COUNTERPART

No. 7 of 14

RECORDATION NO. 7160 Filed & Recorded

SEP 20 1973 -10 25 AM

INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of July 1, 1973

Between

PULLMAN INCORPORATED (PULLMAN-STANDARD DIVISION)

and

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

AGREEMENT AND ASSIGNMENT

Dated as of July 1, 1973

Between

PULLMAN INCORPORATED (PULLMAN-STANDARD DIVISION)

and

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY
OF CHICAGO, Assignee

CONDITIONAL SALE AGREEMENT dated as of July 1, 1973 between the corporation named in Item 1 of schedule A hereto (the "Manufacturer" or "Builder," as more particularly set forth in Article 27 hereof), and CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation (the "Railroad").

WHEREAS, the Builder has agreed to construct, sell and deliver to the Railroad, and the Railroad has agreed to purchase, the railroad equipment described in Schedule B attached hereto (the "Equipment");

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

ARTICLE 1. Construction and Sale. Pursuant to this Agreement, the Builder will construct, sell and deliver the Equipment to the Railroad, and the Railroad will purchase from the Builder and accept delivery of and pay for the Equipment as hereinafter provided, each unit of which shall be constructed in accordance with the specifications referred to in Schedule B hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Railroad and the Builder

(which specifications and modifications, if any, are by reference made a part of this Agreement as fully as though expressly set forth herein and are hereinafter called the "Specifications"). The design, quality and component parts of each unit of Equipment shall conform to all Department of Transportation and Interstate Commerce Commission requirements and specifications for new equipment and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such units as of the date of this Agreement; and each unit of Equipment shall be new standard-gauge rolling stock.

ARTICLE 2. Inspection and Delivery. The Builder will deliver the several units of the Equipment to the Railroad at such point or points within the United States of America as shall be specified by the Railroad, freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Schedule B hereto.

The Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Builder's reasonable control, including, but not limited to, acts of God, acts of Government such as embargoes, priorities and allocations, war or war conditions,

riot or civil commotion, sabotage, strikes, differences with workmen, accident, fire, flood, explosion, damage to plant, equipment or facilities or delays in receiving necessary materials.

Notwithstanding the preceding provisions of this Article 2, any Equipment not delivered, accepted and settled for hereunder on or before the Cut-Off Date (as hereafter defined) 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 Railroad and the Builder shall execute (a) an agreement supplemental hereto limiting this Agreement to the Equipment theretofore delivered, accepted and settled for hereunder and (b) if such exclusion resulted from one or more of the causes referred to in the next preceding paragraph, a separate agreement providing for the purchase of such excluded Equipment by the Railroad on the terms herein specified, payment to be made in cash on delivery of such Equipment either directly or by means of a conditional sale, equipment trust or such other appropriate method of financing the purchase as the Railroad and the Builder shall determine. The term "Cut-Off Date" shall mean March 15, 1974 or such later date as may be agreed to in writing by the Railroad and the Manufacturer.

When each unit of the Equipment shall be delivered by the Builder to the Railroad at the place of delivery designated as hereinabove provided, and if an inspector or authorized representative of the Railroad finds that such unit conforms to the Specifications and other standards and requirements applicable thereto, he shall execute and deliver to the Builder, in such number of counterparts or copies as may reasonably be requested, a certificate of acceptance (a "Certificate of Acceptance") stating that such unit has been accepted by him on behalf of the Railroad and is marked in accordance with Article 6; provided, however, that the Builder shall not thereby be relieved of, nor shall it constitute a waiver of, the Builder's warranties hereunder.

On delivery of each of the units of Equipment hereunder, the Railroad will assume with respect thereto the responsibility and risk of loss.

ARTICLE 3. Purchase Price and Payment. The base price per unit of the Equipment is set forth in Schedule B hereto (which price is hereinafter called the "base price"). The base price shall be subject to such increase or decrease as

may be agreed to by the Builder and the Railroad. The term "Purchase Price" shall mean the base price as so increased or decreased as set forth in the invoice or invoices therefor delivered to the Railroad by the Builder as hereinafter provided in this Article 3.

The Equipment shall be settled for on one Closing Date fixed as hereinafter provided as specified in Item 3 of Schedule A hereto.

The Railroad hereby acknowledges itself to be indebted to the Manufacturer in the amount of, and hereby promises to pay in cash to the Manufacturer at the office of the Manufacturer, or at such other place as the Manufacturer may designate, the Purchase Price of the Equipment, as follows:

(a) On the Closing Date an amount equal to ten dollars ($10) for each unit of Equipment for which settlement is then being made; and

(b) In twenty (20) semiannual installments commencing June 15, 1974, as hereinafter provided, an amount

(hereinafter called the "Initial Conditional Sale Indebtedness") equal to the aggregate Purchase Price of all the Equipment settled for hereunder, less the amount paid pursuant to subparagraph (a) of this paragraph.

The unpaid portion at any time of the Initial Conditional Sale Indebtedness payable under subparagraph (b) above is herein sometimes called the "Conditional Sale Indebtedness." The installments of the Initial Conditional Sale Indebtedness shall be that percentage of such Initial Conditional Sale Indebtedness as is set forth in the following schedule opposite the installment payment date:

Payment Date	Percentage	Payment Date	Percentage
6/15/74	2.0	6/15/79	5.0
12/15/74	2.0	12/15/79	5.0
6/15/75	2.0	6/15/80	6.5
12/15/75	2.0	12/15/80	6.5
6/15/76	3.5	6/15/81	6.5
12/15/76	3.5	12/15/81	6.5
6/15/77	3.5	6/15/82	8.0
12/15/77	3.5	12/15/82	8.0
6/15/78	5.0	6/15/83	8.0
12/15/78	5.0	12/15/83	8.0

The Conditional Sale Indebtedness shall bear interest from the Closing Date, and the Railroad shall pay such interest quarterly on March 15, June 15, September 15 and December 15

of each year (such dates, from and including December 15, 1973 being hereinafter called the "Interest Payment Dates") as follows: (i) on the first Interest Payment Date following the Closing Date, interest accrued from and including the Closing Date to but not including such Interest Payment Date at the rate per annum of one hundred and ten percent (110%) of the rate per annum charged by Continental Illinois National Bank and Trust Company of Chicago (hereinafter called the Prime Rate) for 90 day unsecured commercial loans to large corporate borrowers of the highest credit standing, in effect on the Closing Date; and (ii) on each Interest Payment Date thereafter, interest accrued from and including the preceding Interest Payment Date at the rate per annum for each quarter or fraction thereof of one hundred and ten percent (110%) of the Prime Rate in effect on such preceding Interest Payment Date.

