UNION RAILROAD COMPANY

600 GRANT STREET
POST OFFICE BOX 536

PITTSBURGH, PA. 15230

RECEIVED
JAN 4 12 17 PM '78
CERTIFICATION UNIT

JOHN D. MORRISON
GENERAL COUNSEL

WILLIAM C. LEIPER
ASST. GEN. COUNSEL

PAUL M. WILLARD
ATTORNEY

RECORDATION NO. 9153A Filed & Recorded
JAN 4 1978 -12 20 PM
INTERSTATE COMMERCE COMMISSION

January 4, 1978

RECORDATION NO. 9153 Filed & Recorded
JAN 4 1978 -12 20 PM
INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission
Washington, D.C. 20423

Gentlemen:

Enclosed for recordation under the provisions of Section 20(c) of the Interstate Commerce Act, as amended, are the original and five (5) counterparts of a Conditional Sale Agreement and the original and five (5) counterparts of an Agreement and Assignment dated as of December 1, 1977.

The general description of the railroad equipment covered by the enclosed documents is set forth in Schedule A attached to this letter and made a part hereof.

The names and addresses of the parties are:

Assignor under Agreement and Assignment:	Ortner Freight Car Company 2652 Erie Avenue Cincinnati, Ohio 45208
Assignee under Agreement and Assignment:	Citibank, N.A. 399 Park Avenue New York, New York 10022
Vendor under the Conditional Sale Agreement:	Ortner Freight Car Company 2652 Erie Avenue Cincinnati, Ohio 45208
Vendee under the Conditional Sale Agreement:	Union Railroad Company 600 Grant Street P.O. Box 536 Pittsburgh, Pennsylvania 15230

7-004A030
Date JAN 4 1978
Fee $ 50
ICC Washington, D. C.

The undersigned consents to the above Conditional Sale Agreement and Agreement and Assignment and has knowledge of the matters set forth in the enclosed documents.

C. H. Kunsak

Please return the original and four (4) copies of the Conditional Sale Agreement and Agreement and Assignment to Paul M. Willard, Esq., Union Railroad Company, P.O. Box 536, Pittsburgh, Pennsylvania 15230.

Enclosed is a check in the amount of $50.00 covering the required recording fee.

Very truly yours,

UNION RAILROAD COMPANY

By _____
Assistant Secretary

PMW/rja

Enclosures

SCHEDULE A

To Conditional Sale Agreement

MANUFACTURER.	Ortner Freight Car Company
DESCRIPTION OF EQUIPMENT.	Sixty (60) 70-ton capacity coke hopper cars bearing Union Railroad Company Identifying Nos. 2592 to and including 2651
SPECIFICATIONS.	Specification No. OCN 1300-7-76
BASE PRICE.	$18,525.00 per car ($1,111,500 for Sixty (60) Cars)
DELIVER TO.	Union Railroad Company
PLACE OF DELIVERY	F.o.t. Manufacturer's Shop
ESTIMATED DELIVERY DATES.	December 29, 1977
OUTSIDE DELIVERY DATE	January 15, 1978

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

1/4/78

Paul M. Willard,Esq.
Union RR.Co.
P.O.Box 536
Pittsburgh,Pa. 15230

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 1/4/78 at 12:20pm, and assigned recordation number(s) 9153, 9153-A

Sincerely yours,

H.G. Homme, Jr.
Acting Secretary

Enclosure(s)

SE-30-T
(6/77)

RECORDATION NO. 9153 Filed & Recorded

JAN 4 1978 -12 20 PM

INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of December 1, 1977

Between

ORTNER FREIGHT CAR COMPANY

as Vendor

UNION RAILROAD COMPANY

as Vendee

Re:

$723,000 Maximum Principal Amount
Conditional Sale Indebtedness due 1985

of

UNION RAILROAD COMPANY

TABLE OF CONTENTS

SECTION	HEADING	PAGE
Parties		1
1.	Construction and Sale	1
2.	Delivery	1
3.	Purchase Price and Payment	2
4.	Title to the Equipment	4
5.	Marking of Equipment	5
6.	Casualty Occurrences	6
7.	Taxes	9
8.	Reports and Inspections	10
9.	Possession, Use and Maintenance	10
10.	Prohibition Against Liens	11
11.	Rules, Laws and Regulations	11
12.	Indemnities	12
13.	Patent Indemnities	13
14.	Assignments	14
15.	Defaults	16
16.	Remedies	18
17.	Applicable State Laws	21
18.	Extension Not A Waiver	21
19.	Recording	22
20.	Notice	22
21.	Headings	22
22.	Effect and Modification of Agreements	22
23.	Law Governing	23
24.	Definitions	23
25.	Payment of Expenses	23
26.	Consolidation or Merger	23
27.	Execution	24

Attachments to Conditional Sale Agreement

Schedule A - Description of Equipment

CONDITIONAL SALE AGREEMENT

CONDITIONAL SALE AGREEMENT dated as of December 1, 1977 between ORTNER FREIGHT CAR COMPANY ("Manufacturer") and UNION RAILROAD COMPANY, a Pennsylvania corporation ("Railroad").

WHEREAS, the Manufacturer is willing to sell and deliver to the Railroad, and the Railroad is willing to purchase, the railroad equipment described in Schedule A attached hereto (collectively the "Equipment" or "Items" and individually "Item of Equipment" or "Item"); and

WHEREAS, the Manufacturer and the Railroad have agreed that this Agreement shall exclusively and completely state the rights of the Manufacturer and the Railroad with respect to the Equipment and shall supersede all other agreements, oral or written, with respect to the Equipment.

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

SECTION 1. CONSTRUCTION AND SALE.

