CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

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BERNARD J. ALLEN
DIANE KOHLER-RAUSCH
ASSISTANT SECRETARIES
DIRECT DIAL NUMBER
312/454-6534

June 27, 1977

File No.: A-10289

8866
RECORDATION NO. ..... Filed & Recorded
JUN 28 1977 11 05 AM
INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission
Washington, D.C. 20423
Attention: Mr. Robert L. Oswald, Secretary

Gentlemen:

Pursuant to Section 20c of the Interstate Commerce Act, as amended, attached for recordation are Counterpart Nos. 1 to 5, inclusive, of Conditional Sale Agreement and Agreement and Assignment dated as of 6/23/77, covering acquisition by this Company of equipment as described on Schedule A attached thereto.

The names and addresses of the parties to the transaction are as follows:

1. Conditional Sale Agreement between North Western Leasing Company, 400 W. Madison St., Chicago, IL. 60606, Seller, and this Company, 400 W. Madison St., Chicago, Il. 60606, Buyer.

2. Agreement and Assignment between North Western Leasing Company, Assignor, and Continental Illinois National Bank and Trust Company of Chicago, Assignee, 231 S. LaSalle Street, Chicago, IL. 60693. Acknowledged by this Company as Buyer.

Enclosed is our check for $50.00 to cover your recording fee. Please return Counterpart Nos. 1 to 4, inclusive, showing your recordation data.

Very truly yours,

Diane Kohler-Rausch

Diane Kohler-Rausch
Assistant Secretary

7-179A031

Date JUN 28 1977
Fee $ 50
ICC Washington, D

jas
enclosures
cc: R. L. Schardt
F. E. Cunningham, Attn: H. Labno*
R. F. Guenther, Attn: J. James*
Z. Steiger*
D. E. Stockham, Attn: R. S. Brenner*
R. D. Smith
Arthur Andersen & Co., Attn: Gary Holdren*
Peter D. Horne, Continental Bank

*with copy of Agreement

Counterpart Cecile L. Clark

Interstate Commerce Commission
Washington, D.C. 20423

6/28/77

OFFICE OF THE SECRETARY

Diane Kohler-Rausch
Chicago and North Western Transp. Co.
400 West Madison Street
Chicago, Illinois 60606

Dear Mrs.Kohler-Rausch:

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 6/28/77 at 11:05am, and assigned recordation number(s) 8866

Sincerely yours,

H.G. Homme, Jr.
Acting Secretary

Enclosure(s)

SE-30-T
(6/77)

COUNTERPART

No. 5 of 10

A-256

CONDITIONAL SALE AGREEMENT

RECORDATION NO. 3866 Filed & Recorded
JUN 28 1977 · 11 05 AM
INTERSTATE COMMERCE COMMISSION

DATED AS OF JUNE 23, 1977

between

NORTH WESTERN LEASING COMPANY

and

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

AGREEMENT AND ASSIGNMENT

DATED AS OF JUNE 23, 1977

between

NORTH WESTERN LEASING COMPANY

and

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

CONDITIONAL SALE AGREEMENT dated as of June 23, 1977, between NORTH WESTERN LEASING COMPANY, a Delaware corporation (hereinafter called the Seller or the Vendor as the context may require, all as more particularly set forth in Article 1 hereof), and CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation (hereinafter called the Railroad).

WHEREAS, the Seller has agreed to supply, sell and deliver to the Railroad, and the Railroad has agreed to purchase, the equipment described in Schedule A hereto (hereinafter called 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. *Assignment; Definitions.* The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder, NORTH WESTERN LEASING COMPANY and any successor or successors for the time being to its properties and businesses, 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 or excluded from any assignment or which are not vested in any assignee or assignees until satisfaction of conditions contained in such assignment. The term "Seller", whenever used in this Agreement, means, both before and after any such assignment, NORTH WESTERN LEASING COMPANY and any successor or successors for the time being to its respective manufacturing properties and businesses.

ARTICLE 2. *Sale.* Pursuant to this Agreement, the Seller will sell and deliver to the Railroad, and the Railroad will purchase from the Seller and accept delivery of and pay for (as hereinafter provided), all of the Equipment. Each unit of the Equipment shall conform to the specifications applicable thereto, including such modifications thereof as may be agreed upon in writing between the Seller and the Railroad (which specifications, with such modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of Equipment shall, on the date of delivery thereof to the Railroad, in each case conform to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to equipment of the character of such units of the Equipment.

ARTICLE 3. *Delivery.* The Seller will deliver the units of Equipment to the Railroad, with freight charges prepaid, at the place or places specified by the Railroad.

Upon delivery of each unit or of a number of units of the Equipment, if each such unit conforms to the specifications, requirements and standards applicable thereto, an authorized representative of the Railroad shall execute and deliver to the Seller a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Railroad.

On delivery of each such unit hereunder at the place specified for delivery, the Railroad will assume the responsibility and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such unit. Any unit of Equipment not delivered, accepted and settled for on or prior to December 31, 1977 (hereinafter called the Cut-Off Date) shall be excluded from this Agreement and from the term "Equipment" as used herein, and the Railroad shall be relieved of its obligation to purchase and pay for any such unit.

ARTICLE 4. *Purchase Price and Payment.* The base price or prices per unit of the Equipment are set forth in Schedule A hereto, and shall be subject to such increase or decrease as is agreed to by the Seller and the Railroad. The term "Purchase Price" as used herein shall mean the base price or prices of the Equipment as so increased or decreased, as set forth in the Seller's invoice or invoices delivered to the Railroad.

For the purpose of settlement therefor, the Equipment shall be divided into such number of groups of units (each such group being hereinafter called a Group) as the Seller and the Railroad may agree to. The term "Closing Date" with respect to any Group shall mean such date not later than the Cut-Off Date (as defined in Article 3), occurring not more than ten business days following presentation by the Seller to the Railroad of an invoice for the Purchase Price of such Group, as shall be fixed by the Railroad by written notice delivered to the Vendor at least two business days prior to the Closing date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois, are authorized or obligated to remain closed.

The Railroad hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in each to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) on the Closing Date for each Group, an amount equal to at least 20% of the Purchase Price of all units of Equipment in such Group.

(b) in 40 consecutive equal (except for appropriate adjustment of the final instalment in case the amount payable pursuant to this subparagraph (b) shall not, when divided by 40 , result in an amount ending in an integral cent) quarterannual instalments, as hereinafter provided, an amount equal to the aggregate of the Purchase Prices for all the Equipment less the amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph (the aggregate of said instalments being hereinafter called the Conditional Sale Indebtedness).