If this Agreement shall have been assigned by the Builder, the obligation of the Railroad under subparagraph (a) above shall be an unsecured obligation and the Builder shall not have any lien on, or claim against, the Equipment or any part thereof in respect of such obligation.

The Railroad shall have the privilege of prepaying the Conditional Sale Indebtedness or any installment thereof, at

any time, without penalty or premium, and each prepayment shall be applied to reduce installments in inverse order of maturity thereof. The Railroad shall pay simultaneously with any prepayment pursuant to this paragraph all unpaid interest, if any, on the amount then to be prepaid, but only to the extent accrued to the date of prepayment.

The term "Closing Date" shall mean such date (not later than the Cut-Off Date and not earlier than the date prescribed in Item 3 of Schedule A hereto), not more than ten business days following presentation by the Builder to the Railroad of the invoice for all the Equipment to be settled for hereunder and the Certificates of Acceptance in respect thereof, as shall be fixed by the Railroad by written notice delivered to the Manufacturer at least six business days prior to the Closing Date designated therein. The term "business days" means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois are authorized or obligated to remain closed.

Interest payable under this agreement shall be determined on the basis of a 365-day (or, when applicable, a 366-day) year.

The Railroad will pay, to the extent legally enforceable, interest at the rate of three-fourths of one percent (3/4 of 1%) over the interest rate payable under and as determined in the fifth paragraph of this Article 3 on all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof.

All payments provided for in this Agreement shall be made by the Railroad in immediately available funds 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.

ARTICLE 4. Taxes. All payments to be made by the Railroad hereunder will be free of expense to the Manufacturer for collection or other charges and will be free of expense to the Manufacturer in respect of the Amount of any local, state or federal taxes (other than net income, gross receipts [except gross receipts taxes in the nature of or in lieu of sales taxes], franchise taxes measured by net income based upon receipt of such payments, excess profits and similar taxes), license fees, assessments, fines or

penalties (all such expenses, charges, taxes, license fees, assessments, fines and penalties being collectively called "Impositions") 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 impositions the Railroad assumes and agrees to pay on demand in addition to the Purchase Price of the Equipment. The Railroad will also pay promptly all Impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof by the Railroad or upon the earnings arising therefrom or upon the Manufacturer solely by reason of its ownership thereof and will keep at all times each unit of the Equipment free and clear of all Impositions which might in any way affect the title of the Manufacturer or result in a lien upon any unit of the Equipment; provided, however, that the Railroad shall be under no obligation to pay any imposition so long as it is contesting in good faith and by appropriate legal proceedings such imposition and the nonpayment thereof does not, in the opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder. If any such Impositions shall have been charged or levied

against the Manufacturer directly and paid by the Manufacturer, the Railroad shall reimburse the Manufacturer on presentation of an invoice therefor, and any sums of money so paid by the Manufacturer shall be secured by and under this agreement; provided, however, that the Railroad shall not be obligated to reimburse the Manufacturer for any impositions so paid unless the Manufacturer shall have been legally liable in respect thereof or unless the Railroad shall have approved the payment thereof.

Article 5. Title to the Equipment. The Manufacturer shall and hereby does retain the full legal title to and property in the Equipment delivered to the Railroad hereunder 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 (except, in the case of any unit of the Equipment which is a locomotive, communications, signal and automatic control equipment or devices having a similar use which have been added to such unit by the Railroad, the cost of which is not included in the Purchase Price of such unit

and which are not required for the operation or use of such unit by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body), 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 the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

When and only when the Manufacturer shall have been paid the full amount of the Purchase Price of all the Equipment, together with interest and all other payments as herein provided, and all the Railroad's 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 Manufacturer; however, the Manufacturer, if requested by the Railroad so to do, will execute a bill or bills of sale of the Equipment transferring its title thereto and property therein to the Railroad, or upon its order, free of all liens and encumbrances created

hereby, and deliver such bill or bills of sale to the Railroad at its address specified in Article 23, and will execute and deliver at the same place, for record or for filing or deposit 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. 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 of sale or instrument 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 any such bill of sale or instrument within a reasonable time after written demand of the Railroad.

ARTICLE 6. Marking of Equipment. The Railroad will cause each unit of the Equipment accepted by it

kept numbered with its identifying number as set forth in Schedule B hereto, and will cause each side of such unit to be kept plainly, distinctly, permanently and conspicuously marked, by plate or stencil, printed in letters not less than one-half inch in height, with the name of the Manufacturer followed by the word "Owner" or other appropriate words designated by the Manufacturer, 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 to such unit and its rights under this Agreement. The Railroad will not place any unit of the Equipment which shall have been delivered to it hereunder in operation or exercise any control or dominion over any such unit unless each side of such unit shall have been so marked and will replace promptly any such plate, or renew any such marking, which may be removed, defaced or destroyed. The Railroad will not change the numbers of any such unit except with the consent of the Manufacturer and in accordance with a statement of new numbers to be substituted therefor, which statement previously shall have been filed with the Manufacturer by the Railroad and filed, recorded, registered and deposited by the Railroad in all public offices where this Agreement shall have been filed, recorded, registered and deposited.

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 name or initials or other insignia customarily used by the Railroad or its affiliates on railroad equipment used by it for convenience of identification of the interest of the Railroad therein.

ARTICLE 7. Casualty Occurrences. In the event that any unit of the Equipment shall become worn out, lost, stolen, destroyed, or, in the opinion of the Railroad irreparably damaged or otherwise rendered permanently unfit for use from any cause whatsoever (such occurrences being hereinafter called "Casualty Occurrences") prior to the payment of the full indebtedness in respect of the Purchase Price, together with interest thereon and all other payments required hereby, the Railroad shall, promptly after it shall have been determined that such unit has suffered a Casualty Occurrence, fully inform the Manufacturer in regard thereto. When the aggregate Casualty Value (as herein defined) of units having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrer with respect to which payment shall have been made to the Manu-

facturer pursuant to this Article 7) shall exceed $400,000 (or such lesser amount as the Railroad may elect), the Railroad shall, within 30 days of such event, pay to the Manufacturer a sum equal to the aggregate Casualty Value of such units and shall file with the Manufacturer a certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad setting forth the Casualty Value of each unit of Equipment suffering a Casualty Occurrence.