The Manufacturer will sell and deliver to the Railroad, and the Railroad will purchase from the Manufacturer and accept delivery of and pay for as hereinafter provided, the Equipment, each Item of which shall be constructed in accordance with the applicable specifications referred to in Schedule A hereto, with such modifications thereof as may be agreed upon in writing by the Railroad and the Manufacturer (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design and quality of equipment and material used in the manufacture of such Items shall conform to all Department of Transportation requirements and specifications for new equipment, and to all standards recommended by the Association of American Railroads, interpreted as being applicable to new railroad equipment of the character of such Items as of the date of this Agreement.

SECTION 2. DELIVERY.

2.1. The Manufacturer will deliver the various Items of Equipment to the Railroad in accordance with the delivery schedule set forth in Schedule A hereto; provided, however, that the Manufacturer shall have no obligation to deliver any Item of Equipment hereunder subsequent to the filing by or against the Railroad of a petition for reorganization under Section 77 of the Bankruptcy Act.

2.2. The Manufacturer's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Manufacturer's reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riots or civil commotion,

sabatoge, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, or delays in receiving necessary materials.

2.3. Notwithstanding the foregoing provisions, any Equipment not delivered and accepted on or before the outside delivery date provided therefor in Schedule A hereto, shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement. In the event of any such exclusion the Manufacturer shall remain obligated to construct, sell and deliver to the Railroad, and the Railroad shall remain obligated to purchase from the Manufacturer, accept delivery of and pay for, any of the Equipment thus excluded from this Agreement, and the Railroad and the Manufacturer shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not excluded herefrom, and the Manufacturer and the Railroad shall further execute a separate agreement providing for the sale of such excluded Equipment by the Manufacturer to the Railroad upon the same terms and conditions as those contained herein, modified only to the extent necessary to provide for payment in cash upon delivery of the Equipment, either directly or indirectly by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Railroad may determine and as may be reasonably satisfactory to the Manufacturer.

2.4. The Equipment during construction shall be subject to inspection by one or more inspectors or other authorized representatives of the Railroad. Upon completion of each Item of Equipment by the Manufacturer, it shall be presented to such inspectors or representatives for inspection at the place designated herein for delivery of such Item of Equipment, and, if such Item of Equipment conforms to the Specifications applicable thereto, such inspectors or representatives shall execute and deliver to the Manufacturer a certificate or certificates of acceptance (hereinafter called the Certificate of Acceptance) stating that such Item of Equipment has been inspected and is accepted by them on behalf of the Railroad and is marked in accordance with Section 5.1 hereof. Any Certificate of Acceptance may cover any number of Items of Equipment.

2.5. The Manufacturer shall bear the risk of loss of each Item of Equipment or damage thereto until delivery to and acceptance by the Railroad. Upon delivery and acceptance by the Railroad of each of such Items of Equipment the Railroad shall bear the risk of loss of or damage to such Items.

SECTION 3. PURCHASE PRICE AND PAYMENT.

3.1. The base price per Item of Equipment, including freight charges, if any, to place of delivery, but exclusive of interest and all other charges, is as set forth in Schedule A hereto. The base price per Item of Equipment shall be subject to increase or decrease as may be agreed to in writing by the Manufacturer and the Railroad, and the term "Purchase Price" as used herein shall mean the base price as so increased or decreased.

3.2. For the purpose of making settlement for the Equipment, the Equipment shall be treated as one group of Items of Equipment (the "Group").

3.3. The Railroad hereby acknowledges itself to be indebted to the Manufacturer in the amount of and hereby promises to pay to the Manufacturer at such bank or trust company in the United States of America as the Manufacturer or its assignee shall designate for payment to it, the purchase price of the Items of Equipment as follows:

(a) On the Closing Date an amount equal to the Purchase Price for all Items of Equipment in the Group, less an amount equal to 65% of the Purchase rounded downward to the nearest $10,000, and

(b) An amount equal to the difference between the Purchase Price of the Equipment and the aggregate amount paid pursuant to sub-paragraph (a) of this Section 3.3 (herein sometimes called the "Conditional Sale Indebtedness"), payable in sixteen (16) consecutive semiannual installments commencing on the first semiannual anniversary date of the Closing Date, each of such sixteen (16) installments to be an amount equal to 6.25% of the aggregate original amount of Conditional Sale Indebtedness, plus interest on the unpaid principal balance from the Closing Date for the delivery of the Group at the Citibank Base Rate for the first through the 36th month and at the Citibank Base Rate plus 1/4 of 1% per annum on the unpaid principal balance for the 37th through the 60th month and at the Citibank Base Rate plus 1/2 of 1% per annum on the unpaid principal balance for the 61st through the 96th month. Interest on the unpaid amount of Conditional Sale Indebtedness from time to time outstanding and then accrued hereunder shall be payable quarterly commencing on the first quarterly anniversary date of the Closing Date."

3.4. The term "Closing Date" with respect to the Group shall mean such date which is not more than ten business days following presentation by the Manufacturer to the Railroad of the invoice or invoices, and the Certificate or Certificates of Acceptance with respect to the Group, as shall be fixed by the Railroad by written or telegraphic notice delivered to the Manufacturer and any assignee thereof at least seven business days prior to the Closing Date designated therein.

3.5. The term "Business Days" as used herein means calendar days, excluding Saturdays, Sundays and holidays on which banks in the States of Pennsylvania or New York are authorized or required to close.

3.6. "Citibank Base Rate" shall mean the rate of interest charged by Citibank, N.A. on 90 day loans to substantial and respectable commercial borrowers in effect from time to time.

3.7. Interest hereunder shall be computed on the basis of a year of 365 or 366 days, as the case may be, or the actual number of days elapsed.