The instalments of the Conditional Sale Indebtedness shall be payable quarterannually on March 15, June 15, September 15 and December 15 in each year commencing on March 15, 1978, to and including December 15, 1987. The unpaid Conditional Sale Indebtedness shall bear interest, from the Closing Date for each Group, at a rate equal to the Effective Prime Rate (as hereinafter defined) plus 1.0%, payable on March 15, June 15, September 15 and December 15 in

each year (such dates being hereinafter called the "Interest Payment Dates"). The term "Effective Prime Rate" as used herein shall mean, in respect of the interest payment due on the first Interest Payment Date following each Closing Date, the rate per annum charged on the Closing Date by Continental Illinois National Bank and Trust Company of Chicago to its largest and most credit-worthy customers on 90 day commercial loans and, in respect of each subsequent Interest Payment Date hereunder, shall mean the rate per annum charged on the preceding Interest Payment Date hereunder by said Bank to its largest and most credit-worthy customers on 90 day commercial loans. If any date for payment of principal or interest is not a business day, the payment otherwise payable on such date shall be payable on the next succeeding business day.

All interest under this Agreement shall be calculated on an actual elapsed day basis.

The Railroad will pay, to the extent legally enforceable, interest at 1.75% over the then Effective Prime Rate per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

The Railroad shall have the privilege of prepaying the Conditional Sale Indebtedness or any instalment thereof, at any time, without penalty or premium, and each such prepayment shall be applied to reduce instalments in the 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.

All payments provided for in this Agreement shall be made 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.

In the event the Vendor, pursuant to Article 15 hereof, assigns the right to receive the payments herein provided to be made by the Railroad, the assignee thereof may request the Railroad to make and the Railroad shall make such payments to it at such address as shall be supplied to the Railroad by the assignee.

ARTICLE 5. *Taxes.* All payments to be made by the Railroad hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, federal or foreign taxes (other than net income, gross receipts [except gross receipts taxes in the nature of or in lieu of sales or use taxes], excess profits and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which impositions the Railroad assumes and agrees to pay on demand. 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 or upon the earnings arising therefrom (except as provided above) or upon the Vendor solely by reason of its interest therein (except as provided above) and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the security interest of the Vendor or result in a lien upon any part of the Equipment; *provided, however,* that the Railroad shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the interest or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any such impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Railroad shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; *provided, however,* that the Railroad shall not be obligated to reimburse the Vendor for any impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Railroad shall have approved the payment thereof.

ARTICLE 6. *Security Interest in the Equipment.* The Seller and the Railroad may enter into other conditional sale agreements or may enter into leases for the purchase or lease by the Railroad of railroad equipment, and the Railroad may cause Continental Illinois National Bank and Trust Company of Chicago (hereinafter called the "Assignee"), pursuant to a Finance Agreement dated as of January 1, 1977 among the Banks who are parties thereto, the Railroad, the Seller and the Assignee, as Agent for said Banks, to acquire by assignment from the Seller its interest in such equipment and conditional sale agreements and in the Equipment and this Agreement, or to make loans to the Seller secured by security agreements and the leased equipment described therein (such conditional sale agreements and security agreements being hereinafter called the "Related Agreements"). In consideration for the Seller's entering into this Agreement and each of the Related Agreements, and for the Assignee's entering into the related assignments and making loans to the Seller in respect of the leased equipment, the Railroad agrees that the Equipment shall be security for the indebtedness and other obligations of the Railroad and the Seller under all the Related Agreements, and the Railroad does hereby grant to the Seller prior to any assignment of this Agreement to the Assignee and to the Assignee after such assignment (the grantee being in each such case defined as the "Vendor" as provided in Article 1 hereof) a security interest in the Equipment to secure the payment of the indebtedness and performance of the obligations of the Railroad and the Seller, as the case may be, under each Related Agreement in accordance with the terms thereof as though the Equipment were part of the equipment described therein; *provided, however,* that if the Railroad or the Seller is indebted to the Vendor under any Related Agreement at any time after the Railroad shall have paid under this Agreement the full indebtedness in respect of the Purchase Price of all units of the Equipment, and any such unit suffers a Casualty Occurrence (as defined in Article 8 hereof) or is disposed of by the Railroad in the ordinary course of business, no deposit, prepayment or additional security shall be required under Article 8 or under any Related Agreement or otherwise, and, provided there is then no existing default under any

Related Agreement, the Vendor's security interest in such unit shall be deemed to be terminated and released upon such disposition or occurrence and absolute right to the possession of, title to and property in such unit shall pass to and vest in the Railroad without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Railroad, will execute and deliver to the Railroad or the Railroad's vendee, assignee or nominee, a bill of sale (without warranties) for such unit, and such other documents as may be necessary or appropriate to make clear upon the public records the release of the security interest of the Vendor in such unit.

The Vendor shall and hereby does retain a security interest in the Equipment until the Railroad and the Seller shall have made all their payments and shall have kept and performed all their agreements and obligations under this Agreement and under the Related Agreements, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as provided in this Agreement. Any and all additions to the Equipment (except additions that are not required by Article 9 hereof and that are readily removable without causing material damage to the unit) and any and all replacements of the Equipment and of parts thereof and additions thereto (except as provided above) 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.

Except as otherwise specifically provided in this Article 6 and in Article 8 hereof, when and only when the full indebtedness in respect of the Purchase Price of the Equipment and in respect of the price of the equipment described in the Related Agreements, together with interest and all other payments as herein and in the Related Agreements provided, shall have been paid, and all the Railroad's and the Seller's obligations herein and in the Related Agreements contained shall have been performed by the Railroad and the Seller, respectively, 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 Vendor. However, the Vendor, if so requested by the Railroad at that time, will (a) execute a bill or bills of sale for the Equipment transferring and releasing its interest therein to the Railroad, or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address referred to in Article 21 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the release of the security interest of the Vendor in the Equipment and (c) pay to the Railroad any money paid to the Vendor pursuant to Article 8 hereof and not theretofore applied as therein provided. 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 or bills of sale or instrument or instruments 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 such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Railroad.

ARTICLE 7. *Marking of the Equipment.* The Railroad will cause each unit of the Equipment to be kept numbered with its identifying number as set forth in Schedule A hereto, or in the case of Equipment not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will, on and after the Cut-Off Date, cause to be kept and maintained, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Ownership subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or the name of the Vendor followed by the words "Agent, Owner", or other appropriate markings approved by the Vendor with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's interest in the Equipment and its rights under this Agreement. The Railroad will replace promptly any such markings which may be removed, defaced, obliterated or destroyed. The Railroad will not change the number of any unit of the Equipment except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor by the Railroad and filed, recorded and deposited by the Railroad in all public offices where this Agreement shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the Railroad will not allow the name of any person, association or corporation to be placed on any unit of 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 names or initials or other insignia of the Railroad or its affiliates.

