to and retained by the Beneficiary, unless and until the Vendee shall otherwise direct the Assignee in writing. If the Assignee shall not receive any rental payment under the first paragraph of Section 3 of the Lease when due, the Assignee shall notify the Vendee at the addresses set forth in the Lease.

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

SECTION 3. To protect the security afforded by this Assignment, the Vendee further agrees as follows:

(a) the Vendee will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Vendee; and, without the express written consent of the Assignee, the Vendee will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessees thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessees, including, without limitation, the obligation to pay the rents in the manner and at the times and place specified therein, or enter into any agreement amending, modifying or terminating the Lease; and the Vendee agrees that any amendment, modification or termination thereof without such consent shall be void;

(b) at the Vendee's sole cost and expense (subject to Articles 4 and 22 of the Conditional Sale Agreement), the Vendee will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of the Vendee under the Lease if such action or proceeding shall arise out of the willful misconduct or reckless disregard of duty of the Vendee; and

(c) should the Vendee fail to make any payment or to do any act which this Assignment requires the Vendee to make or do, then the Assignee may (but shall not be obligated), after first making written demand upon the Vendee and affording the Vendee a reasonable period of time within which to make such payment or do such act, and without releasing

the Vendee from any obligation hereunder or under the Lease, make such payment or do such act in such manner and to such extent as the Assignee may deem necessary to protect the security hereof, including, without limitation, the right to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of the Assignee and also the right to perform and discharge each and every obligation, covenant and agreement of the Vendee contained in the Lease. In exercising any such powers, the Assignee may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Vendee will reimburse the Assignee for such costs, expenses and fees.

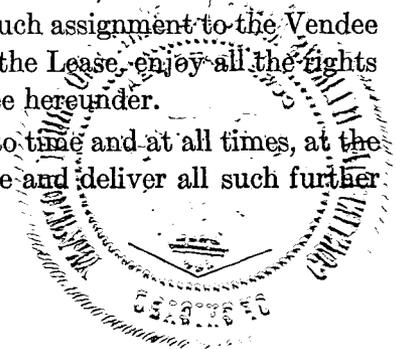
SECTION 4. Upon the full discharge and satisfaction of all the Vendee's and the Lessees' obligations under the Conditional Sale Agreement, this Assignment and all rights herein assigned to the Assignee shall terminate, and all estate, right, title and interest of the Assignee in and to the Lease shall revert to the Vendee.

SECTION 5. The Vendee represents and warrants that (a) the Trust Agreement, the Conditional Sale Agreement, the Conditional Sale Assignment, the Lease and this Assignment have each been duly authorized, executed and delivered by the Vendee and each is and will remain the valid and binding obligation of the Vendee enforceable in accordance with its respective terms; (b) the Vendee has not executed any other assignment of the Conditional Sale Agreement or the Lease and its right to receive all payments under the Lease is and will continue to be free and clear of any and all liens, charges, security interests or other encumbrances (except this Assignment) created or suffered by any act or omission on the part of the Vendee (other than any act or omission in respect of which the Lessees have assumed responsibility under the Lease), and the Vendee has not received any advance rental payments under the Lease; and (c) to the best knowledge of the Vendee, it has performed all obligations on its part to be performed under the Lease on or prior to the date hereof and there has not occurred on or prior to the date hereof any Event of Default as defined in the Lease.

SECTION 6. The Vendee agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Lease for any installment of, or interest on, any rental or other sum owing thereunder, or to enforce any provisions of the Lease, the Vendee will indemnify, protect and hold harmless the Assignee from and against all expense (including without limitation counsel fees), loss or damage suffered by reason of any defense, set-off, counterclaim or recoupment whatsoever claimed by the Lessees arising out of a breach by the Vendee of any obligation under the Lease or arising by reason of any other indebtedness or liability at any time owing to the Lessees from the Vendee. Any and all such obligations shall be and remain enforceable against and only against the Vendee and shall not be enforceable against the Assignee or any person or persons in whom any of the rights of the Vendee under the Lease shall vest by reason of this assignment or of successive assignments or transfers.

SECTION 7. The Assignee may assign all or any of its rights under the Lease, including the right to receive any Payments due or to become due thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving by the Assignee of written notice of such assignment to the Vendee and by the Vendee of the written notice required in Section 13 of the Lease, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 8. The Vendee hereby 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, including the execution and acknowledgment of any instrument necessary or appropriate to file, record, register or deposit this Assignment or notice hereof.

SECTION 9. The Vendee shall cause copies of all notices received in connection with the Lease to be promptly delivered to the Assignee at its address set forth in Article 21 of the Conditional Sale Agreement, or at such other address as the Assignee shall designate in writing. The Assignee shall give immediate notice by telegram, promptly confirmed in writing, to the Vendee and the Beneficiary of any default by the Lessees described in clause (A) of Section 11 of the Lease and of any other default by the Lessees described in such Section 11 of which the Assignee has actual knowledge.

SECTION 10. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Wisconsin; *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, registering or depositing, if any, of the Lease or this Assignment as shall be conferred by the laws of the several jurisdictions in which the Lease or this Assignment shall be filed, recorded, registered or deposited.

SECTION 11. This Assignment may be executed in any number of counterparts, but the counterpart delivered to the Assignee shall be deemed to be the original counterpart. Although this Assignment is dated as of May 15, 1974 for convenience, 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, each pursuant to due corporate authority, have caused this Assignment to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

(CORPORATE SEAL)

UNITED STATES TRUST COMPANY OF  
NEW YORK, as *Trustee*

By *Malcolm D. [Signature]*  
*Vice President*

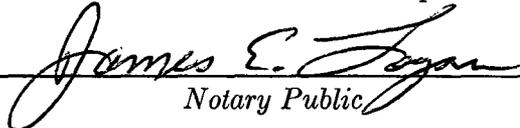
Attest:  
*Gene R. Scocco*  
*Assistant Secretary*

CONTINENTAL ILLINOIS NATIONAL BANK  
AND TRUST COMPANY OF CHICAGO, as *Agent*  
By *[Signature]*  
*Second Vice President*

(CORPORATE SEAL)  
Attest:  
*[Signature]*  
*Trust Officer*

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss

On this 26<sup>th</sup> day of July, 1974, before me personally appeared **MALCOLM J. HOOD**, to me personally known, who, being by me duly sworn, says that he is a Vice President of United States Trust Company of New York, 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 By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

  
Notary Public

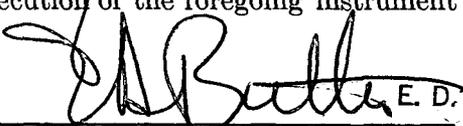
(NOTARIAL SEAL)

**JAMES E. LOGAN**  
Notary Public, State of New York  
No. 24-2393228  
Qualified in Kings County  
Certificate filed in New York County  
Commission Expires March 30, 1975

My commission expires

STATE OF ILLINOIS }  
COUNTY OF COOK } ss

On this 24 day of July, 1974, before me personally appeared **R. J. VONDRASEK**, to me personally known, who, being by me duly sworn, says that he is a Second Vice President of Continental Illinois National Bank and Trust Company of Chicago, 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.

  
E. D. BUTLER  
Notary Public

(NOTARIAL SEAL)

My commission expires

NOVEMBER 16., 1977

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 May 15, 1974.

WISCONSIN POWER AND LIGHT COMPANY

By *Edward A. Wiegman*  
Vice President

WISCONSIN PUBLIC SERVICE CORPORATION

By *Eel James*  
Vice President

MADISON GAS AND ELECTRIC COMPANY

By *W. A. M. Hammar*  
Vice President