Any money paid to the Manufacturer pursuant to the preceding paragraph of this Article 7 shall, so long as none of the events of default specified in Article 17 shall have happened and be continuing, be applied, in whole or in part, as the Railroad may direct in a written instrument signed by any officer and filed with the Manufacturer, to prepay Conditional Sale Indebtedness or to or toward the cost of a unit or units of new or used standard-gauge railroad equipment (other than work or passenger equipment) to replace such unit or units having suffered a Casualty Occurrence, as the Railroad may direct in such written instrument. If any replacement unit is used equipment, the Railroad shall deliver to the Manufacturer a certificate of any Vice President or the Treasurer stating that the cost of such unit does not exceed the fair value thereof. In case any such money shall be applied

to prepay Conditional Sale Indebtedness as aforesaid, it shall be so applied on the next Interest Payment Date following receipt of the Railroad's instructions, and any balance of such money remaining after prepayment of such unpaid Conditional Sale Indebtedness shall be refunded to the Railroad.

In the event that, in the judgment of the Railroad, an unit or units of the Equipment shall become obsolescent or no longer useful or necessary to the operations of the Railroad, or shall require substantial additions or improvements thereto or the rebuilding thereof in order to be operated efficiently and economically, the Railroad shall so certify to the Manufacturer and shall pay to the Manufacturer a sum equal to the Casualty Value of such unit or units. Such unit or units shall be deemed to have suffered a Casualty Occurrence on the date of such payment and the Manufacturer shall, upon the written request of the Railroad, execute and deliver a bill or bills of sale of such unit or units transferring the Manufacturer's title thereto and property therein to the Railroad or upon its order free of all liens and encumbrances created or retained hereby. Any money paid to the Manufacturer pursuant to this paragraph shall, as the Railroad may direct in a written instrument filed with the Manufacturer, be applied, in whole or in part to prepay Conditional Sale Indebtedness or to or toward the cost of replacement equipment in accordance with the provisions of this Article 7 relating

to Casualty Occurrences.

If the cost of any replacement equipment shall exceed the amount to be paid therefor by the Manufacturer from money paid to it pursuant to this Article 7, the Railroad shall provide the funds for the remainder of such cost.

The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence (including a replacement unit) shall be deemed to be the Purchase Price of such unit (or cost thereof in the case of a replacement unit) less an amount representing (as of the date that the Railroad determines that such unit suffered a Casualty Occurrence) depreciation on such unit determined by the method in use at the time in standard railroad practice for determining such depreciation, but in no event shall the Casualty Value be less than the Conditional Sale Indebtedness in respect of such unit as of the date that the Railroad determines that such unit suffered a Casualty Occurrence.

So long as none of the events of default specified in Article 17 shall have happened and be continuing, any money paid to the Manufacturer pursuant to this Article 7 shall, if any officer of the Railroad shall in writing so

direct, be invested, pending its application as hereinabove provided, in such (i) direct obligations of the United States of America or obligations for which the full faith and credit of the United States is pledged to provide for the payment of principal and interest, (ii) certificates of deposit of commercial banks in the United States of America having capital and surplus aggregating at least $50,000,000, or commercial paper rated "prime" or better by the National Credit Office or rated "A-1", "A-2" or "A-3" or better by Standard and Poor's Corporation (or comparably rated commercial paper rated by similar rating services), 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 Manufacturer on any Investments shall be held by the Manufacturer and applied as herein provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus any interest received by the Manufacturer thereon, up to the cost (including accrued interest or earned discount) thereof, shall be held by the

Manufacturer for application pursuant to this Article 7, and any excess shall be paid to the Railroad. If such proceeds (plus such interest or earned discount) shall be less than such cost, the Railroad will promptly pay to the Manufacturer an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Manufacturer in connection with the purchase and sale of Investments.

The Railroad will cause any replacing unit to be marked as provided in Article 6. 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 Manufacturer subject to the provisions hereof, and the Railroad shall promptly execute, acknowledge, deliver file, register, record and deposit all such documents (including the filing with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act of an appropriate supplemental agreement describing such replacements) and do any and all such acts as may be necessary to cause

such replacements to come under and be subject to this Agreement and to protect the title of the Manufacturer to such replacements. All such replacements shall be guaranteed and warranted in like manner to the Railroad and the Manufacturer as the units replaced.

Whenever the Railroad shall file with the Manufacturer, pursuant to the foregoing provisions of this Article 7, a written direction to apply money to or toward the cost of a replacing unit of new or used standard-gauge railroad equipment, the Railroad shall file therewith:

(1) a certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad certifying that such replacing unit is new or used standard-guage railroad equipment (other than work or passenger equipment) and has been marked as required by the provisions of this Article 7 and certifying the cost of such replacing unit; and

(2) an opinion of counsel for the Railroad that title to such replacing unit is vested in the Manufacturer free and clear of all liens and encumbrances except the rights of the Railroad under this Agreement,

and that such unit has come under and become subject to this Agreement.

If one of the events of default specified in Article 17 shall have happened and be continuing, then so long as such event of default shall continue all money then held by the Manufacturer pursuant to this Article 7 shall be applied by the Manufacturer as if such money were money received upon the sale of Equipment pursuant to Article 18.

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

In the event that any unit of the Equipment shall to the knowledge of the Railroad be rendered permanently unfit for use due to a Casualty Occurrence after delivery by the Builder of such unit to the Railroad and acceptance thereof on behalf of the Railroad but prior to the time that the

Builder shall have received the Purchase Price for such unit either from the Railroad or any assignee of this Agreement, then the Railroad shall be obligated to pay the Purchase Price in full to the Builder within 30 days of such Casualty Occurrence and such unit shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement.

ARTICLE 8. Maintenance and Repair. The Railroad will at all times maintain the Equipment in good order and repair at its own expense.

ARTICLE 9. Builder's Warranty of Material and Workmanship. The agreement, if any, of the parties relating to the Builder's Warranty of Material and Workmanship is set forth in Item 4 of Schedule A hereto.