ARTICLE 8. *Casualty Occurrences.* In the event that any unit of the Equipment shall be worn out, lost, stolen, destroyed, or, in the opinion of the Railroad, shall no longer be economically useful to the Railroad, or shall be irreparably damaged or otherwise rendered unsuitable or unfit for use from any cause whatsoever, or shall be requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for a stated period which exceeds the remaining term of this Agreement (such occurrences being hereinafter called Casualty Occurrences), the Railroad shall promptly and fully inform the Vendor in regard thereto (after it has knowledge of such Casualty Occurrence). The Railroad shall, on the next date for the payment of an instalment of Conditional Sale Indebtedness or interest hereunder occurring more than 30 days after it has knowledge of such event, pay to the Vendor a sum equal to the aggregate Casualty Value (as defined herein) of such units of the Equipment as of the date of such payment (or the sum provided for in third paragraph of this Article 8 in the event the Railroad makes such payment pursuant to said third paragraph) and shall file with the Vendor a certificate of an officer of the Railroad setting forth the Casualty Value of each unit of the Equipment suffering a Casualty Occurrence.

Any money paid to the Vendor pursuant to the preceding paragraph of this Article 8 shall, as the Railroad may direct in a written instrument filed with the Vendor, be applied (so long as no event of default shall have occurred and be continuing), in whole or in part, to prepay instalments of Conditional Sale Indebtedness or toward the cost of a new or used unit or units of standard

gauge railroad equipment in good condition and complying with all the provisions of the second paragraph of Article 9 hereof to replace units suffering a Casualty Occurrence; *provided, however,* that passenger or work equipment shall replace only units of equipment constituting passenger or work equipment that suffered a Casualty Occurrence. In case any money is applied to prepay indebtedness, it shall be so applied to reduce instalments thereafter falling due in the inverse order of maturity.

So long as no event of default shall have occurred and be continuing, the Railroad may pay to the Vendor in lieu of the aggregate Casualty Value required to be paid on the payment date pursuant to the provisions of the first paragraph of this Article 8, a sum equal to the Conditional Sale Indebtedness as of the date of such payment in respect of the Purchase Price of the units having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Vendor pursuant to this Article 8), and such sum shall be applied by the Vendor on the payment date to prepay Conditional Sale Indebtedness. The Conditional Sale Indebtedness in respect of such units as of the date of payment is equal to the aggregate unpaid Conditional Sale Indebtedness as of that date multiplied by the ratio having for its numerator the original Purchase Price of such units and for its denominator the original Purchase Price of all the Equipment.

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 at the rate of 7% per annum, 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.

The Railroad will cause any replacement unit or units to be marked as provided in Article 7 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all appropriate 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 replacement units shall be free and clear of all liens and encumbrances except the liens permitted by the second paragraph of Article 12 hereof and shall be taken initially and shall remain in the name of the Vendor subject to the provisions hereof, and the Railroad shall execute, acknowledge, deliver, file, record or deposit all such documents and do any and all such acts as may be necessary to cause such replacement units to come under and be subject to this Agreement. All such replacement units shall be guaranteed and warranted in like manner as is customary at the time for similar equipment.

Whenever the Railroad shall file with the Vendor a written direction to apply amounts toward the cost of any replacement unit or units, the Railroad shall file therewith:

(1) a certificate of a Vice President, an Assistant Vice President, or the Controller or Chief Accounting Officer of the Railroad certifying as to the matters hereinabove set forth in this Article 8; and

(2) an opinion of counsel for the Railroad that the Vendor has a valid and perfected security interest in such replacement unit, free and clear from all claims, liens, security interests and other encumbrances except the rights of the Railroad under this Agreement, and that such unit has come under and become subject to this Agreement.

So long as no event of default shall have occurred and be continuing, any money paid to the Vendor pursuant to this Article 8 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in such of the following as may be specified in such written direction: (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) open market commercial paper rated A-1 or A-2 by Standard & Poor's Corporation or prime-1 or prime 2 by NCO/Moody's Commercial Paper Division of Moody's Investors Service, Inc., or the successor of either of them, or (iii) certificates of deposit of or bankers' acceptances accepted by, domestic commercial banks in the United States of America having capital and surplus in excess of $50,000,000, in each case maturing in not more than one year from the date of such investment (such investments being hereinafter called Investments). Any such obligations may from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest received by the Vendor on any Investments shall be held by the Vendor and applied as hereinafter provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus any interest received by the Vendor thereon, up to the cost (including accrued interest) thereof, shall be held by the Vendor for application pursuant to this Article 8, and any excess shall be paid to the Railroad. If such proceeds (plus such interest) shall be less than such cost, the Railroad will promptly pay to the Vendor an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Vendor in connection with the purchase and sale of Investments.

If one or more events of default shall have occurred and be continuing, all money held by the Vendor pursuant to this Article 8 (including, for this purpose, Investments) shall be applied by the Vendor as if such money were money received upon the sale of Equipment pursuant to Article 17 hereof.

In order to facilitate the sale or other disposition of any Equipment suffering a Casualty Occurrence, the Vendor shall, upon request of the Railroad, after payment by the Railroad of a sum equal to such portion of the Casualty Value of such equipment for which payment shall not have been waived by the Vendor as hereinabove provided, execute and deliver to the Railroad or 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.

ARTICLE 9. *Maintenance; Compliance with Laws and Rules.* The Railroad will at all times maintain the Equipment or cause the Equipment to be maintained in good order and repair at its own expense.

During the term of this Agreement the Railroad will at all times 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 and with all lawful rules of the Department of Transportation, 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, replacement or addition of any part on any unit of the Equipment, the Railroad will conform therewith, at its own expense; *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 opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 10. *Reports and Inspections.* On or before April 30 in each year, commencing in 1978, the Railroad shall furnish to the Vendor an accurate statement signed by an officer of the Railroad (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment that have been withdrawn from use pending repairs (other than running repairs) (such units being hereinafter called the Bad Order Units) or that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request, (b) setting forth the amount, description and numbers of any Bad Order Units that have been repaired and that are in use on the date of such statement, and (c) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 7 hereof have been preserved or replaced. If, as set forth in such statement, the number of Bad Order Units withdrawn from use as of the date of such statement (giving effect to repairs made on or prior to that date) exceeds the number equal to 5% of all the units of the Equipment, then the Bad Order Units in excess of such number shall be identified by the Railroad in such statement and shall be deemed to have suffered a Casualty Occurrence on the date of such statement, and payment therefor shall be made as provided in Article 8 hereof. The Vendor shall have the right, by its agents, to inspect the Equipment and the Railroad's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 11. *Possession and Use.* The Railroad, so long as an event of default shall not have occurred under this Agreement and be continuing, shall be entitled to the possession of the Equipment and the use thereof; *provided, however,* that such possession and use of rolling stock units of equipment shall be upon the lines of railroad owned or operated by the Railroad either alone or jointly with others and whether under lease or otherwise, or upon the lines of railroad owned or operated by any railroad company controlled by, or under common control with, the Railroad, or over which it has trackage rights, or upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, from and after delivery of the Equipment by the Seller to the Railroad, but only upon and subject to all the terms and conditions of this Agreement.

