

RECORDATION NO. 8953 Filed & Recorded

AUG 29 1977 - 1 25 PM GRAVATH, SWAINE & MOORE 7-2411059

ONE CHASE MANHATTAN PLAZA

MAURICE T. MOORE  
 BRUCE BROMBERG  
 ROSWELL L. GILPATRICK  
 ALBERT R. CONNELLY  
 FRANK H. DETWEILER  
 GEORGE G. TYLER  
 CHARLES R. LINTON  
 WILLIAM B. MARSHALL  
 RALPH L. MCAFEE  
 ROYALL VICTOR  
 ALLEN H. MERRILL  
 HENRY W. DEKOSMIAN  
 ALLEN F. MAULSBY  
 STEWARD R. BROSS, JR.  
 HENRY P. RIORDAN  
 JOHN R. HUPPER  
 SAMUEL C. BUTLER  
 WILLIAM J. SCHRENK, JR.  
 BENJAMIN F. CRANE  
 FRANCIS F. RANDOLPH, JR.  
 JOHN F. HUNT, JR.  
 GEORGE J. GILLESPIE, III  
 RICHARD S. SIMMONS  
 WAYNE E. CHAPMAN  
 THOMAS D. BARR

NEW YORK, N.Y. 10005

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 AUG 29 1977 - 1 25 PM  
 INTERNATIONAL TELETYPE: 820976  
 TELETYPE: 710-581-0338

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 8953, b Filed & Recorded

AUG 29 1977 - 1 25 PM

INTERSTATE COMMERCE COMMISSION

CARLYLE E. MAW  
 L. R. BRESLIN, JR.  
 HAROLD R. MEDINA, JR.  
 COUNSEL

4, PLACE DE LA CONCORDE  
 75008 PARIS, FRANCE  
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TERMINAL HOUSE  
 62, GROSVENOR GARDENS  
 LONDON, SW1W 0AU, ENGLAND  
 TELEPHONE: 01-730-6203  
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CABLE ADDRESSES  
 GRAVATH, N. Y.  
 GRAVATH, PARIS  
 GRAVATH, LONDON S.W.1

AUG 29 1977  
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 Fee \$ 160  
 CC Washington, D.C.  
 RECORDATION NO. 8953 Filed & Recorded

AUG 29 1977 - 1 25 PM

INTERSTATE COMMERCE COMMISSION August 29, 1977

Dear Sir:

Herewith for recordation pursuant to Section 20c of the Interstate Commerce Act, on behalf of Peterson, Howell & Heather (Canada) Limited and Canadian National Railway Company, are counterparts of the following:

(1) Equipment Purchase Agreement dated as of August 16, 1977, between Canadian National Railway Company, as Seller, and Peterson, Howell & Heather (Canada) Limited, as Purchaser.

(2) Lease of Railroad Equipment dated as of June 1, 1977, between Peterson, Howell & Heather (Canada) Limited, as Lessor, and Canadian National Railway Company, as Lessee.

(3) Trust Indenture dated as of June 1, 1977, between Peterson, Howell & Heather (Canada) Limited, as Company, and The Royal Trust Company, as Trustee.

(4) First Supplemental Trust Indenture dated as of June 1, 1977, between Peterson, Howell & Heather (Canada) Limited, as Company, and The Royal Trust Company, as Trustee.

The addresses of the parties to the aforementioned agreements are:

Seller-Lessee:

Canadian National Railway Company  
 935 La Gauchetiere West  
 Montreal, Quebec H3C 3N4  
 Canada.

FEE OPERATION BR.

AUG 29 1 21 PM '77

RECEIVED

*Handwritten signatures and notes:*  
 Peterson  
 Howell & Heather  
 August 29, 1977

Purchaser-Lessor-Company:

Peterson, Howell & Heather  
 3 Place due Commerce  
 Ile des Sours  
 Montreal, Quebec H3E 1H7  
 Canada.

Trustee:

The Royal Trust Company  
 630 Dorchester Boulevard West  
 Montreal, Quebec,  
 Canada.

The equipment covered by the aforementioned agreements consists of 55 70-ton Flat Cars--Bulkhead bearing the road numbers of the Canadian National Railway Company CN-620443; 620446-620499, 9 70-ton Long Steel Hopper Cars bearing the road numbers of the Canadian National Railway Company CN-302591-302599; 7 Ohio Model DE-400 Locomotive Cranes 40/50 ton capacity bearing the road numbers of the Canadian National Railway Company CN-50470-50476, 1 Model 40 Ser. #40-400 Standard Burro Crane bearing the road number of the Canadian National Railway Company CN-50477, 1 Model 40 Burro Crane 12-1/2 ton capacity bearing the road number of the Canadian National Railway Company CN-50478 and 1 Model 4-100 Jordan Spreader Ditcher Snow Plow bearing the road number of the Canadian National Railway Company CN-50938, and also bearing the legend "Ownership subject to a security agreement filed under the Interstate Commerce Act, Section 20c".