ARTICLE 10. Compliance with Laws and Rules. 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, if applicable, and with all lawful rules of the 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 title, operation or use of the Equipment; and in the event that such laws or rules require any alteration of the Equipment, or in the event that any equipment or appliance on any unit of the Equipment shall be required to be changed or replaced, or in the event any additional or other equipment or appliance is required to be installed on such unit in order to comply with such laws or rules, 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 reasonable opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder.

ARTICLE 11. Reports and Inspections. On or before June 15 in each year, commencing with the year 1974, the Railroad will furnish to the Manufacturer a true and accurate statement of an authorized officer of the Railroad (a) showing the amount, description and numbers of all units of the Equipment that may have suffered a Casualty Occurrence dur-

ing the preceding calendar year (or, in the case of the first such statement, since the date hereof) and such other information regarding the condition and state of repair of the Equipment as the Manufacturer may reasonably request, and (b) stating that, in the case of all Equipment repaired or repainted during the preceding calendar year (or, in the case of the first such statement, since the date hereof), the plates or other markings required by Article 6 have been preserved or replaced. The Manufacturer shall have the right, by its agents, to inspect the Equipment and the Railroad's records with respect thereto once in every year.

ARTICLE 12. Possession and Use. The Railroad, so long as it shall not be in default under this Agreement, shall be entitled to the possession of the Equipment, from and after its delivery, and the use thereof upon the lines of railroad owned or operated by it, either alone or jointly with another and whether under lease or otherwise. and upon the lines of railroad owned or operated by any railroad company controlling, controlled by or under common control with, the Railroad, or over which the Railroad has trackage or other operating rights, and upon the lines of railroad of other carriers in the usual interchange of traffic or over which through or run-through service may from time to time

be afforded; and the Railroad may lease the Equipment or any units thereof to other responsible railroads or companies, but only upon and subject to all the terms and conditions of this Agreement.

ARTICLE 13. Prohibition against Liens. The Railroad will pay or satisfy and discharge any and all sums claimed by any party from, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien, charge or security interest upon the Equipment, or any unit thereof, equal or superior to the title of the Manufacturer thereto, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the non-payment thereof does not, in the reasonable opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder. Any amounts paid by the Manufacturer in discharge of any lien, charge or security interest upon the Equipment shall be secured under this Agreement.

This covenant will not be breached by reason of liens for taxes, assessments or governmental charges or levies, in each case so long as not due and delinquent, or

undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

ARTICLE 14. Railroad's Indemnities. The Railroad agrees to indemnify and save harmless the Builder and the Manufacturer from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees and expenses, penalties and interest, arising out of retention by the Manufacturer of title to the Equipment or out of the use and operation thereof by the Railroad during the period when title thereto remains in the Manufacturer or arising out of the transfer of title by the Manufacturer pursuant to any provisions of this Agreement. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price and the conveyance of the Equipment, as provided in Article 5, or the termination of this Agreement in any manner whatsoever.

The Railroad 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 unit of or all the Equipment; provided, however, that the Builder shall

not be relieved from its warranty covering material and workmanship set forth in Article 9.

ARTICLE 15. Patent Indemnities. Except in cases of specialties specified by the Railroad, the Builder agrees to protect the Railroad against loss through suits, royalties or claims of any kind whatsoever arising from the use of patented articles or materials furnished by the Builder. The Railroad likewise will protect the Builder and the Manufacturer against loss through suits, royalties or claims of any kind whatsoever arising from the use of specialties specified by the Railroad. The Builder 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 the Builder has or hereafter shall have against the seller or sellers of any specialties specified by the Railroad and purchased or otherwise acquired by the Builder for use in or about the construction or operation of the Equipment, or any unit thereof, on the ground that any such specialty, or such operation thereof, infringes or is claimed to infringe on any patent or other right; and the Builder further agrees to execute and deliver to the Railroad or its assigns all and every such further assurance as may be rea-

sonably requested by the Railroad or its assigns more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. The Manufacturer and/or Builder will give notice to the Railroad of any claim known to the Manufacturer and/or Builder from which liability may be charged against the Railroad hereunder, and the Railroad will give notice to the Manufacturer and/or Builder of any claim known to the Railroad from which liability may be charged against the Manufacturer and/or Builder hereunder. Said covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due hereunder, the satisfaction and discharge of this Agreement or the termination of this Agreement in any manner.

ARTICLE 16. Assignments. The Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement nor, except as provided in Article 12, transfer the right to possession of any unit of the Equipment without first obtaining the written consent of the Manufacturer. An assignment or transfer to a railroad company, or other purchaser into or with which the Railroad shall have become merged or consolidated or which shall have acquired or leased all or substantially all the lines of railroad of the Railroad and which, by execution of an appropriate instrument satisfactory to the Manufacturer,

shall assume and agree to perform each and all of the obligations and covenants of the Railroad hereunder, or an assignment by the Railroad to one of its wholly owned subsidiary companies, shall not be deemed a breach of this covenant; provided that the Railroad shall remain liable for such performance as a principal and not as surety.

All or any of the rights, benefits and advantages of the Manufacturer under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Manufacturer and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities referred to in Articles 9 and 15, or relieve the Railroad of its obligations to the Builder under Articles 1, 2, 3, 4, 14 and 15 or any other obligation which, according to its terms and context, is intended to survive an assignment.

Upon any such assignment, either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating

the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all of the Manufacturer's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, 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.

The Railroad recognizes that it is the custom of railroad conditional sale vendors to assign agreements of this character and understands that the assignment of this Agreement, or of some or all of the rights of the Manufacturer hereunder, is contemplated. The Railroad expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Manufacturer hereunder, and for the purpose of inducing such acquisition, that in the event of such assignment by the Manufacturer, as hereinbefore provided, the rights of such assignee to the entire unpaid indebtedness in respect of

the Purchase price of the Equipment, or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder in respect of the Equipment, or the manufacture, construction, delivery or warranty thereof, or in respect of any indemnity herein contained, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Builder. Any and all such obligations howsoever arising shall be and remain enforceable by the Railroad against and only against the Builder.