ARTICLE 12. *Prohibition Against Liens.* The Railroad will pay or 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 on or in the Equipment, or any unit thereof, equal or superior to the Vendor's interest therein; *provided, however,* that the Railroad shall be under no obligation to pay or discharge any such claim so long as it is contesting in good faith and by appropriate legal proceedings such claim and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

ARTICLE 13. *Railroad's Indemnities.* The Railroad agrees to indemnify, protect and hold harmless the Vendor 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 arising out of retention by the Vendor of a security interest in the Equipment, the use and operation thereof by the Railroad during the period when said security interest remains in the Vendor or the transfer of said security interest in the Equipment by the Vendor pursuant to any of the provisions of this Agreement. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

ARTICLE 14. *Patent Indemnities; Warranty of Material and Workmanship.* The Railroad agrees to indemnify, protect and hold harmless the Vendor from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor, its assigns because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right.

ARTICLE 15. *Assignments.* The Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or, except as provided in Article 11 hereof, transfer the right to possession of any unit of the Equipment without first obtaining the written consent, not to be unreasonably withheld, of the Vendor. A sale, assignment, transfer, disposition or lease to a railroad company organized under the laws of the United States of America or any of the states thereof or other purchaser or lessee which shall acquire or lease all or substantially all the lines of railroad of the Railroad, and which, by execution of an appropriate instrument satisfactory to the Vendor, shall assume and agree to perform each of, and all, the obligations and covenants of the Railroad under this Agreement, 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 (with binding effect upon successors of the Railroad) agrees not to be released as a primary obligor for the payment of principal and interest when due and payable (whether by acceleration or otherwise) on indebtedness outstanding under this Agreement on the date of such sale, assignment, transfer or disposition.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Seller from, any of the obligations of the Seller to sell and deliver the Equipment in accordance with this Agreement or to respond to its obligations and warranties hereunder, or relieve the Railroad of any of its obligations to the Seller which, according to its terms or 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 the assignor'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 under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Railroad recognizes that it is the custom of railroad equipment sellers to assign conditional sale agreements and understands that the assignment of this Agreement, or of some of or all the rights of the Vendor 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 Vendor hereunder and for the purposes of inducing such acquisition, that in the event of such assignment by the Vendor as hereinbefore provided, the rights of such assignee to the entire unpaid indebtedness in respect of the Purchase Price 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, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Seller with respect to the Equipment or the manufacture, construction, delivery, repair or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Seller. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Railroad against and only against the Seller.

The Railroad will (a) in connection with each settlement for the Equipment subsequent to such assignment, deliver to the assignee or prior to the date for settlement, all documents required by the terms of such assignment to be delivered to such assignee in connection with such

settlement, in such number of counterparts or copies as may reasonably be requested, except for any opinion of counsel for such assignee, and (b) furnish to such assignee such number of counterparts of any other certificate or document required by the Vendor as may reasonably be requested.

ARTICLE 16. *Defaults.* In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Railroad shall fail to pay in full any indebtedness in respect of the Purchase Price of the Equipment or any other sum payable by the Railroad as provided in this Agreement when payment thereof shall be due hereunder and such failure shall continue for more than 5 business days after written notice thereof from the Vendor; or

(b) the Railroad shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement, or of the Finance Agreement or of the Related Agreements referred to in Article 6 hereof, on its or the Seller's part to be kept or performed or to make provision satisfactory to the Vendor 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 have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad under this Agreement shall not have been (and shall not continue to have been) duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) 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 other proceedings shall be commenced by or against the Railroad for any relief under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad under this Agreement shall not have been (and shall not continue to have been) duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) 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 and shall fail or refuse to cause such assignment or transfer to be cancelled by agreement of all parties having any interest therein and to recover possession of such unit (or make provision satisfactory to the Vendor for such compliance) within 15 days after written notice from the Vendor demanding such cancellation and recovery of possession;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Railroad and upon compliance with any mandatory legal requirements then in force and applicable to such action by the Vendor, declare (hereinafter called a Declaration of Default) 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, 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 of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. The Vendor 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 Railroad shall promptly notify the Vendor of any event which has come to its attention which constitutes, or which with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

The Vendor may at its election waive any such event of default and its consequences and rescind and annul any 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 occurred and no 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 17. *Remedies.* At any time during the continuance of a Declaration of Default, the Vendor may take or cause to be taken by its agent or agents immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from possession and use of the Railroad or any other person and for such purpose may enter upon the Railroad's premises or any other premises 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.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall reasonably designate a point or points upon the premises of the Railroad for the delivery of the Equipment to the Vendor, the Railroad shall, at its own expense, forthwith and in the usual

manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any part of the Equipment has been interchanged to return the Equipment so interchanged), cause (a) the Equipment to be moved to such point or points on its lines as shall be designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor and (b) the Equipment to be moved to such interchange point or points of the Railroad as shall be designated by the Vendor upon any sale, lease or other disposal of all or any part of the Equipment by the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Railroad until the Vendor 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 Vendor reasonably convenient to the Railroad and, at the Railroad's risk, to permit inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Vendor 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 Vendor (after retaking possession of the Equipment as hereinbefore in this Article 17 provided) may at its election and upon such notice as is hereinafter set forth 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 Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Railroad by telegram or registered mail, addressed as provided in Article 21 hereof, 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 Vendor 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 shall thereupon terminate and all payments made by the Railroad may be retained by the Vendor as compensation for the use of the Equipment by the Railroad; *provided, however,* that if the Railroad, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor 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 as well as expenses of the Vendor in retaking possession of, removing and storing the Equipment and the Vendor'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; *provided, further,* that if the Railroad or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor 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 Vendor shall have given no notice 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 17.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, 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 from, through or under the Railroad, at law or in equity, at public or private sale and with or without advertisement as the Vendor 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 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 as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor'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 the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling the Equipment, shall be credited on the amount due to the Vendor 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 Vendor 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 Vendor may determine. The Vendor or the Railroad may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Railroad shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed to the Railroad as provided in Article 21 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the right of the Railroad to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Railroad (except to the extent of surplus money received as hereinafter provided in this Article 17), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of the sums due to the Vendor from the Railroad hereunder. From and after the date of any such sale, the Railroad shall pay to the Vendor the per diem interchange applicable (if any) for each unit of Equipment which shall not have been assembled, as hereinabove provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser at such sale.

Each and every power and remedy hereby specifically given to the Vendor 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 Vendor. 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 Vendor 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. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Vendor's rights or the Railroad's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Railroad's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor 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 Vendor upon demand, together with interest from the date of such demand to the date of payment by the Railroad at the rate per annum set forth in Article 4 hereof, applicable to amounts remaining unpaid after becoming due and payable. If the Railroad shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Railroad.

The Railroad will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

ARTICLE 18. *Applicable State Laws.* Any provision of this Agreement prohibted by any applicable law of any jurisdiction (which is not overridden by applicable Federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, it being the intention of the parties hereto 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 full 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 or lease the Equipment, or any unit thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 19. *Recording.* The Railroad will cause this Agreement, any assignments hereof 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 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 required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its interest in 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 Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 20. *Payment of Expenses.* The Railroad will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Seller) 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, but excluding all fees and expenses of counsel for the first assignee of this Agreement and for any party acquiring interests in such first assignment.