3.8. The Railroad will pay interest at the rate of Citibank Base Rate plus 1% per annum upon all unpaid balances of indebtedness and (to the extent legally enforceable) upon interest, after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

3.9. All payments provided for in this Agreement shall be made by the Railroad 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. All payments of installments of Conditional Sale Indebtedness and/or interest thereon and all payments due pursuant to Section 6 hereof shall be made by wire transfer of immediately available funds to such bank in the continental United States for the account of the Manufacturer or its assignee as the Manufacturer or assignee shall from time to time direct the Railroad in writing.

3.10. In addition to prepayment permitted under Section 6 hereof, the Railroad shall have the privilege of prepaying in the inverse order of maturity any installment of the indebtedness prior to the date it becomes due hereunder without premium or penalty.

SECTION 4. TITLE TO THE EQUIPMENT.

4.1. The Manufacturer shall and hereby does retain the full security title to and property in the Equipment until the Railroad shall have made all of the payments hereunder and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as herein provided. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

4.2. When and only when the Manufacturer shall have been paid the full indebtedness in respect of the invoice cost of the Equipment, together with interest and all other payments as herein provided and all the Railroad's other obligations herein contained shall have been performed, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Manufacturer, except that the Manufacturer, if requested by the

Railroad so to do, will execute a bill or bills of sale of the Equipment releasing its security title thereto and property therein to the Railroad or upon its order free of all liens and encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address specified in Section 20 hereof, and will execute in the same manner and deliver at the same place, for filing, registering, 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 title of the Railroad to the Equipment, and will pay to the Railroad any money paid to the Manufacturer, pursuant to Section 6 hereof and not therefore applied as therein provided. The Manufacturer 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 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 to file such certificate within a reasonable time after written demand by the Railroad.

SECTION 5. MARKING OF EQUIPMENT.

5.1. The Railroad will cause each Item of Equipment to be kept numbered with its road number as set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon both sides of each Item of Equipment in letters not less than one inch in height, the words "This Unit subject to Conditional Sale Agreement recorded with the I.C.C.", with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the security title of the Manufacturer to such Item of Equipment, its rights under this Agreement and the rights of any assignee under Section 14 hereof. The Railroad will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Railroad will not change the road number of any Item of Equipment except with the consent of the Manufacturer and any assignee pursuant to Section 14 hereof and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed with the Manufacturer by the Railroad and filed, recorded or deposited in all public offices where this Agreement shall have been filed, recorded or deposited.

5.2. Except as above provided, the Railroad will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the names or intitials or other insignia customarily used by the Railroad or its affiliates on railroad

equipment used by it of the same or a similar type of convenience of identification of the right of the Railroad to use the Equipment under this Agreement.

SECTION 6. CASUALTY OCCURRENCES.

6.1. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or irreparably damaged, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise (each such occurrence, except for any requisition which by its terms is indefinite or does not exceed the original term of this Agreement, being hereinafter called a "Casualty Occurrence"), prior to the payment of the indebtedness in respect of the purchase price of such Item, together with interest thereon and all other payments required hereby, the Railroad shall, within ten days after it shall have been determined that such Item of Equipment has suffered a Casualty Occurrence, fully inform the Manufacturer in regard thereto. The Railroad shall, within 30 days of such determination, pay to the Manufacturer a sum equal to the aggregate Casualty Payment (as defined in Section 6.3 hereof) of such Item of Equipment as of the date of such payment and shall file with the Manufacturer a certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad setting forth the Casualty Payment of the Item of Equipment suffering a Casualty Occurrence.

6.2. Any money paid to the Manufacturer pursuant to Section 6.1 hereof shall, so long as no Event of Default shall have occurred and be continuing, be applied, in whole or in part, as the Railroad shall direct in a written instrument filed with the Manufacturer, to prepay indebtedness in respect of the Purchase Price of the Equipment hereunder or to or toward the cost of an Item or Items of Equipment of new standard gauge railroad locomotive equipment which shall be of the same character as the Equipment described in Schedule A hereto to replace such Item of Equipment having suffered a Casualty Occurrence and which new Item or Items of Equipment shall be of a quality and have a value and utility at least equal to such Item of Equipment having suffered a Casualty Occurrence, as the Railroad shall direct in such written instrument. In case any such money shall be applied to prepay indebtedness, it shall be so applied, on the first installment date for the payment of the Purchase Price of the Equipment next following receipt by the Manufacturer of such written direction, to prepay installments of the Purchase Price of the Equipment thereafter falling due in the inverse order of their maturities, but without premium, and whether or not such amount shall be sufficient to prepay one or more entire installments (or portions thereof) of the Purchase Price. In case of replacement the amount to be paid by the Manufacturer in respect of any replacing Item shall not exceed the lesser of the cost of such Item or the amount which such Item would have cost if acquired on the earliest date when any of such money was paid to the Manufacturer, and the Railroad shall pay any additional cost of such Item. The amount which any such replacing Item would have cost if acquired on the

earliest date when any of such money was paid to the Manufacturer shall be conclusively determined by the certificate of a Vice-President or the Comptroller or other Chief Accounting Officer of the Railroad to be filed as hereinafter provided.

6.3. The payment to be made to the Manufacturer in respect of each Item of Equipment having suffered a Casualty Occurrence (the "Casualty Payment") shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the date as of which such Casualty Payment shall be determined, plus interest accrued thereon but unpaid as of such date.

6.4. So long as no Event of Default shall have occurred and be continuing, any money paid to the Manufacturer pursuant to this Section 6 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in (i) such direct obligations of the United States of America or obligations for which the faith of the United States is pledged to provide for the payment of principal and interest or (ii) open market commercial paper given the highest rating by a national credit agency or (iii) in certificates of deposit of commercial banks in the United States of America having capital and surplus aggregating at least $50,000,000, in each case maturing in not more than one year from the date of such investment (all such investments being hereinafter called "Investments"), as may be specified in such written direction. Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest or earned discount received by the Manufacturer on any Investments shall be held by the Manufacturer and applied as herein provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus any interest received by the Manufacturer thereon, up to the cost (including accrued interest or earned discount) thereof, shall be held by the Manufacturer for application pursuant to this Section 6, and any excess shall be paid to the Railroad. If such proceeds (plus such interest or earned discount) shall be less than such cost, the Railroad will promptly pay to the Manufacturer an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Manufacturer in connection with the purchase and sale of Investments.