Enclosed is our check for \$160 for the required recordation fee. Please accept for recordation one counterpart of each of the enclosed agreements, stamp the remaining counterparts with your recordation number and return them to the delivering messenger along with your fee receipt, addressed to the undersigned.

Very truly yours,



Kris F. Heinzelman

Robert L. Oswald, Esq., Secretary,  
 Interstate Commerce Commission,  
 Washington, D. C. 20423

Encls.

G

**Interstate Commerce Commission**  
**Washington, D.C. 20423**

8/29/77

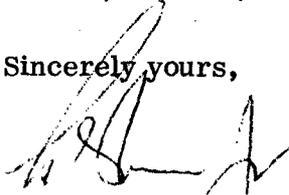
OFFICE OF THE SECRETARY

Kris F. Heinzelman  
Cravath, Swaine & Moore  
One Chase Manhattan Plaza  
New York, N.Y. 10005

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 8/29/77 at 1:25pm, and assigned recordation number(s) 8953, 8953-A, 8953-B & 8953-C

Sincerely yours,



H.G. Homme, Jr.  
Acting Secretary

Enclosure(s)

SE-30-T  
(6/77)

EQUIPMENT PURCHASE AGREEMENT dated August 16, 1977 between CANADIAN NATIONAL RAILWAY COMPANY, having its principal office and place of business at 935 Lagachetiere West, Montreal, Quebec (hereinafter called the Seller), and PETERSON, HOWELL & HEATHER (CANADA) LIMITED, having its principal office and place of business at 3 Place du Commerce, Nun's Island, Montreal, Quebec (hereinafter called the Purchaser).

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WHEREAS the Seller and the Purchaser entered into the Equipment Purchase Agreement (hereinafter called the "First Equipment Purchase Agreement") dated as of June 1, 1977 which was executed on August 2, 1977 and which provided for the sale to the Purchaser of certain railroad equipment described in Schedule A thereto; and

WHEREAS the Seller and the Purchaser have agreed to cancel the First Equipment Purchase Agreement and to enter into this Agreement in lieu thereof for the sale and delivery by the Seller to the Purchaser of certain units of standard gauge railroad equipment and work equipment (hereinafter called the "Equipment") described in Schedule A hereto, subject to the terms and conditions set forth herein; and

WHEREAS the Seller hereby agrees to sell and deliver to the Purchaser and the Purchaser agrees to purchase the units of used standard-gauge railroad equipment and work equipment (hereinafter referred to as the Equipment) described in Schedule A hereto, subject to the terms and conditions set forth herein; and

WHEREAS the Purchaser intends to enter into a Participation Agreement (hereinafter called the Participation Agreement) to be dated as of June 1, 1977, among the Purchaser, the Seller and the parties named in Annex 1 thereto under which the Purchaser will borrow approximately 90% of the cost of the Equipment by selling to the parties named in Annex 1 to the Participation Agreement up to \$4,500,000 principal amount of its 8-1/4% Secured Equipment Notes due 1991 to be issued under a trust indenture between the Purchaser and The Royal Trust Company, as trustee; and

WHEREAS the Purchaser intends to enter into a Lease of Railroad Equipment to be dated as of June 1, 1977 (hereinafter called the Lease), with the Seller providing for the leasing of the Equipment to the Seller;

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

*ju*

ARTICLE 1. Sale and Purchase. Subject to the terms and conditions hereinafter set forth, the Seller does hereby agree to sell and deliver the Equipment as hereinbelow provided, and the Purchaser will pay to the Seller the Purchase Price (as hereinafter defined) of the Equipment on the Closing Date as defined in the Participation Agreement (hereinafter called the "Closing Date").

ARTICLE 2. Risk of Loss. The Seller assumes the responsibility and risk of loss or damage with respect to the Equipment until the Closing Date.

ARTICLE 3. Purchase Price; Conditions to Closing Payment of Purchase Price. The Purchase Price to be paid by the Purchaser to the Seller for the Equipment is U.S. \$5,038,672.34. The obligation of the Purchaser hereunder to make any payment provided for in this Agreement is hereby expressly conditioned upon the following: (i) the execution and delivery of the Participation Agreement and the fulfillment of all obligations and satisfaction of all conditions thereunder, (ii) the Purchaser having on deposit pursuant to the terms of the Participation Agreement funds at least equal to U.S. \$4,500,000 and (iii) that the representations and warranties of the Seller contained herein and in Paragraph 4 of the Participation Agreement shall be true as of the Closing Date.