ARTICLE 21. *Notice.* Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

(a) to the Railroad, at 400 West Madison Street, Chicago, Illinois 60606, attention Vice President—Finance,

(b) to the Seller, at 400 West Madison Street, Chicago, Illinois 60606, attention Vice President—Finance, and

(c) to any assignee of the Vendor or of the Railroad, at such address as may have been furnished in writing to each of the other parties hereto by such assignee,

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

ARTICLE 22. *Article Headings; Effect and Modification of Agreement.* All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Schedules hereto, exclusively states the rights of the Vendor and the Railroad with respect to the Equipment and supersedes all other agreements, oral or 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 Vendor and the Railroad.

ARTICLE 23. *Law Governing.* The Railroad warrants that its chief place of business and its chief executive offices are located in the state specified in clause (a) of Article 21 hereof. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of such state; *provided, however,* that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 24. *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 contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, as of the date first set forth above, 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 instrument to be executed in their respective corporate names by their officers, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

By _____
Vice President

[CORPORATE SEAL]

ATTEST:

_____
Assistant Secretary

NORTH WESTERN LEASING COMPANY,

By _____
Vice President

[CORPORATE SEAL]

ATTEST:

_____
Assistant Secretary

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

On this 24th day of June, 1977, 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 said corporation, 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.

Notary Public

[Notarial Seal]

My Commission expires May 21, 1978

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

On this 24th day of June, 1977, 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 NORTH WESTERN LEASING COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, 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.

Notary Public

[Notarial Seal]

My Commission expires May 21, 1978

SCHEDULE A

CONDITIONAL SALE AGREEMENT
Dated as of
June 23, 1977
Between
NORTH WESTERN LEASING COMPANY
and
CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

Quantity	Description	Railroad System No.	Purchase Price
100	Ballast Cars	CNWX 201720-201819	$1,145,034.94
24	GP-7 Diesel Electric Locomotives	CNW 4355	$ 72,649.98
		CNW 4356	72,649.98
		CNW 4357	72,649.98
		CNW 4358	72,649.99
		CNW 4359	98,800.78
		CNW 4360	98,800.78
		CNW 4361	98,800.78
		CNW 4362	98,800.78
		CNW 4363	98,800.78
		CNW 4364	98,800.78
		CNW 4365	98,800.78
		CNW 4366	98,800.78
		CNW 4367	98,800.78
		CNW 4368	98,800.78
		CNW 4369	98,800.78
		CNW 4370	98,800.78
		CNW 4371	98,800.78
		CNW 4372	98,800.78
		CNW 4373	98,800.78
		CNW 4374	98,800.78
		CNW 4375	98,800.78
		CNW 4376	98,800.78
		CNW 4377	98,800.78
		CNW 4378	98,800.82
2	38' Depressed Center Flat Cars	CNW 48013	$ 48,347.00
		CNW 48015	48,347.00

Quantity	Description	Railroad System #	Purchase Price
83	65' Gondolas	CNW 95084	$ 12,132.00
		CNW 95086	12,132.00
		CNW 95087	12,132.00
		CNW 95090	12,132.00
		CNW 95091	12,132.00
		CNW 95094	12,184.00
		CNW 95097	12,184.00
		CNW 95099	12,184.00
		CNW 95102	12,184.00
		CNW 95103	12,184.00
		CNW 95105	12,184.00
		CNW 95107	12,184.00
		CNW 95109	12,184.00
		CNW 95110	12,184.00
		CNW 95111	12,184.00
		CNW 95112	12,184.00
		CNW 95113	12,184.00
		CNW 95114	12,184.00
		CNW 95115	12,184.00
		CNW 95116	12,184.00
		CNW 95118	12,184.00
		CNW 95120	12,184.00
		CNW 95125	12,184.00
		CNW 95126	12,184.00
		CNW 95128	12,184.00
		CNW 95131	12,184.00
		CNW 95132	12,184.00
		CNW 95134	12,184.00
		CNW 95136	12,184.00
		CNW 95138	12,184.00
		CNW 95141	12,184.00
		CNW 95142	12,184.00
		CNW 95144	12,184.00
		CNW 95147	12,184.00
		CNW 95148	12,184.00
		CNW 95150	12,184.00
		CNW 95152	12,184.00
		CNW 95153	12,184.00
		CNW 95154	12,184.00
		CNW 95155	12,184.00
		CNW 95156	12,184.00
		CNW 95158	12,184.00
		CNW 95159	12,184.00
		CNW 95161	12,184.00
		CNW 95162	12,184.00
		CNW 95163	12,184.00
		CNW 95164	12,184.00
		CNW 95167	12,184.00
		CNW 95169	12,184.00
		CNW 95170	12,184.00

SCHEDULE A

Quantity	Description	Railroad System #	Purchase Price
83 Cont'd	65' Gondolas	CNW 95171	12,184.00
		CNW 95174	12,184.00
		CNW 95176	12,184.00
		CNW 95177	12,184.00
		CNW 95178	12,184.00
		CNW 95181	12,184.00
		CNW 95183	12,184.00
		CNW 95184	12,184.00
		CNW 95186	12,184.00
		CNW 95187	12,184.00
		CNW 95189	12,184.00
		CNW. 95190	12,184.00
		CNW 95191	12,184.00
		CNW 95193	12,184.00
		CNW 95197	12,184.00
		CNW 95198	12,184.00
		CNW134001	14,127.00
		CNW134002	14,127.00
		CNW134003	14,067.00
		CNW134004	14,127.00
		CNW134005	14,127.00
		CNW134006	14,067.00
		CNW134007	14,067.00
		CNW134008	14,127.00
		CNW134009	14,067.00
		CNW134010	14,127.00
		CNW134011	14,127.00
		CNW134012	14,127.00
		CNW134013	14,067.00
		CNW134015	14,127.00
		CNW134016	14,127.00
		CNW134018	14,067.00
		CNW134026	14,127.00
11	100 ton Open Top Triple Hopper Cars	CNW 135589	$ 29,418.09
		CNW 135590	29,418.09
		CNW 135591	29,418.09
		CNW 135592	29,418.09
		CNW 135593	29,418.09
		CNW 135594	29,418.09
		CNW 135595	29,418.09
		CNW 135596	29,418.09
		CNW 135597	29,418.09
		CNW 135598	29,418.09
		CNW 135599	29,418.09