6.5. The Railroad will cause any replacing Item to be plated or marked as provided in Section 5.1 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all of the terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and shall be included in the term "Equipment" as used in this Agreement. Title to all such replacements shall be free and clear of all liens and encumbrances and shall be taken initially and shall remain in the name of the Manufacturer subject to the provisions hereof, and the Railroad shall promptly execute, acknowledge, deliver, file and record all such documents (including the filing

with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act of an appropriate supplemental agreement describing such replacements) and do any and all such acts as may be necessary to cause such replacements to come under and be subject to this Agreement and to protect the title of the Manufacturer to such replacements. All such replacements shall be warranted in like manner as the Items replaced, and the vendor of the replacements shall, if other than the Manufacturer, duly consent to the subjection thereof to this Agreement and agree to be bound by all the terms and provisions contained herein in respect of such replacements in like manner as the Manufacturer is in respect of the original Equipment delivered hereunder.

6.6. Whenever the Railroad shall file with the Manufacturer, pursuant to the foregoing provisions of this Section 6, a written direction to apply money to or toward the cost of a replacing Item of new standard gauge railroad car equipment, the Railroad shall file therewith in such number of counterparts as may reasonably be requested:

(a) a certificate of a Vice-President or the Comptroller or other Chief Accounting Officer of the Railroad certifying that such replacing Item is new standard gauge railroad car equipment and has been plated or marked as required by the provisions of this Section 6 and certifying the cost of such replacing unit, the amount which such replacing Item would have cost if acquired on the earliest date when any such money was paid to the Manufacturer and that the cost thereof does not exceed the fair value of such Item and that such replacing Item is of a quality and has a value and utility at least equal to the Item replaced; and

(b) an opinion of counsel for the Railroad that title to such replacing Item is vested in the Manufacturer free and clear of all liens and encumbrances, and that such Item has come under and become subject to this Agreement.

6.7. In the event that any moneys paid to, or held by the Manufacturer pursuant to this Section 6 are applied to the prepayment of indebtedness in respect of the Purchase Price, the Railroad will pay to the Manufacturer on the date of such application interest then accrued and unpaid on the indebtedness so prepaid.

If an Event of Default shall have occurred and be continuing, then so long as such event of default shall continue all money then held by the Manufacturer pursuant to this Section 6 shall be applied by the Manufacturer as if such money were money received upon the sale of Equipment pursuant to Section 16 hereof.

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

6.9. In the event that prior to the expiration of the term of this Agreement, the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period ending on or before said date, the Railroad's duty to pay the indebtedness in respect of the purchase price thereof shall continue for the duration of such requisitioning or taking. The Railroad shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

SECTION 7. TAXES.

All payments to be made by the Railroad hereunder will be free of expense to the Manufacturer for collection or other charges and will be free of expense to the Manufacturer in respect of the amount of any local, state or federal taxes, license and registration fees, assessments, charges, fines, penalties, sales, use and property taxes, gross receipts taxes arising out of receipts from use or operation of the Equipment, and other taxes, fees and governmental charges similar or dissimilar to the foregoing (other than net income, excess profits and similar taxes) hereafter levied or imposed upon, or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which expenses, taxes and licenses the Railroad assumes and agrees to pay on demand in addition to the indebtedness in respect of the purchase price of the Equipment. The Railroad will also pay promptly all taxes and assessments which may be imposed upon the Equipment or for the use or operation thereof by the Railroad or upon the earnings arising therefrom or upon the Manufacturer solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all taxes and assessments which might in any way affect the title of the Manufacturer or result in a lien upon any Item of Equipment; provided, however, that the Railroad shall be under no obligation to pay any taxes, assessments, licenses, charges, fines or penalties of any kind so long as it is contesting in good faith and by appropriate legal proceedings such taxes, assessments, licenses, charges, fines or penalties and the nonpayment thereof does not, in the opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder. If any such expenses, taxes, assessments, licenses, charges, fines or penalties shall have been charged or levied against a Manufacturer

directly and paid by such Manufacturer, the Railroad shall reimburse such Manufacturer on presentation of invoice therefor; provided, however, that the Railroad shall not be obligated to reimburse the Manufacturer for any expenses, taxes, assessments, licenses, charges, fines or penalties so paid unless the Manufacturer shall have submitted notice in writing to the Railroad at least five business days in advance of payment thereof.

SECTION 8. REPORTS AND INSPECTIONS.

8.1. On or before April 1 in each year, commencing with the year 1978, the Railroad will upon request furnish to the Manufacturer an accurate statement, as of the preceding December 31, (a) showing the amount, description and numbers of the Items of Equipment then subject to this Agreement, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as Manufacturer may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 5.1 hereof shall have been preserved or replaced.

8.2. The Manufacturer shall have the right, at its sole cost and expense by its authorized representative, to inspect the Equipment and the Railroad's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Manufacturer the existence and proper maintenance thereof during the continuance of this Agreement.

SECTION 9. POSSESSION, USE AND MAINTENANCE.

9.1. The Railroad, so long as it shall not be in default under this Agreement, shall be entitled, from and after delivery of the Equipment by the Manufacturer to the Railroad, to the possession of the Equipment and the use thereof by it, any affiliate or the parent company (the "Parent Company") of the Railroad upon the lines of railroad owned or operated by any such affiliate or the Parent Company or by it either alone or jointly with another and whether under lease or otherwise, or upon the lines or railroad owned or operated by any company controlled by or controlling the Railroad, or over which it or any such affiliate or the Parent Company has trackage rights, or run through or operating agreements, from and after delivery of the Equipment by the Manufacturer to the Railroad, provided however that such use shall be subject to all the terms and conditions of this Agreement only within the United States of America. The Railroad may lease the Equipment to an affiliate or its Parent Company but only upon and subject to all the terms and conditions of the Agreement and provided that no such lease shall relieve the Railroad of any liability or obligations hereunder which shall be those of a principal and not a surety.