In the event of any such assignment or successive assignments by the Manufacturer of title to the Equipment and of the Manufacturer's rights hereunder in respect thereof, the Railroad will, whenever requested by such assignee, change the markings on each side of each unit of the Equipment so as to indicate the title of such assignee to the Equipment, such markings to bear such words or legend as shall be specified by such assignee, subject to the requirements of the laws of the jursidictions in which the Equipment shall be operated

relating to such markings for use on equipment covered by conditional sale agreements with respect to railroad equipment. The cost of obtaining and attaching any series of markings in the event of any assignment of title to not less than all of the Equipment at the time covered by this Agreement shall be borne by the Railroad; but in the event of any assignment of title to less than all of such Equipment, such cost shall be borne by the assignee.

In the event of any such assignment prior to the completion of delivery of the Equipment, the Railroad will (a) in connection with settlement for the Equipment, deliver to the assignee of the Equipment, at least 3 business days prior to the Closing Date, such number of counterparts of all documents required by the terms of such assignment (other than any opinion of counsel for the assignee) to be delivered to such assignee in connection with such settlement as may reasonably be requested and (b) furnish to the assignee such number of copies or counterparts of any other certificate or paper required by this Agreement as may reasonably be requested.

If this Agreement shall have been assigned by the Builder and the assignee shall not make the required payment to the Builder on the Closing Date with respect to the

Equipment being settled for on such Closing Date, as provided in the instrument making such assignment, the Builder will promptly notify the Railroad of such event and, if such payment shall not have been previously paid by the assignee, the Railroad will, not later than 90 days after such Closing Date, pay or cause to be paid to the Builder the amount of such payment, together with interest from the date of such Closing Date to the date of payment by the Railroad at the prime rate of interest of Continental Illinois National Bank and Trust Company of Chicago in effect on such Closing Date.

ARTICLE 17. Defaults. In the event that any one or more of the following events of defaults shall occur and be continuing, to wit:

(a) The Railroad shall fail to pay in full, when due and payable hereunder, any sum payable by the Railroad as herein provided for indebtedness in respect of the Purchase Price of the Equipment or for interest thereon, and such failure shall continue for more than 5 business days after written notice from the Manufacturer; or

(b) The Railroad shall, for more than 30 days after the Manufacturer shall have demanded in writing

performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement on its part to be kept or performed or to make provision satisfactory to the Manufacturer for such compliance; or

(c) 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 within 30 days from the filing 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), 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, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(d) Any proceedings shall be commenced by or against the Railroad for any relief which includes, or might result in, any modification of the obligations of the Railroad hereunder under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions, and, unless such proceeding shall within 30 days from the filing 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), all the obligations of the Railroad under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Railroad or for its property 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, if any, or 60 days after such proceedings shall have been commenced, whichever

shall be earlier; or

(e) 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 unit of the Equipment;

then at any time after the occurrence of such an event of default the Manufacturer may, upon written notice to the Railroad and upon compliance with any legal requirements then in force and applicable to such action by the Manufacturer, declare the entire indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable (hereinafter called a "Declaration of Default"), without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such declaration at the rate specified in Article 3 hereof for past due amounts, to the extent legally enforceable, and the Manufacturer shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such

judgment out of any property of the Railroad wherever situated.

The Manufacturer may at its election waive any such event of default and its consequences and rescind and annul any such Declaration of Default by notice to the Railroad in writing to that effect, and thereupon 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 of Default 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.

ARTICLE 18. Remedies. At any time during the continuance of a Declaration of 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 unit thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in

this Article 18 expressly provided, and may remove the same from possession and use of the Railroad or anyone having such possession and use and for such purpose may enter upon the Railroad's premises 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.

In case the Manufacturer shall rightfully demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable 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 designated by the Manufacturer and shall there deliver the Equipment or cause it to be delivered to the Manufacturer. At the option of the Manufacturer, the Manufacturer may keep the Equipment on any of the lines or railroad 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 to the Railroad. This agreement to deliver the Equipment and to furnish facilities for its storage as hereinbefore provided is of the essence of this Agreement, 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 unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Manufacturer (after retaking possession of the Equipment as hereinabove in this Article 18 provided) may at its election retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment 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 Article 23, and to any other persons to whom the law may require notice within 30 days after such Declaration of Default. 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 the Railroad's rights in the Equipment will thereupon terminate and all payments made by the Railroad may be retained by the Manufacturer as compensation for the use of the Equipment by the Railroad; provided, however, that if the Railroad, before its obligations under this Agreement have been discharged pursuant to the foregoing retention by the Manufacturer of the Equipment, shall 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, 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 and 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 paragraph object in writing to the Manufacturer within 30 days from the receipt of notice of the Manufacturer's election to retain the Equipment, or if any other person entitled by law to so object does so in writing within 30 days after the Manufacturer retakes possession of the Equipment, then the Manufacturer may not so retain the Equipment but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Manufacturer shall have given no notice of intention 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 Article 18.

At any time during the continuance of a Declaration of Default, the Manufacturer, with or without retaking possession of the Equipment, at its election and upon reasonable notice to the Railroad and to any other persons to whom the law may require notice of the time and place, may sell the Equipment, or any unit thereof, free from any and all claims of the Railroad, or any other party claiming by, through or under the Railroad, at law or in equity, at public or private sale and with or without advertisement as the Manufacturer may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Railroad should tender full payment of the entire indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Manufacturer in retaking, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Manufacturer's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad. The proceeds of such sale, less attorneys' fees and

any other expenses incurred by the Manufacturer in taking possession of, removing, storing and selling the Equipment, shall be credited on the amount due to the Manufacturer under the provisions of this Agreement.

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 written notice of such sale shall be given to the Railroad and to all other persons to whom the law requires notice not less than 10 days prior thereto, by telegram or registered mail, addressed, in the case of the Railroad, as provided in Article 23. If such sale is to be a private sale, it shall be subject to the right of the Railroad to purchase or provide a purchaser, within 10 days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. The Manufacturer may itself bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale without accountability to the Railroad (except to the extent of surplus money received as hereinafter provided in this

Article 18), 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.

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.

If, after applying all sums of money realized by the Manufacturer under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Railroad shall pay the amount of such

deficiency to the Manufacturer upon demand; and if the Railroad shall fail to pay such deficiency, the Manufacturer may bring suit therefor and shall be entitled to recover 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.

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.

The foregoing provisions of this Article 18 are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

ARTICLE 19. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be in-

effective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable law of any jurisdiction 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 and enforced as such.