SCHEDULE A

Quantity	Description	Railroad System #		Purchase Price
67	Ore Cars	CNW	2638	$ 8,162.00
		CNW	2639	8,236.00
		CNW	2641	8,238.00
		CNW	2644	8,235.00
		CNW	2655	8,239.00
		CNW	2665	8,235.00
		CNW	2670	8,239.00
		CNW	2674	8,205.00
		CNW	2676	8,185.00
		CNW	2680	8,205.00
		CNW	2682	8,235.00
		CNW	2683	8,239.00
		CNW	2688	8,235.00
		CNW	2692	8,294.00
		CNW	2693	8,239.00
		CNW	2697	8,239.00
		CNW	2698	8,205.00
		CNW	2707	8,239.00
		CNW	2713	8,239.00
		CNW	2716	8,236.00
		CNW	2718	8,235.00
		CNW	2719	8,237.00
		CNW	2720	8,235.00
		CNW	2722	8,239.00
		CNW	2723	8,236.00
		CNW	2727	8,205.00
		CNW	2731	8,205.00
		CNW	2732	8,239.00
		CNW	2734	8,236.00
		CNW	2737	8,230.00
		CNW	2741	8,205.00
		CNW	2754	8,237.00
		CNW	2756	8,260.00
		CNW	2757	8,205.00
		CNW	2762	8,239.00
		CNW	2766	8,237.00
		CNW	2779	8,205.00
		CNW	2780	8,235.00
		CNW	2787	8,205.00
		CNW	2789	8,238.00
		CNW	2791	8,239.00
		CNW	2798	8,205.00
		CNW	2802	8,290.00
		CNW	2810	8,235.00
		CNW	2813	8,205.00
		CNW	2815	8,236.00
		CNW	2821	8,239.00
		CNW	2822	8,205.00
		CNW	2829	8,238.00
		CNW	2831	8,237.00
		CNW	2834	8,235.00
		CNW	2835	8,236.00
		CNW	2837	8,205.00

Quantity	Description	Railroad System #	Purchase Price
67 Cont'd	**Ore Cars**	CNW 2838	8,235.00
		CNW 2839	8,186.00
		CNW 2844	8,239.00
		CNW 2847	8,235.00
		CNW 2850	8,235.00
		CNW 2856	8,205.00
		CNW 2857	8,205.00
		CNW 2951	8,302.00
		CNW 2989	8,247.00
		CNW 112329	8,515.00
		CNW 112445	8,481.00
		CNW 112446	8,509.00
		CNW 112494	8,514.00
		CNW 112495	8,272.00
184	**29'6" Covered Hoppers**	CNW 69605	$ 15,448.00
		CNW 69607	15,805.00
		CNW 69609	15,448.00
		CNW 69611	15,448.00
		CNW 69613	15,482.00
		CNW 69619	15,448.00
		CNW 69621	15,448.00
		CNW 69625	15,448.00
		CNW 76901	19,434.00
		CNW 76903	19,434.00
		CNW 76905	19,434.00
		CNW 76909	19,434.00
		CNW 76911	19,434.00
		CNW 76913	19,434.00
		CNW 76915	19,434.00
		CNW 76917	19,434.00
		CNW 76919	19,434.00
		CNW 95651	14,680.00
		CNW 95652	14,680.00
		CNW 95653	14,680.00
		CNW 95654	14,680.00
		CNW 95655	14,680.00
		CNW 95657	14,680.00
		CNW 95658	14,680.00
		CNW 95659	14,680.00
		CNW 95660	14,680.00
		CNW 95661	14,680.00
		CNW 95662	14,680.00
		CNW 95663	14,680.00
		CNW 95664	14,680.00
		CNW 95666	14,680.00
		CNW 95667	14,680.00
		CNW 95668	14,680.00
		CNW 95669	14,680.00
		CNW 95670	14,680.00
		CNW 95673	14,680.00
		CNW 95674	14,680.00
		CNW 95675	14,680.00

SCHEDULE A

Quantity	Description	Railroad System No.	Purchase Price
184 Cont'd	Covered Hoppers	CNW 95676	14,680.00
		CNW 95678	14,680.00
		CNW 95679	14,680.00
		CNW 95681	14,680.00
		CNW 95683	14,680.00
		CNW 95685	14,680.00
		CNW 95686	14,680.00
		CNW 95687	14,680.00
		CNW 95688	14,680.00
		CNW 95690	14,680.00
		CNW 95691	14,680.00
		CNW 95692	14,680.00
		CNW 95693	14,680.00
		CNW 95695	14,680.00
		CNW 95696	14,680.00
		CNW 95697	14,680.00
		CNW 95699	14,680.00
		CNW 95701	14,680.00
		CNW 95702	14,680.00
		CNW 95703	14,680.00
		CNW 95704	14,680.00
		CNW 95705	14,680.00
		CNW 95706	14,680.00
		CNW 95707	14,680.00
		CNW 95708	14,680.00
		CNW 95710	14,680.00
		CNW 95711	14,680.00
		CNW 95712	14,680.00
		CNW 95713	14,680.00
		CNW 95714	14,680.00
		CNW 95715	14,680.00
		CNW 95716	14,680.00
		CNW 95717	14,680.00
		CNW 95718	14,680.00
		CNW 95719	14,680.00
		CNW 95720	14,680.00
		CNW 95721	14,680.00
		CNW 95723	14,680.00
		CNW 95724	14,680.00
		CNW 95725	14,680.00
		CNW 95726	14,680.00
		CNW 95727	14,680.00
		CNW 95729	14,680.00
		CNW 95730	14,680.00
		CNW 95731	14,680.00
		CNW 95733	14,680.00
		CNW 95734	14,680.00
		CNW 95735	14,680.00
		CNW 95736	14,680.00
		CNW 95737	14,680.00

SCHEDULE A

Quantity	Description	Railroad System No.	Purchase Price
184 Cont'd	Covered Hoppers	CNW 95739	14,680.00
		CNW 95740	14,680.00
		CNW 95741	14,680.00
		CNW 95742	14,680.00
		CNW 95743	14,680.00
		CNW 95744	14,680.00
		CNW 95745	14,680.00
		CNW 95746	14,680.00
		CNW 95747	14,680.00
		CNW 95749	14,680.00
		CNW 95750	14,680.00
		CNW 95751	14,680.00
		CNW 95752	14,680.00
		CNW 95753	14,680.00
		CNW 95754	14,680.00
		CNW 95757	14,680.00
		CNW 95758	14,680.00
		CNW 95759	14,680.00
		CNW 95760	14,680.00
		CNW 95762	14,680.00
		CNW 95763	14,680.00
		CNW 95764	14,680.00
		CNW 95765	14,680.00
		CNW 95766	14,680.00
		CNW 95767	14,680.00
		CNW 95768	14,680.00
		CNW 95769	14,680.00
		CNW 95770	14,680.00
		CNW 95771	14,680.00
		CNW 95772	14,680.00
		CNW 95773	14,680.00
		CNW 95774	14,680.00
		CNW 95776	14,680.00
		CNW 95777	14,680.00
		CNW 95778	14,680.00
		CNW 95781	14,680.00
		CNW 95783	14,680.00
		CNW 95784	14,680.00
		CNW 95785	14,680.00
		CNW 95786	14,680.00
		CNW 95787	14,680.00
		CNW 95789	14,680.00
		CNW 95790	14,680.00
		CNW 95791	14,680.00
		CNW 95792	14,680.00
		CNW 95793	14,680.00
		CNW 95794	14,680.00
		CNW 95795	14,680.00
		CNW 95796	14,680.00
		CNW 95797	14,680.00

