

Law Department

7-300A020



RECORDATION NO. 9053 Filed & Recorded OCT 27 1977

OCT 27 1977 9 22 AM Fee \$ 50

INTERSTATE COMMERCE COMMISSION ICC Washington, D. C.

Terminal Tower
P. O. Box 6419
Cleveland, Ohio 44101

216-623-2472

October 21, 1977

REGISTERED MAIL
Return Receipt Requested

Mr. H. G. Homme, Jr., Acting Secretary
INTERSTATE COMMERCE COMMISSION
12th Street and Constitution Avenue, N.W.
Washington, D.C. 20423

OCT 23 1977

Dear Sir:

Pursuant to Section 20c of the Interstate Commerce Act and the Commission's rules and regulations, I enclose for filing and recording six counterparts of an Agreement dated as of October 15, 1977 between Greenville Steel Car Company and The Baltimore and Ohio Railroad Company. The Agreement is an interim user agreement allowing B&O to use the auto parts box cars pending completion of permanent financial arrangements.

Set out below are the names and addresses of the parties to the transaction:

Bailor: Greenville Steel Car Company
P. O. Box 751
Greenville, Pennsylvania 16125

Bailee: The Baltimore and Ohio Railroad Company
2 North Charles Street
Baltimore, Maryland 21201

The equipment covered by the enclosed documents consists of 30 100-ton 86'6" auto parts box cars, to bear Bailee's road numbers 493070 - 493099, inclusive, AAR mechanical designation XP. The above equipment will be lettered "Baltimore and Ohio", "B&O", "Chessie", "Chessie System", or in some other appropriate manner and will also be marked:

"BALTIMORE AND OHIO RAILROAD SECOND EQUIPMENT TRUST OF 1977,
MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, TRUSTEE, OWNER, LESSOR"

Also enclosed is this Company's draft in the amount of \$50 representing the required recordation fee. Please return four recorded counterparts to the undersigned.

OCT 27 9 15 AM '77
FEE OPERATION BR
I.C.C.
REGISTERED

The Chesapeake and Ohio Railway Company



The Baltimore and Ohio Railroad Company

Mr. H. G. Homme, Jr.

Page 2

October 21, 1977

I would be obliged if you would also telephone me collect at (216) 623-2472 promptly upon receipt of the enclosed documents.

Very truly yours,

Michael C. Bynane

Michael C. Bynane
Attorney

MCB:eb
Encl.

Interstate Commerce Commission
Washington, D.C. 20423

10/27/77

OFFICE OF THE SECRETARY

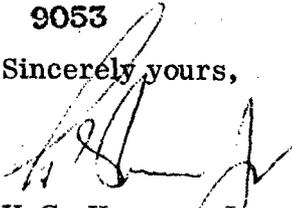
Michael C. Byname, Atty
Chessie System
Terminal Tower
P.O.Box 6419
Cleveland, Ohio 44101

Dear

Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on **10/27/77** at **9:20am** and assigned recordation number(s) **9053**

Sincerely yours,


H.G. Homme, Jr.
Acting Secretary

Enclosure(s)

SE-30-T
(6/77)

RECORDATION NO. 9053 Filed & Recorded

OCT 27 1977-9 20 AM

INTERSTATE COMMERCE COMMISSION

EXECUTED IN 6 COUNTERPARTS

OF WHICH THIS IS NO. 1

AGREEMENT

Dated as of October 15, 1977

between

GREENVILLE STEEL CAR COMPANY

and

THE BALTIMORE AND OHIO RAILROAD COMPANY

Covering

30 100-ton 86'6" Auto Parts Box Cars

THIS AGREEMENT, dated as of October 15, 1977, by and between GREENVILLE STEEL CAR COMPANY, a Pennsylvania corporation (Manufacturer), and THE BALTIMORE AND OHIO RAILROAD COMPANY, a Maryland corporation (B&O):

W I T N E S S E T H :

The Manufacturer and B&O heretofore entered into letter Agreements dated June 27, 1977, August 10, 1977, and August 31, 1977 (copies of which letter Agreements are made a part hereof by reference), whereunder the Manufacturer agreed to construct and deliver to B&O, and B&O agreed to accept and pay for, the following railroad equipment (Cars):

30 100-ton 86'6" auto parts box cars, to bear B&O's road numbers 493070-493099, inclusive.

Delivery of the Cars by the Manufacturer to B&O is scheduled to begin in October, 1977. However, inasmuch as B&O has not as yet consummated financing arrangements (pursuant to an Equipment Trust Agreement, or otherwise), it is not in position to accept delivery of and pay for the Cars under the terms of the letter Agreements at this time. B&O represents that such financing arrangements will be consummated, however, on or before January 15, 1978. B&O (in order that it may use the Cars pending completion of the above financing arrangements) has arranged with the Manufacturer to give it temporary custody and possession of the Cars on their completion, solely as a bailee of the Cars, and the Manufacturer is willing to do so upon the terms and conditions hereinafter stated.

In consideration of the premises, the Manufacturer hereby

delivers to B&O and B&O hereby accepts from the Manufacturer the Cars as of the date each of them is delivered to B&O at Youngstown, Ohio, or such other place as may be specified by B&O, for the period ending on the earlier of January 15, 1978 or the date of consummation of the above financing arrangements. At such time this Agreement shall automatically be cancelled and superseded without further action by or notice to any party concerned.

Title to the Cars shall remain in the Manufacturer and B&O's right and interest therein is and shall be solely that of possession, custody, and use as bailee under this Agreement. Transfer of title shall be effected only at the time of delivery of the bills of sale. B&O, without expense to the Manufacturer, will promptly cause this Agreement to be filed with the Interstate Commerce Commission for recordation under Section 20c of the Interstate Commerce Act. In addition, B&O shall do such other acts as may be required by law, or reasonably requested by the Manufacturer, for the protection of the Manufacturer's title to and interest in the Cars.