9.2. The Railroad shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Railroad shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted. The Railroad shall not modify any Item of Equipment without the written authority and approval of the Manufacturer which shall not be unreasonably withheld, provided that no such approval shall be required if and to the extent such modification is required by Section 11 hereof. Any parts (except communications, signal and automatic control equipment and devices having a similar use which are added to any Item of Equipment by the Railroad, the cost of which is not included in the Purchase Price of such Item and which are not required for the operation or use of such Item by the Interstate Commerce Commission, the Department of Transportation or any other regulatory body) installed or replacements made by the Railroad upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Manufacturer, without cost or expense to the Manufacturer.

SECTION 10. PROHIBITION AGAINST LIENS

10.1. Other than any subordinate lien imposed by the First and Refunding Mortgage of Railroad to United States Trust Company of New York, dated August 1, 1946, the Railroad will pay or satisfy and discharge any and all sums claimed by any party by, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien or a charge upon any Item of Equipment equal or superior to the security title of the Manufacturer, and any liens, encumbrances or charges which might be levied against or imposed upon any Item of Equipment as a result of the failure of the Railroad to perform or observe any of its covenants or agreements under this Agreement, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested by the Railroad in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder.

10.2. 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 liens arising in the ordinary course of business and, in each case, not delinquent (such liens being herein called "permitted liens").

SECTION 11. RULES, LAWS AND REGULATIONS.

During the term of this Agreement the Railroad will comply in all respects with all laws of the jurisdictions in which its operations involving the Equipment may extend, with the Interchange

Rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation 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 operation or use of the Equipment; and in the event that such laws or rules require the alteration of the Equipment, the Railroad will conform therewith at its expense, and will maintain the same in proper conditions for operation under such laws and rules; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder.

SECTION 12. INDEMNITIES.

12.1. The Railroad agrees to indemnify, protect and hold harmless the Manufacturer against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including claims for strict liability in tort and counsel fees, arising out of retention by the Manufacturer of security title to the Equipment, or out of the use and operation thereof during the period when security title thereto remains in the Manufacturer. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of the Equipment and the conveyance of the Equipment, as provided in Section 4.2 hereof, or the termination of this Agreement in any manner whatsoever. This provision shall not indemnify, protect or hold the Manufacturer harmless from any liability borne by Manufacturer in Section 12.3.

12.2. As between the Manufacturer and the Railroad, the Railroad, after delivery to and acceptance by the Railroad pursuant to Section 2.5 hereof, will bear the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any Item or of all the Equipment.

12.3. The Manufacturer warrants that the Items of Equipment will be built in accordance with the Specifications therefor and warrants that the Items of Equipment will be free from defects in material (except as to specialties incorporated therein specified by the Railroad and not manufactured by the Manufacturer, in respect of which the Manufacturer hereby appoints and constitutes the Railroad its agent and attorney-in-fact to assert and enforce from time to time in the name of the Manufacturer but for the account of the Railroad and in all cases at the sole cost and expense of the Railroad whatever claims and rights the Manufacturer may have against the Manufacturer of the specialty) or workmanship under normal use and service, the Manufacturer's obligation under this Section being limited to making good at its plant any part or parts of any such Item of Equipment, which shall, within one year after

the delivery of such Item of Equipment to the Railroad be returned to the Manufacturer with transportation charges prepaid and which the Manufacturer's examination shall disclose to its satisfaction to have been thus defective; provided, however, that this warranty shall not apply to (i) any components which shall have been repaired or altered unless repaired or altered by the Manufacturer or its authorized service representatives, if, in its judgment, such repairs or alterations affect the stability of any such Item of Equipment or (ii) any such Item of Equipment which has been subject to misuse, negligence or accident. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE MANUFACTURER, EXCEPT FOR ITS OBLIGATION HEREUNDER AS LIMITED HEREBY, AND THE MANUFACTURER NEITHER ASSUMES OR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF THE EQUIPMENT EXCEPT AS AFORESAID. IN NO EVENT SHALL THE MANUFACTURER BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR COMMERCIAL LOSS. The Manufacturer reserves the right to make changes in the design of, or add any improvements to, any Items of Equipment to be built by it at any time with the approval of the Railroad. The Manufacturer further agrees with the Railroad that acceptance of any Items of Equipment under Section 2.4 hereof shall not be deemed a waiver by the Railroad of any of its rights under this Section 12.3.

SECTION 13. PATENT INDEMNITIES.

13.1. Except in cases of designs specified by the Railroad and not developed or purported to be developed by the Manufacturer, and articles and materials specified by the Railroad and not manufactured by the Manufacturer, the Manufacturer agrees to indemnify, protect and hold harmless the Railroad from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Railroad because of the use in or about the construction or operation of any Item of Equipment, of any design, article or material which infringes or is claimed to infringe on or to constitute contributory infringement with respect to any patent or other right. The Railroad likewise will indemnify, protect and hold harmless the Manufacturer from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Manufacturer because of the use in or about the construction or operation of any Item of Equipment thereof, or any design specified by the Railroad and not developed or purported to be developed by the Manufacturer, or article or material specified by the Railroad and not manufactured by the Manufacturer, which infringes or is claimed to infringe on or to constitute contributory infringement with respect to any patent or other right. In case any Item of Equipment is held to constitute infringement of any patent or any similar right in respect of which liability may be charged