SCHEDULE A

Quantity	Description	Railroad System No.	Purchase Price
184 Cont'd	Covered Hoppers	CNW 95799	14,680.00
		CNW 95800	14,680.00
		CNW 95801	14,680.00
		CNW 95802	14,680.00
		CNW 95803	14,680.00
		CNW 95804	14,680.00
		CNW 95806	14,680.00
		CNW 95807	14,680.00
		CNW 95808	14,680.00
		CNW 95810	14,680.00
		CNW 95812	14,680.00
		CNW 95814	14,680.00
		CNW 95815	14,680.00
		CNW 95816	14,680.00
		CNW 95817	14,680.00
		CNW 95820	14,680.00
		CNW 95821	14,680.00
		CNW 95822	14,680.00
		CNW 95824	14,680.00
		CNW 95825	14,680.00
		CNW 95826	14,680.00
		CNW 95828	14,680.00
		CNW 95830	14,680.00
		CNW 95831	14,680.00
		CNW 95832	14,680.00
		CNW 95833	14,680.00
		CNW 95834	14,680.00
		CNW 95835	14,680.00
		CNW 95836	14,680.00
		CNW 95837	14,680.00
		CNW 95838	14,680.00
		CNW 95840	14,680.00
		CNW 95842	14,680.00
		CNW 95843	14,680.00
		CNW 95844	14,680.00
		CNW 95845	14,680.00
		CNW 95846	14,680.00
		CNW 95847	14,680.00
		CNW 95848	14,680.00
		CNW 95849	14,680.00
		CNW 96751	15,541.00
		CNW 96752	15,617.00
		CNW 96753	15,541.00
		CNW 96754	15,541.00
		CNW 96755	15,541.00
		CNW 96756	15,541.00

SCHEDULE A

Quantity	Description	Railroad System No.	Purchase Price
20	60'9" Box Cars	CNW 91524	$ 28,709.00
		CNW 91541	23,166.00
		CNW 91542	28,722.00
		CNW 91543	29,901.00
		CNW 91544	29,901.00
		CNW 91545	29,901.00
		CNW 91546	27,679.00
		CNW 91547	31,984.00
		CNW 91582	41,044.00
		CNW 91583	37,974.00
		CNW 91586	32,310.00
		CNW 91587	32,310.00
		CNW 91588	32,517.00
		CNW 153100	24,790.00
		CNW 153102	24,790.00
		CNW 153103	24,790.00
		CNW 161447	22,430.00
		CNW 161448	22,430.00
		CNW 161457	22,430.00
		CNW 161458	22,430.00
29	Caboose	CNW 10908	$ 16,222.00
		CNW 10910	16,275.00
		CNW 10912	16,194.00
		CNW 10913	16,361.00
		CNW 10915	16,386.00
		CNW 10917	15,471.00
		CNW 10918	15,448.00
		CNW 10919	15,322.00
		CNW 10920	15,322.00
		CNW 10922	15,483.00
		CNW 10924	15,611.00
		CNW 10925	15,534.00
		CNW 10929	15,483.00
		CNW 10931	15,564.00
		CNW 10932	15,692.00
		CNW 10933	15,692.00
		CNW 10934	15,090.00
		CNW 10935	15,692.00
		CNW 10936	15,587.00
		CNW 10939	15,852.00
		CNW 10940	15,192.00
		CNW 10941	15,773.00
		CNW 10942	15,695.00
		CNW 10943	15,192.00
		CNW 10944	15,796.00
		CNW 10945	15,645.00
		CNW 10946	15,619.00
		CNW 10947	15,652.00
		CNW 10948	15,568.00
		Total	$ 9,208,457.50

AGREEMENT AND ASSIGNMENT, dated as of June 23, 1977, between CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, acting as Agent under a Finance Agreement dated as of January 1, 1977 (hereinafter called the Finance Agreement) (said Agent, so acting, being hereinafter called the Assignee), and NORTH WESTERN LEASING COMPANY (hereinafter called the Assignor).

WHEREAS, the Assignor and Chicago and North Western Transportation Company (hereinafter called the Railroad), have entered into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Conditional Sale Agreement), covering the sale and delivery, on the conditions therein set forth, by the Assignor and the purchase by the Railroad of the railroad equipment described in Schedule A to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment);

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (hereinafter called this Assignment) WITNESSETH: That, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Assignee to the Assignor, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

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

(a) all the right, title and interest of the Assignor in and to each unit of Equipment when and as severally delivered to and accepted by the Railroad, and when and as the amount required to be paid for such unit is paid to the Assignor by the Assignee pursuant to Section 4 hereof;

(b) all the right, title and interest of the Assignor in and to the Conditional Sale Agreement (except the right to supply and deliver the Equipment and the right to receive the payments specified in subparagraph (a) of the third paragraph of Article 4 thereof and reimbursements for taxes paid or incurred by the Assignor as provided in Article 5 thereof) and in and to any and all amounts which may be or become due or owing by the Railroad to the Assignor under the Conditional Sale Agreement 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 Conditional Sale Agreement, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) hereof, all the Assignor's rights, powers, privileges and remedies under the Conditional Sale Agreement;

without any recourse against the Assignor 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 liability of the Assignor to sell and deliver the Equipment, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 15 of the Conditional Sale Agreement,

all obligations of the Assignor to the Railroad with respect to the Equipment shall be and remain enforceable by the Railroad, its successors and assigns, against and only against the Assignor. In furtherance of the foregoing assignment and transfer, the Assignor 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 Assignor, 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 to ask, demand, sue for and enforce 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 Assignor agrees that it shall sell and deliver the Equipment in full accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by the Assignor. The Assignor further agrees that it will warrant to the Assignee and the Railroad that at the time of delivery of each unit of the Equipment under the Conditional Sale Agreement it had legal title to such unit and good and lawful right to sell such unit and that title to such unit was free of all claims, liens, security interests and other encumbrances (other than those created by any general mortgage of the Railroad, all of which the Assignor hereby agrees to cause to be released on or before the Closing Date [as defined in Article 4 of the Conditional Sale Agreement] for such unit; other than those created by the Conditional Sale Agreement; and other than the rights of the Assignee under this Assignment); and the Assignor further agrees that it will defend the title to each unit of the Equipment against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Assignor under the Conditional Sale Agreement, including those created by any general mortgage of the Railroad; all *subject, however,* to the provisions of the Conditional Sale Agreement and the rights of the Railroad thereunder.

SECTION 3. The Assignor agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any instalment of, or interest on, indebtedness in respect of the Purchase Price of the Equipment or to enforce any provision of the Conditional Sale Agreement, the Assignor will indemnify, protect and hold harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Railroad arising out of a breach by the Assignor of any obligation with respect to the Equipment or the manufacture, construction, repair, delivery or warranty thereof, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Assignor.

The Assignor agrees that any amounts payable to it by the Railroad with respect to the Equipment, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof.