ARTICLE 4. Warranties and Representations of Seller. The Seller hereby warrants and represents to and covenants with the Purchaser as follows:

- (a) that on the Closing Date all of the Equipment shall have been delivered to the Purchaser in good order and condition at such point or points within Canada and the United States of America as the Equipment shall then be;
- (b) that the Seller purchased the Equipment new from the builders specified in Schedule A hereto, the purchase price thereof has been paid in full and the Equipment went into service with the Seller after May 26, 1975;
- (c) that the Seller has not to the date hereof, and will not have to the Closing Date, done or permitted any act by which the Equipment shall have become mortgaged, pledged, charged or in any other way encumbered, and the Seller now has and will on the Closing Date have good and legal title to the Equipment and good and lawful right to sell the Equipment hereunder and the Equipment shall be sold by the Seller to the Purchaser with good and legal title, free and clear of all claims, liens, security interests and other encumbrances;

*JW*

- (d) the Seller will defend the title to the Equipment against the demands of all persons whomsoever based on claims originating prior to the effective date of this Agreement;
- (e) the Seller shall pay all applicable Federal, provincial, municipal, local or other sales taxes relating to the sale and purchase contemplated hereby and shall indemnify and hold the Purchaser harmless with respect thereto;
- (f) if, as of the Closing Date, any of the Equipment should be found to be defective or otherwise unfit for the use for which it is intended, the Seller shall, at its expense, take such action and do such things as shall be necessary to remedy such defect, to the entire exoneration of the Purchaser.

ARTICLE 5. First Equipment Purchase Agreement. The First Equipment Purchase Agreement is hereby rescinded and terminated.

ARTICLE 6. Miscellaneous. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and assigns. This Agreement shall be governed by the laws of the Province of Ontario.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed, on the 16th day of August 1977.

Seller:  
CANADIAN NATIONAL RAILWAY  
COMPANY,

by J. Spier  
Vice-President

[Signature]  
Secretary

Witness:

[Signature]

Purchaser:  
PETERSON, HOWELL & HEATHER  
(CANADA) LIMITED,

by H. H. Heath  
Executive Vice-President

[Signature]  
Assistant Secretary

Approved as to  
form  
[Signature]



SCHEDULE A to the Equipment Purchase Agreement  
between Canadian National Railway Company and  
Peterson, Howell & Heather (Canada) Limited  
dated August 16, 1977

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DESCRIPTION OF THE EQUIPMENT

<u>Type of Equipment</u>	<u>Specifications</u>	<u>Builder or Supplier</u>	<u>No. of Units</u>	<u>Unit Numbers</u>
Flat Cars-- Bulkhead	70-ton	National Steel Car Corporation, Limited	55	CN-620443; 620446- 620499
Long Steel Hopper Cars	70-ton	National Steel Car Corporation, Limited	9	CN-302591- 302599
Locomotive Cranes 40/50 ton capacity	Ohio Model DE-400	Woodings Canada Limited	7	CN-50470- 50476
Standard Burro Crane	Model 40 SER.#40-400	Woodings Canada Limited	1	CN-50477
Burro Crane 12½ ton capacity	Model 40	Woodings Canada Limited	1	CN-50478
Jordan Spreader Ditcher Snow Plow	Model 4-100	Jackson International Corporation	1	CN-50938

PROVINCE OF QUEBEC, )  
 ) ss.:  
CITY OF MONTREAL, )

On this *26th* day of *August* 1977, before me personally appeared *Richard R Smith*, to me personally known, who, being by me duly sworn, says that he is a *Vice-President* of PETERSON, HOWELL & HEATHER (CANADA) LIMITED, 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.

*Daniel Wintner Notary*

~~Notary Public in and for the  
Province of Québec~~

*for life*  
My Commission expires

PROVINCE OF QUEBEC, )  
 ) ss.:  
CITY OF MONTREAL, )

On this *26th* day of *August* 1977, before me personally appeared *J H Spicer*, to me personally known, who, being by me duly sworn, says that he is a Vice President of CANADIAN NATIONAL RAILWAY COMPANY, 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.

*W. L. Hart*  
~~Notary Public in and for the  
Province of Québec~~

My Commission expires

*July 3, 1979*

**G. ERIC URQUHART  
COMMISSIONER FOR OATHS  
COMMISSAIRE À L'ASSERMENTATION  
DISTRICT - MONTREAL**