Except as otherwise provided in this Agreement, the Railroad, to the fullest 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 unit thereof, and any other requirements as to the time, place and terms of sale thereof, any other requirements with respect to the enforcement of the Manufacturer's rights hereunder and any and all rights of redemption.

ARTICLE 20. Extension Not a Waiver. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Manufacturer's rights or the obligations of the Railroad hereunder. The Manufacturer's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the obligations of the Railroad or the

Manufacturer's rights hereunder with respect to any subsequent payments or any other default hereunder.

ARTICLE 21. Recording. The Railroad will cause this Agreement and any assignments hereof or of any interest herein, and any amendments or supplements hereto or thereto, to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and otherwise as may be required by law for the full protection of the rights of the Manufacturer; and the Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments in such place or places as are required by law or reasonably requested by the Manufacturer for the purpose of proper protection, to the satisfaction of counsel for the Manufacturer, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Manufacturer certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Manufacturer.

ARTICLE 22. Payment of Expenses. The Railroad will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Builder) incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related hereto or thereto, (excluding, however, all fees and expenses of counsel for any assignee of this Agreement and for any party acquiring interests in any 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 Article 22, if the first assignee is an agent, then any successor agent to such agent shall also be considered the first assignee.

ARTICLE 23. Notice. Any notice hereunder to the Railroad shall be deemed to be properly served if delivered or mailed to the Railroad attention Vice President - Finance, at 400 West Madison Street, Chicago, Illinois 60606 or at such other address as may have been furnished in writing to the Manufacturer by the Railroad. Any notice hereunder to the Builder shall be deemed to be properly served if delivered or mailed to the Builder at the address specified in Item 2 of Schedule A hereto or at such other address as may have been furnished in writing to the Railroad by the Builder. Any

notice hereunder to any assignee of the Manufacturer or of the Railroad shall be deemed to be properly served if delivered or mailed to such assignee at such address as may have been furnished in writing to the Railroad or the Manufacturer, as the case may be, by such assignee.

ARTICLE 24. Article Headings. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

ARTICLE 25. Effect and Modification of Agreement. This Agreement and the schedules hereto exclusively and completely state the rights of the Manufacturer and the Railroad with respect to the Equipment and supersede all other agreements, oral and written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Manufacturer and the Railroad.

ARTICLE 26. Law Governing. This Agreement shall be construed in accordance with the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and by the recordation, registration

or deposit provisions of any other act pursuant to which this Agreement is recorded, filed, registered or deposited. The Railroad hereby represents and warrants that its chief place of business is located in the State of Illinois.

ARTICLE 27. Definitions. The term "Manufacturer," whenever used in this Agreement, means, before any assignment of any of its rights hereunder, the corporation named in Item 1 of Schedule A hereto and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both 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; and the term "Builder," whenever used in this Agreement, means, both before and after any such assignment, the corporation named in Item 1 of Schedule A hereto and any successor or successors for the time being to its manufacturing properties and business.

ARTICLE 28. Execution. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instru-

ment which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated as of July 1, 1973 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 Agreement 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.

PULLMAN INCORPORATED
(PULLMAN-STANDARD DIVISION)

[Corporate Seal]

By _____
Vice President

Attest:

_____
Assistant Secretary

CHICAGO AND NORTH WESTERN
TRANSPORTATION COMPANY

[Corporate Seal]

By _____
Vice President

Attest:

_____
Assistant Secretary

STATE OF Illinois

COUNTY OF Cook

On this 19th day of September, 1973, before me personally appeared W. R. Bach, to me personally known, who, being by me duly sworn, says that he is a Vice President of Pullman Incorporated (Pullman Standard Division) that one of the seals affixed to the foregoing instrument is the corporate seal of the 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.

[NOTARIAL SEAL]

Jerome F. Reagh
Notary Public

My Commission Expires Feb. 24, 1974

STATE OF ILLINOIS

COUNTY OF COOK

On this 18th day of September, 1973, before me personally appeared J. M. Butler, to me personally known, who, being by me duly sworn, says that he is a Vice President of Chicago and North Western Transportation Company, that one of the seals affixed to the foregoing instrument is the corporate seal of the 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

[NOTARIAL SEAL]

Albert R. Zuspann
Notary Public

My Commission Expires August 22, 1977

SCHEDULE A

Item 1: PULLMAN INCORPORATED (PULLMAN-STANDARD DIVISION) ("Builder")

Item 2: 200 South Michigan Avenue, Chicago, Illinois 60604

Item 3: The Equipment ("Equipment") described in Schedule B to the Conditional Sale Agreement to which this Schedule A is attached ("Conditional Sale Agreement") shall be settled for in a single group of all units of the Equipment delivered to and accepted by the Chicago and North Western Transportation Company ("Railroad) under the Conditional Sale Agreement, on one Closing Date not later than the Cut-Off Date specified in the Conditional Sale Agreement and not earlier (unless the Railroad elects to fix an earlier date) than the 10th business day following delivery to and acceptance by the Railroad of all units of the Equipment delivered by the Builder under the Conditional Sale Agreement and all units of the railroad equipment, comprising 247 70-Ton, 50' 6" box cars, CNW 162353-162599, both inclusive, delivered by the Builder to the Railroad as agent for Continental Illinois National Bank and Trust Company of Chicago, as Trustee, under the Equipment Trust Agreement dated as of September 15, 1973 between the Trustee and the Railroad.

Item 4: The Builder warrants to the Railroad that the Equipment will be built in accordance with the requirements, specifications and standards set forth in Article 1 of the Conditional Sale Agreement and in Schedule B to the Conditional Sale Agreement and warrants the Equipment will be free from defects in material or design (except as to articles, materials or designs incorporated therein which were specified or supplied by the Railroad and not manufactured or designed by the Builder) and workmanship under normal use and service, the Builder's obligation under this warranty being limited to repairing or replacing at its factory any part or parts of any unit of the Equipment which shall be returned to the Builder with transportation charges prepaid, within one year after the delivery of such unit to the Railroad, and which the Builder's examination shall disclose to its satisfaction to have been thus defective. THE FOREGOING WARRANTY OF THE BUILDER IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES,

EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT FOR ITS OTHER OBLIGATIONS OR LIABILITIES UNDER ARTICLES 1, 2 AND 3 OF THE CONDITIONAL SALE AGREEMENT, 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 as aforesaid. It is further understood and agreed that in no event shall the Builder be liable for indirect or consequential damages of any kind.