against the Manufacturer, and the use of any Item of Equipment is enjoined, the Manufacturer shall, at its own expense and at its option, either procure for the Railroad the right to continue using such Item of Equipment or replace the same with noninfringing equipment or modify it so that it becomes noninfringing, or remove the infringing portion of the Item of Equipment and refund the purchase price and the transportation and installation costs of such portion. Without intending any limitation of the foregoing, the Manufacturer agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to the Railroad every claim, right and cause of action which the Manufacturer has or hereafter shall have against the originator of any design or against the seller or sellers of any designs or articles or materials purchased or otherwise acquired by the Manufacturer for use in or about the construction or operation of the Items of Equipment on the ground that any such design, article or material or operation thereof infringes or is claimed to infringe on or to constitute contributory infringement with respect to any patent or other right and the Manufacturer further agrees to execute and deliver to the Railroad all and every such further assurance as may be reasonably requested by the Railroad, more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. The Manufacturer will give notice to the Railroad of any claim known to the Manufacturer from which liability may be charged against the Railroad hereunder and the Railroad will each give notice to the Manufacturer of any claim known to it from which liability may be charged against the Manufacturer hereunder.

13.2. The term "design" wherever used in this Agreement or in any assignment of this Agreement shall be deemed to include formulae, systems, processes and combinations.

SECTION 14. ASSIGNMENTS.

14.1. Except as otherwise provided in Section 9.1 hereof, the Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or transfer the right to possession of any Item of Equipment without first obtaining the written consent of the Manufacturer. An assignment or transfer to a railroad company or other purchaser which shall acquire all or substantially all the lines of railroad of the Railroad, and which by execution of an appropriate instrument satisfactory to the Manufacturer, shall assume and agree to perform each and all of the obligations and covenants of the Railroad hereunder, shall not be deemed a breach of this covenant.

14.2. All or any of the rights, benefits and advantages of the Manufacturer under this Agreement, including the right to receive the payments herein provided to be made by the Railroad may be assigned by the Manufacturer and reassigned by an assignee at any time or from time to time. No such assignment shall subject any assignee

to, or relieve the Manufacturer from, any of the obligations of the Manufacturer to construct and deliver the Equipment in accordance with Section 1 and 2.1 hereof, or to respond to its warranties and indemnities contained in Sections 12.3 and 13 hereof, or relieve the Railroad of its obligations to the Manufacturer hereunder.

14.3. Upon any such assignment either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all of the Manufacturer's right, security title and interest in and to the Equipment subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad, of the notification of any such assignment, all payments thereafter to be made by the Railroad hereunder shall, to the extent so assigned, be made to the assignee at the address of the assignee specified in the aforesaid notice.

14.4. The Railroad hereby acknowledges that, concurrently with the execution and delivery of this Agreement and in accordance with the custom of railroad equipment manufacturers, the Railroad has made arrangements for and the Manufacturer is executing and delivering an Agreement and Assignment dated as of December 1, 1977 between the Manufacturer and Citibank, N.A. ("Citibank"), as Assignee (the "Investor") pursuant to which the Manufacturer is assigning certain of its rights and interest hereunder. The Railroad expressly acknowledges and agrees with the Investor and its successors and assigns, for the purpose of inducing the execution and delivery of said Agreement and Assignment by the Investor and its advance to the Manufacturer in consideration therefor of an amount equal to the difference between the Purchase Price of the Equipment and the aggregate amount paid by the Railroad pursuant to sub-paragraph (a) of Section 3.3 hereof, that the rights of the Investor and its successors and assigns to the entire unpaid indebtedness in respect of the Purchase Price of the Equipment or any part thereof as so assigned, together with interest thereon, as well as all other rights hereunder so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever, whether by reason of any breach of any obligation of the Manufacturer with respect to the Equipment or the delivery or warranty thereof or with respect to any indemnity herein contained or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and when arising, at any time owing to the Railroad by the Manufacturer or to any other person, firm or corporation or to any governmental authority, or for any cause whatsoever, it being the intent hereof that, except in the case of a wrongful act on the part of the Investor or its successors and assigns, the Railroad shall be unconditionally and absolutely obligated to pay the Investor the entire unpaid indebtedness in respect of the Purchase Price of the Equipment as so assigned, together with interest thereon, all in the manner and

upon the dates set forth in Section 3.3(b) hereof and as otherwise provided thereon. Any and all such obligations, if any and howsoever arising, shall be and remain enforceable by the Railroad against and only against the Manufacturer.

14.5. In the event of any such assignment or successive assignment by the Manufacturer of security title to the Equipment and of the Manufacturer's rights hereunder with respect thereto, the Railroad will, whenever requested by such assignee, change the names and word or words to be marked on each side of each Item of Equipment so as to indicate the security title of such assignee to the Equipment with such names and word or words as shall be specified by such assignee, subject to the requirements of the laws specified by such assignee, subject to the requirements of the laws of the jurisdictions in which the Equipment shall be operated relating to such names and word or words for use on equipment covered by conditional sale agreements with respect to railroad equipment. The cost of marking such names and word or words with respect to the first assignee to this Agreement (or to any successor assignee in case the first assignee is an agent or trustee) shall be borne by the Railroad. The cost of marking such names and word or words in connection with any subsequent assignment (other than to a successor agent or trustee if the first assignee is an agent or trustee) will be borne by the subsequent assignee.

14.6. In the event of any such assignment prior to the completion of delivery of the Equipment, the Railroad will, in connection with settlement for the Group subsequent to such assignment, deliver to the assignee, at the time of delivery by the Railroad of notice fixing the Closing Date with respect to the Group. All documents reasonably required by the terms of such assignment to be delivered by the Railroad to the assignee in connection with such settlement, in such number or counterparts as may reasonably be requested.