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the Conditional Sale Agreement with respect to each Group (as defined in said Article 4) of Equipment, shall pay to the Assignor an amount equal to the portion of the Purchase Price of the units of Equipment in such Group as shown on the invoice or invoices therefor then being settled for which, under the terms of said Article 4, is payable in instalments, provided that there shall have been delivered to the Assignee, as provided in Article 15 of the Conditional Sale Agreement, the following documents, in form and substance satisfactory to it and to its counsel, in such number of counterparts as may be reasonably requested:

(a) a bill of sale from the Assignor to the Assignee transferring to the Assignee all right, title and interest of the Assignor in the units of Equipment in the Group, warranting to the Assignee that at the time of delivery of such units under the Conditional Sale Agreement the Assignor had legal title to such units and good and lawful right to sell such units and that such units were free of all claims, liens, security interests and other encumbrances (other than those created by any general mortgage of the Railroad; other than those created by the Conditional Sale Agreement; and other than the rights of the Assignee under this Assignment); warranting to the Assignee that on the date of such bill of sale such units were free of all claims, liens, security interests and other encumbrances created by any general mortgage of the Railroad which are prior or equal to the security interest of the Assignee in such units; and covenanting to defend the title to such units against the demands of all persons whomsoever based on claims originating prior to the delivery of such units by the Assignor under the Conditional Sale Agreement including those created by any general mortgage of the Railroad;

(b) a Certificate or Certificates of Acceptance with respect to the units of Equipment in the Group, as contemplated by Article 3 of the Conditional Sale Agreement;

(c) an invoice of the Assignor for the units of Equipment in the Group for which settlement is then being made, in each case accompanied by or having endorsed thereon a certification by the Railroad as to the correctness of the prices stated therein;

(d) an opinion of counsel for the Railroad, dated as of such Closing Date, to the effect that (i) the Finance Agreement, assuming due authorization, execution and delivery by the parties thereto other than the Railroad and the Subsidiary has been duly authorized, executed and delivered and is a legal, valid and binding instrument, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Railroad and the Assignor and is a legal, valid and binding instrument, enforceable in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Assignor and, assuming due authorization, execution and delivery by the Assignee, is a legal, valid and binding instrument, (iv) the Assignee is vested with all the rights, titles, interests, powers and privileges purported to be assigned to it by this Assignment, (v) the Assignee has a valid and perfected security interest in the units of the Equipment and such units, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, were free from all claims, liens, security interests and other encumbrances (other than those created by any general mortgage of the Railroad, all of which have been released; other than those created by the Conditional

Sale Agreement; and other than the rights of the Assignee under this Assignment), (vi) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the valid execution and delivery of the Finance Agreement, the Conditional Sale Agreement or this Assignment, or if any such authority is necessary, it has been obtained, (vii) 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 and, for the units of rolling stock in the Equipment, 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 in the District of Columbia, (viii) the Railroad is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ix) 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 its terms or requiring any approval of its stockholders in respect thereof and (x) neither the execution and delivery of the Conditional Sale Agreement and this Assignment, nor the consummation of the transactions therein and herein contemplated, nor 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 foreign, or of any agreement or instrument to which the Railroad is now a party or constitute a default thereunder;

(e) an opinion of counsel for the Assignor, dated as of such Closing Date, to the effect that (i) the Assignor is a duly organized and existing corporation in good standing under the laws of its jurisdiction 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 has been duly authorized, executed and delivered by the Assignor and, assuming due authorization, execution and delivery by the Railroad, is a legal and valid instrument binding upon the Assignor and enforceable against the Assignor in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Assignor and, assuming due authorization, execution and delivery by the Assignee, is a legal and valid instrument binding upon the Assignor, (iv) the Assignee is vested with all the rights, titles, interests, powers and privileges purported to be assigned to it by this Assignment and (v) the bill of sale referred to in subparagraph (a) of this paragraph has been duly authorized, executed and delivered by the Assignor and is valid and effective to transfer all right, title and interest of the Assignor in and to the units of Equipment to the Assignee, free from all claims, liens, security interests and other encumbrances of any nature (other than those created by the Conditional Sale Agreement and other than the rights of the Assignee under this Assignment) arising from, through or under the Assignor; and

(f) a certificate of an officer of the Railroad, dated as of such settlement date, to the effect that no event of default, or event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement could constitute an event of default, shall have occurred and is then continuing and no tax liens (including tax liens filed pursuant to Section 6323 of the Internal Revenue Code of 1954, as amended) have been filed and are currently in effect which would adversely affect the security interest of the Assignee in the Equipment.

In giving the opinions specified in subparagraphs (d) and (e) of the first paragraph of this Section 4, counsel may qualify any opinion to the effect that any agreement is a legal, 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.

The obligation of the Assignee hereunder to make any payment provided for in this Section 4 is hereby expressly conditioned upon the Assignee's having on deposit, pursuant to the terms of the Finance Agreement, sufficient funds available thereunder to make such payment. The Assignee shall not be obligated to make payment at any time after the commencement of any proceedings specified in clause (c) or (d) of Article 16 of the Conditional Sale Agreement or if any other event of default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement could constitute an event of default, shall have occurred and be continuing under the Conditional Sale Agreement. In the event that the Assignee shall not make payment for the Group, the Assignee shall reassign to the Assignor, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of the Equipment.

SECTION 5. 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 6. The Assignor 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, assuming due authorization, execution and delivery by the Railroad, the Conditional Sale Agreement is, in so far as the Assignor is concerned, a valid and existing agreement binding upon it and the Railroad in accordance with its terms and that it is now in force without amendment thereto;

(b) agrees that is 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; and

(c) agrees that, upon request of the Assignee, its successors and assigns, it will, subsequent to payment by the Assignee to such Assignor of the amounts required to be paid under Section 4 hereof, 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 Assignor therein or in the Equipment.

SECTION 7. 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 the rights conferred as provided in Article 23 of the Conditional Sale Agreement.

SECTION 8. The Assignee agrees to deliver an executed counterpart of this Assignment to the Railroad, which delivery shall constitute due notice of the assignment hereby made. Although this Assignment is dated for convenience as of the date first set forth above, 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.

SECTION 9. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due authority, have caused this instrument to be executed 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.

NORTH WESTERN LEASING COMPANY

By _____
Vice President

[Corporate Seal]

Attest:

_____
Assistant Secretary

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO
as Agent

By _____
Vice President

[Corporate Seal]

Attest:

_____
Commercial Banking Officer

STATE OF ILLINOIS
COUNTY OF COOK } SS.:

On this 24th day of June, 1977, 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 NORTH WESTERN LEASING COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, 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.

T J Bu
Notary Public

[NOTARIAL SEAL]

My Commission expires May 21, 1978

STATE OF ILLINOIS
COUNTY OF COOK } SS.:

On this 27th day of June 1977, 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 said corporation, 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.

Eileen Hudson
Notary Public

[NOTARIAL SEAL]

My Commission expires
9-22-78

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY hereby acknowledges due notice of and consents to the assignment made by the foregoing Agreement and Assignment.

CHICAGO AND NORTH WESTERN
TRANSPORTATION COMPANY

By _____
Vice President