B&O agrees that it will permit no liens of any kind to attach to the Cars, and that it will

- (a) indemnify and save harmless the Manufacturer from any and all claims, expenses, or liabilities of whatsoever kind, and
- (b) pay any and all taxes, fines, charges, and penalties that may accrue or be assessed or imposed upon the Cars or the Manufacturer because of its ownership or because of the use, operation, management, or handling of the Cars by B&O during the term of this Agreement.

B&O's obligations contained in this paragraph shall survive the termination by mutual agreement or otherwise of this Agreement.

B&O will, at its own expense, keep and maintain the Cars in good order and running condition and will, at its option, repair or replace or promptly pay to the Manufacturer the purchase price in cash of those Cars which may be damaged or destroyed by any cause during the term of this Agreement.

Prior to the delivery of each Car to B&O under this Agreement, it will be numbered with a road number as hereinbefore indicated, and there shall be plainly, distinctly, permanently, and conspicuously marked upon each side of each Car, in contemplation of the financing heretofore referred to, the following legend in letters not less than one inch in height:

BALTIMORE AND OHIO RAILROAD,
SECOND EQUIPMENT TRUST OF 1977,
MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
TRUSTEE, OWNER, LESSOR.

B&O hereby agrees to indemnify the Manufacturer against any liability, loss, or expense incurred by it as a result of the placing of the aforementioned markings on the Cars.

In case, during the continuance of this Agreement, such markings shall at any time be removed, defaced, or destroyed on any Car, B&O shall immediately cause the same to be restored or replaced.

All or any of the rights, benefits, or advantages of the Manufacturer, including the right to receive the purchase price of the Cars as provided in the letter Agreements, may be assigned by the Manufacturer and reassigned by any assignee at any time or from time to time, provided, however, that no such assignment shall subject any such assignee to any of the Manufacturer's warranties, indemnities, or any other obligations contained in this Agreement or in the letter Agreements

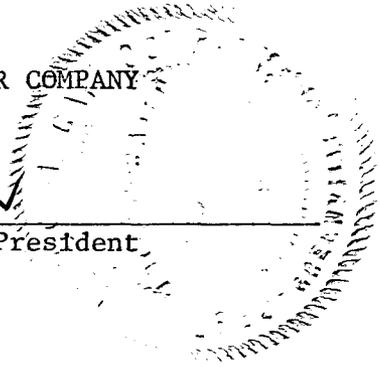
relating to the Cars. In the event the Manufacturer assigns its rights to receive the payments herein and/or under the letter Agreements, and B&O receives written notice thereof from the Manufacturer, together with a counterpart of such assignment stating the identity and the post office address of the assignee, all payments thereafter to be made by B&O under this Agreement shall, to the extent so assigned, be made to the assignee against proper receipt therefor in form satisfactory to B&O.

In the event of any assignment by the Manufacturer of its rights to receive any payments under this Agreement or under the letter Agreements, the rights of such assignee to such payments as may be assigned, together with any other rights hereunder which can be and are so assigned, shall not be subject to any defense, set-off, counterclaim, or recoupment whatsoever arising out of any breach of any obligation of the Manufacturer in respect to the Cars, nor subject to any defense, set-off, counterclaim, or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to B&O by the Manufacturer. Any and all such obligations, howsoever arising, shall be and remain enforceable by B&O, its successors and assigns, only against the Manufacturer and its successors and assigns (other than assignees as such of rights, benefits, or advantages assigned pursuant to this Agreement).

B&O agrees with the Manufacturer that the execution by the Manufacturer of this Agreement or the delivery by the Manufacturer to B&O of the Cars, as contemplated by this Agreement, shall not relieve B&O of its obligations to accept, take, and pay for the Cars in accordance

with the terms of the letter Agreements, or impair any of the Manufacturer's rights under the letter Agreements.

GREENVILLE STEEL CAR COMPANY



[Corporate Seal]

By

F. Bodum

Vice President

Attest:

L. O. Keith

Assistant Secretary

THE BALTIMORE AND OHIO RAILROAD COMPANY

[Corporate Seal]

By

L. C. Foy

Assistant Vice President
and Treasurer

Attest:

Patricia J. Henaley

Assistant Secretary

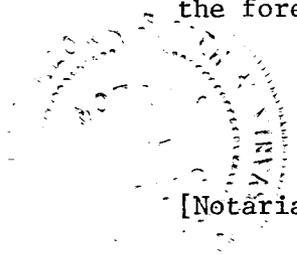
APPROVED AS TO FORM

M. C. S.

ATTORNEY

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF MERCER)

On this *19th* day of October, 1977, before me personally appeared *F. B. Logan*, to me personally known, who, being by me duly sworn, says that he is a Vice President of GREENVILLE STEEL CAR 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.



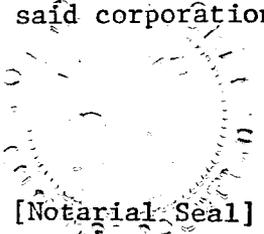
[Notarial Seal]

Leora Smith

Notary Public
LEORA SMITH, Notary Public
GREENVILLE, MERCER COUNTY
My Commission Expires Feb. 23, 1981

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

On this *17th* day of October, 1977, before me personally appeared L. C. Roig, Jr., to me personally known, who, being by me duly sworn, says that he is the Assistant Vice-President and Treasurer of THE BALTIMORE AND OHIO RAILROAD 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 President and Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



[Notarial Seal]

Clara Masuga

CLARA MASUGA
Notary Public, Cuyahoga County, Ohio
My Commission Expires April 21, 1979