14.7. If this Agreement shall have been assigned by the Manufacturer and the assignee shall not make payment to the Manufacturer on the Closing Date with respect to the Group of an amount equal to that portion of the purchase price of such Items of Equipment included in the Group as provided in the instrument of assignment, the Manufacturer will promptly notify the Railroad of such event, such Items of Equipment included in the Group shall be excluded thereupon and the Railroad shall not later than 60 days after the Closing Date pay or cause to be paid to the Manufacturer the purchase price of all such Items of Equipment, or the portion thereof unpaid by the assignee, such payment to be in cash or if the Manufacturer and the Railroad shall mutually agree, by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Railroad shall determine and as may be reasonably satisfactory to the Manufacturer.

SECTION 15. DEFAULTS.

15.1. In the event that any one or more of the following events of default ("Events of Default") shall occur and be continuing, to-wit:

(a) The Railroad shall fail to pay in full any sum payable by the Railroad when payment thereof shall be due under Section 3 or 6 hereof and such default shall continue for five days; or

(b) The Railroad shall fail or refuse to comply with any covenant, agreement, term or provision of this Agreement on its part to be kept and performed or to make provision satisfactory to the Manufacturer for such compliance for more than 30 days after written notice from the Manufacturer specifying the default and demanding the same to be remedied; or

(c) Any representation or warranty made by the Railroad herein or in any statement or certificate furnished to the Manufacturer or any assignee of the Manufacturer pursuant to or in connection with this Agreement, the Agreement and Assignment dated as of December 1, 1977 or the Finance Agreement dated as of December 1, 1977 proves untrue in any material respect as of the date of issuance or making thereof; or

(d) 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 duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees within 30 days after such appointment or 60 days after such petition shall have been filed, whichever shall be earlier, or

(e) Any other proceedings shall be commenced by or against the Railroad for any relief under any bankruptcy or insolvency laws, or laws 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 duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers

appointed for the Railroad or for the property of the Railroad in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(f) 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 Item of the Equipment;

then at any time after the occurrence and during the continuance of such an Event of Default the Manufacturer may, upon written notice to the Railroad and upon compliance with any legal requirements then in force and applicable to such action by the Manufacturer, declare the entire indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such declaration at the rate of Citibank Base Rate plus 1% per annum, to the extent legally enforceable, and the Manufacturer shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated.

15.2. The Manufacturer may waive any such Event of Default and its consequences and rescind and annul any such declaration by notice to the Railroad in writing to that effect. Upon any such waiver the respective rights of the parties shall be as they would have been if no such default had existed and no such declaration 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.

SECTION 16. REMEDIES.

16.1. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such default, the Manufacturer may, upon such further notice, if any, as may be required for compliance with any mandatory requirements of law then in force and applicable to the action to be taken by the Manufacturer, take or cause to be taken by its agent or agents immediate possession of the Equipment, or any Item thereof, without liability to return to the

Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Section 16 expressly provided, and may remove the same from possession and use of the Railroad and for such purpose may enter upon the premises of the Railroad or where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad, with or without process of law.

16.2. In case the Manufacturer shall rightfully demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the lines of the Railroad for the delivery of the Equipment to the Manufacturer, the Railroad shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points as shall be reasonably designated by the Manufacturer and shall there deliver the Equipment or cause it to be delivered to the Manufacturer; and, at the option of the Manufacturer, the Manufacturer may keep the Equipment on any of the lines of railroad or premises of the Railroad, for a period not exceeding 180 days, until the Manufacturer shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Manufacturer reasonably convenient. The agreement to deliver the Equipment as hereinbefore provided is of the essence of this Agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Manufacturer shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Manufacturer and its agent or agents for damages of whatever nature in connection with any retaking of any Item of Equipment in any reasonable manner.

16.3. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time thereafter during the continuance of such default and after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided (unless such declaration has been rescinded and annulled as provided in Section 15.2 hereof), the Manufacturer (after retaking possession of the Equipment as hereinbefore in this Section 16 provided) may at its election retain the Equipment as its own and make such disposition thereof as the Manufacturer shall deem fit (including, if the Manufacturer so elects, the leasing of the Equipment on such terms as it shall deem fit), and in such event all the Railroad's rights in the Equipment will thereupon terminate and, to the extent not prohibited by any mandatory requirements of law, all payments made by the Railroad may be retained by the Manufacturer as compensation for the use of the Equipment by the Railroad; provided, however, that if the Railroad, within 30 days of receipt of notice of the Manufacturer's election to retain the Equipment for its own use, as hereinafter provided, shall pay or cause to be paid to the Manufacturer

the total unpaid balance of the indebtedness in respect of the Purchase Price of all the Equipment, together with interest thereon accrued and unpaid and all other payments due by the Railroad under this Agreement, then in such event absolute right to the possession of, title to and property in such Equipment shall pass to and vest in the Railroad; or the Manufacturer, with or without the retaking of possession thereof may, at its election, sell the Equipment, or any Item thereof, free from any and all claims of the Railroad, or of any other party claiming by, through or under the Railroad, at law or in equity, at public or private sale and with or without advertisement as the Manufacturer may determine; and the proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Manufacturer in taking possession of, removing, storing and selling the Equipment, shall be credited to the amount due to the Manufacturer under the provisions of this Agreement. Written notice of the Manufacturer's election to retain the Equipment for its own use may be given to the Railroad by telegram or registered mail addressed to the Railroad as provided in Section 20 hereof, at any time during a period of 30 days after the entire indebtedness in respect of Purchase Price shall have been declared immediately due and payable as hereinbefore provided; and if no such notice shall have been given, the Manufacturer shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Section 16.