The Builder further agrees with the Railroad that neither the inspection as provided in Article 2 of the Conditional Sale Agreement nor any examination nor the acceptance of any units of the Equipment as provided in said Article 2 shall be deemed a waiver or a modification by the Railroad of any of its rights under this warranty.

SCHEDULE B

Type	Quantity	Manufacturer's Spec. No.	Railroad's Road Numbers (both inclusive)	Unit Base Price	Total Base Price	Delivery
70 Ton 50' 6" Outside Post Cushion Underframe Box Car	353	9695	CNW 162000-162352	$17,419.15*	$6,148,959.95	Sept.-Nov. 1973 Bessemer, Alabama

* F.O.B. Bessemer, Alabama with freight allowed to East St. Louis, Illinois

AGREEMENT AND ASSIGNMENT dated as of July 1, 1973 between the corporation first executing this instrument below (the "Builder") and CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO hereinafter called the "Assignee".

WHEREAS, the Builder and CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation (the "Railroad"), have entered into a Conditional Sale Agreement dated as of July 1, 1973 (the "Conditional Sale Agreement") covering the manufacture, sale and delivery by the Builder and the purchase by the Railroad of the railroad equipment described in the Conditional Sale Agreement (the "Equipment");

NOW, THEREFORE, this Agreement and Assignment (this "Assignment") WITNESSETH that, in consideration of the sum of One Dollar and other good and valuable consideration paid by the Assignee to the Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

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

(a) All the right, title and interest of the Builder in and to each unit of the Equipment when and as severally delivered and accepted and upon payment by the Assignee to the Builder of the amount required to be paid under the first paragraph of Section 6 in respect of such unit;

(b) All the right, title and interest of the Builder in and to the Conditional Sale Agreement (except the right to construct and deliver the Equipment; the right to receive the payments specified in the third paragraph of Article 2 thereof, in subparagraph (a) of the third paragraph of Article 3 thereof and in the last paragraph of Article 16 thereof; and reimbursement for taxes paid or incurred by the Builder as provided in Article 4 thereof), in and to any and all amounts which may be or become due or owing by the Railroad to the Builder under the Conditional Sale Agreement on account of the Railroad's 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 Condi-

tional Sale Agreement other than those hereinabove excluded; and

(c) Except as limited by subparagraph (b) above, all of the Builder's rights, powers, privileges and remedies under the Conditional Sale Agreement;

without any recourse, however, against the Builder 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 obligation of the Builder to construct and deliver the Equipment in accordance with the Conditional Sale Agreement or its obligations contained or referred to in Articles 9 and 15 of the Conditional Sale Agreement, or relieve the Railroad from its obligations to the Builder under Articles 1, 2, 3, 4, 14, 15 and 16 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 16 of the Conditional Sale Agreement, all obligations of the Builder to the Railroad in respect of the Equipment

shall be and remain enforceable by the Railroad, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder 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 and as attorney hereby irrevocably constituted for the Builder, 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.

SECTION 2. The Builder covenants and agrees that the Equipment has been or will be constructed in full accordance with the Conditional Sale Agreement and will be delivered under the Conditional Sale Agreement to the Railroad in accordance with the provisions thereof; and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions of the Conditional Sale Agreement to be performed and complied with by the Builder. The Builder 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 the Railroad 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, security interests and encumbrances of any nature except only the rights of the Railroad under the Conditional Sale Agreement; and the Builder further covenants and agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder to the Railroad pursuant to the Conditional Sale Agreement; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Railroad thereunder. The Builder will not deliver any of the Equipment under the Conditional Sale Agreement until the Conditional Sale Agreement has been filed pursuant to Section 20c of the Interstate Commerce Act, as amended.

SECTION 3. The Builder covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any installment of, or interest on, indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment or to enforce any provision of the Conditional Sale Agreement, the Builder will save, in-

demnify 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 of the Railroad arising out of a breach by the Builder of any obligation in respect of the Equipment or the manufacture, delivery or warranty thereof, or under Article 15 of or Item 4 of Schedule A to the Conditional Sale Agreement, or by reason of any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Builder. Any and all such obligations shall be and remain enforceable by the Railroad against and only against the Builder and shall not be enforceable against the Assignee or any party or parties in whom title to the Equipment, or any unit thereof, or any of the rights of the Builder under the Conditional Sale Agreement shall vest by reason of this assignment or of successive assignments or transfers. The Assignee will give notice to the Builder of any suit, proceeding or action by the Assignee herein described, and shall promptly move or take other appropriate action, on the basis of Article 16 of the Conditional Sale Agreement, to strike any defense, set-off, counterclaim or recoupment asserted by the Railroad therein; and if the court or other body having jurisdiction in such suit, proceeding or action

denies such motion or other action and accepts such defense, set-off, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee shall promptly notify the Builder of any such defense, set-off, counterclaim or recoupment asserted by the Railroad and thereafter give the Builder the right, at the Builder's expense, to compromise, settle or defend against such defense, set-off, counterclaim or recoupment.

The Builder 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 or operation of the Equipment, or any unit thereof, or any article, material, design, system, process, formula or combination which infringes, or is claimed to infringe, on any patent or other right, except for any specialties specified by the Railroad.

SECTION 4. The Builder will cause to be plainly, distinctly, permanently and conspicuously marked, by plate or stencil, on each side of each unit of the Equipment,

at the time of delivery thereof to the Railroad, in letters not less than one-half inch in height, the following legend:

"CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, OWNER"

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

SECTION 6. The Assignee, on each Closing Date fixed as provided in Article 3 of the Conditional Sale Agreement with respect to the Equipment, shall pay to the Builder an amount equal to that portion of the Purchase Price (as defined in said Article 3) of the Equipment not payable by the Railroad pursuant to subparagraph (a) of the third paragraph of said Article 3, provided that there shall have been delivered to the Assignee, as provided in Article 16 of the Conditional Sale Agreement, at least 3 business days prior to such Closing Date, the following documents, in form and substance satisfactory to it and

to its counsel in such number of counterparts as may reasonably be requested:

(a) A Bill of Sale from the Builder to the Assignee, transferring to the Assignee title to the units of the Equipment and warranting to the Assignee and to the Railroad that at the time of delivery to the Railroad under the Conditional Sale Agreement the Builder had legal title to such units and good and lawful right to sell such units and that title to such units was free of all claims, liens, security interests and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement, and covenanting to defend the title to such units as required by Section 2;

(b) A Certificate or Certificates of Acceptance with respect to the units of the Equipment in such Group as contemplated by Article 2 of the Conditional Sale Agreement;

(c) Duplicate invoice or invoices of the Builder for the units of the Equipment accompanied by or having

endorsed thereon a certification by the Railroad as to the correctness of the prices stated therein;

(d) An opinion, dated such Closing Date, of counsel for the Railroad stating that (i) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Railroad and is a legal, valid and binding instrument enforceable against the Railroad in accordance with its terms, (ii) this Assignment has been duly authorized, executed and delivered by the Builder and (assuming its due authorization, execution and delivery by the Assignee and its enforceability against the Assignee) is a legal, valid and binding instrument, (iii) the Assignee is vested with all the right, title and interest of the Builder in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment, (iv) security title to the units of the Equipment 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, security interests and other encumbrances except only the rights of the Railroad under the Conditional Sale

Agreement, (v) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution and delivery of the Conditional Sale Agreement or this Assignment, or, if any such approval is necessary, it has been obtained, (vi) the Conditional Sale Agreement and this Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, as amended, and no other filing or recordation is necessary for the protection of the rights of the Assignee in any state of the United States of America or the District of Columbia, (vii) the Railroad is a duly organized and existing corporation in good standing under the laws of the State of Delaware and has the power and authority to own its properties and to carry on its business as now conducted, (viii) there is no condition, restriction or requirement in the documents constituting the corporate charter of the Railroad relating to or affecting the execution and delivery by the Railroad of the Conditional Sale Agreement or the enforceability thereof in accordance with their terms or requiring any approval of stockholders in respect thereof and (ix) neither the execution and delivery of the Conditional

Sale Agreement or this Assignment, nor the consummation of the transactions therein and herein contemplated or the fulfillment of the terms thereof and hereof, will conflict with or result in a breach of any of the terms, conditions or provisions of any law, regulation, order, writ, injunction or decree of any court or governmental instrumentality, domestic or foreigh, or of any agreement or instrument to which the Railroad is now a party or constitute a default thereunder;

(e) An opinion, dated such Closing Date, of counsel for the Builder stating that (i) the Builder is a duly organized and existing corporation in good standing under the laws of 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 Conditional Sale Agreement and this Assignment have been duly authorized, executed and delivered by the Builder and each is a legal and valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms, (iii) the Assignee is vested with all the right, title and interest of the Builder in and to the Conditional Sale Agreement purported

to be assigned to the Assignee by this Assignment and (iv) security title to the units of the Equipment has been 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, security interests and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement;

(f) Unless payment of that portion of the Purchase Price of the Equipment payable pursuant to subparagraph (a) of the third paragraph of Article 3 of the Conditional Sale Agreement is made by the Assignee through the use of funds furnished to it for the purpose by the Railroad, a counterpart of a receipt from the Builder acknowledging such payment.

(g) A certificate, dated such Closing Date, signed by a Vice President of the Railroad stating that no event of default under any general mortgage or loan agreement made or assumed by the Railroad, and no event which, with the passing of time or the giving of notice, or both, would constitute an event of default has occurred and is continuing.

In giving the opinions specified in subparagraphs (d) and (e) of this Section 6, counsel may qualify any opinion to the effect that any agreement is a valid and binding instrument 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. In giving an opinion pursuant to said subparagraph (d), counsel for the Railroad may rely on the opinion of counsel for the Builder as to the matters referred to in subdivisions (ii), (iii) and (iv) of subparagraph (d).

The Assignee shall not be obligated to make any of the above-mentioned payments at any time while an event of default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement would constitute an event of default, shall be subsisting under the Conditional Sale Agreement. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of Equipment with respect to which payment has not been made by the Assignee.

It is understood and agreed that the Assignee shall not be required to make any payment in respect of any Equipment excluded from the Conditional Sale Agreement pursuant to Article 2 thereof.

The term "business days" is used herein as defined in the Conditional Sale Agreement.

SECTION 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments 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.

SECTION 8. The Builder 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; that it has no reason to believe that the Conditional Sale Agreement is not a validly

existing agreement binding upon the parties thereto in accordance with its terms; and that, assuming valid authorization, execution and delivery by the Railroad, the Conditional Sale Agreement is, insofar as the Builder is concerned, a valid and existing agreement binding upon the Builder 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. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights con-

ferred by Section 20c of the Interstate Commerce Act and by the recordation, filing, deposit or registration provisions of any other act pursuant to which this Assignment is recorded, filed, deposited or registered.

SECTION 10. This Assignment may be executed in any number of counterparts, but the counterpart delivered to the Assignee shall be deemed to be the original. Although this Assignment is dated as of July 1, 1973 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.

PULLMAN INCORPORATED
(PULLMAN-STANDARD DIVISION)

By _____
Vice President

[Corporate Seal]

Attest:

_____
Assistant Secretary

CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO

By _____
Vice President

[Corporate Seal]

Attest:

_____
Commercial Banking Officer

STATE OF Illinois)
)
COUNTY OF Cook)

On this 19th day of September, 1973, before me personally appeared M. R. Beck, to me personally known, who, being by me duly sworn, says that he is Vice President of Pullman Incorporated (Pullman Standard Division) that one of the seals affixed to the foregoing instrument is the corporate seal of the 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.

[NOTARIAL SEAL]

Jerome F. Resgal
Notary Public

My Commission Expires Feb. 24, 1974

STATE OF ILLINOIS)
)SS
COUNTY OF COOK)

On this 15th day of Sept, 1973, before me personally appeared PETER D. HORNE, to me personally known, who, being by me duly sworn, says that he is a 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 the 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.

[NOTARIAL SEAL]

Eileen Hudson
Notary Public

My Commission Expires 9-22-74

ACKNOWLEDGEMENT OF NOTICE OF ASSIGNMENT

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY hereby acknowledges receipt of a copy of, and due notice of, and consents to, the assignment made by the foregoing Agreement and Assignment as of July 1, 1973.

CHICAGO AND NORTH WESTERN
TRANSPORTATION COMPANY

J M Butler
Vice President