16.4. Any sale hereunder may be held or conducted at such place or places and at such time or times as the Manufacturer may specify, in one lot and as an entirety, or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Manufacturer may determine, provided that the Railroad shall be given written notice of such sale not less than 30 days prior thereto, by mail addressed as provided herein. If such sale shall be a private sale, it shall be subject to the rights of the Railroad to purchase or provide a purchaser, within 30 days after notice of the proposed sale price, at the same price offered in writing by the intending purchaser or a better price. In the event that the Railroad does not exercise said right to purchase or provide a purchaser for the Equipment, the Manufacturer may bid for and become the purchaser of the Equipment, or any Item thereof, so offered for sale without accountability to the Railroad (except to the extent of surplus money received as hereinafter provided in this Section), and in payment of the Purchase Price therefor all sums due to the Manufacturer from the Railroad hereunder.

16.5. Each and every power and remedy hereby specifically given to the Manufacturer shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Manufacturer. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Manufacturer in the exercise of any such power or remedy and no renewal or extension of any payments due

hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein.

16.6. All sums of money realized by the Manufacturer under the remedies herein provided shall be applied, first to the payment of the expenses and liabilities of the Manufacturer herein undertaken to be paid, second to the payment of the indebtedness in respect of the Purchase Price of the Equipment and third to the payment of interest on the indebtedness in respect of the Purchase Price of the Equipment accrued and unpaid. If, after applying as aforesaid all sums of money realized by the Manufacturer, there shall remain any amount due to it under the provisions of this Agreement, the Manufacturer 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 Manufacturer, there shall remain a surplus in the possession of the Manufacturer, such surplus shall be paid to the Railroad.

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

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

SECTION 17. APPLICABLE STATE LAWS.

17.1. Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an agreement of conditional sale shall as to such state be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale agreement and enforced as such.

17.2. 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 the Equipment, or any Item thereof, and any other requirements as to the time, place and terms of sale thereof, and other requirements with respect to the enforcement of the Manufacturer's rights hereunder and any and all rights of redemption.

SECTION 18. EXTENSION NOT A WAIVER.

No delay or omission in the exercise of any power or remedy herein provided or otherwise available to the Manufacturer shall

impair or affect the Manufacturer's right thereafter to exercise the same. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Manufacturer's rights or the obligations of the Railroad hereunder. The Manufacturer's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Railroad's obligations or the Manufacturer's rights hereunder with respect to any subsequent payments or defaults therein.

SECTION 19. RECORDING.

The Railroad will cause this Agreement, any assignment hereof and any supplements hereto and thereto to be filed, recorded or deposited and re-filed, re-recorded or re-deposited, if necessary, with the Interstate Commerce Commission, and otherwise as may be required by law or reasonably requested by the Manufacturer for the purpose of proper protection, to the satisfaction of counsel for the Manufacturer of its security title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Manufacturer certificates or other evidences of such filing, recording or depositing, and an opinion or opinions of counsel for the Railroad with respect thereto, satisfactory to the Manufacturer.

SECTION 20. 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 the following specified addresses:

(a) to the Railroad: Union Railroad Company, Attention: V. W. Kraetsch, Vice President-Finance, Post Office Box 536, Pittsburgh, Pennsylvania 15230,

(b) to the Manufacturer: Ortner Freight Car Company, 2652 Erie Avenue, Cincinnati, Ohio 45208,

(c) to any assignee of the Manufacturer, or of the Railroad, at such address as may have been furnished in writing to the Railroad or the Manufacturer, as the case may be, 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.

SECTION 21. HEADINGS.

All section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

SECTION 22. EFFECT AND MODIFICATION OF AGREEMENTS.

This Agreement and the Schedule relating hereto, exclusively and completely state the rights and agreements of the Manufacturer

and the Railroad with respect to the Equipment and supersede all other agreements, oral or written, with respect to the Equipment. No variation of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and duly executed on behalf of the Manufacturer and the Railroad.

SECTION 23. LAW GOVERNING.

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of New York; 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 depositing hereof 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.

SECTION 24. DEFINITIONS.

The term "Manufacturer", whenever used in this Agreement, means, before any assignment of any of its rights hereunder, Ortner Freight Car Company, and any successor or successors for the time being to the properties and business thereof, and, after any such assignment, any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained and excluded from any assignment.

SECTION 25. PAYMENT OF EXPENSES.

The Railroad will pay all reasonable costs, charges and expenses, except the counsel fees of the Manufacturer, but including the fees and expenses of counsel for the first assignee of this Agreement and including stamp and other taxes, if any, incident to the printing or other duplicating, execution, acknowledgement, delivery, filing or recording of this Agreement, of the first assignment, of any instrument supplemental to or amendatory of this Agreement or the first assignment, and of any certificate of the payment in full of the indebtedness in respect of purchase price due hereunder. In addition, the Railroad will pay all reasonable costs, charges and expenses, including fees and expenses of counsel, and including stamp and other taxes, if any, of the first assignee of this Agreement, incurred in connection with the first assignment, payments to the Manufacturer by the first assignee and other parties, and the performance of the functions of the first assignee under the first assignment and any related agreements.

SECTION 26. CONSOLIDATION OR MERGER.

In case of any consolidation or merger to which the Railroad or the Manufacturer shall be a party, or in case of any sale of all or substantially all the assets of the Railroad or the Manufacturer,

the corporation resulting from such consolidation or merger (if other than the Railroad or the Manufacturer) or the corporation which shall acquire such assets, shall expressly assume all obligations hereunder, not then performed, or the Railroad or the Manufacturer, as the case may be, and shall become entitled to all rights hereunder of the Railroad or the Manufacturer, as the case may be.

SECTION 27. EXECUTION.

This Agreement may be executed in any number of counterparts, each of which 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 above written, 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 have caused this instrument to be executed in their respective corporate names by their officers or representatives, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

ORTNER FREIGHT CAR COMPANY

(Corporate Seal)

Attest:

Asst. Secretary

By H. E. Kemsta
Vice President

UNION RAILROAD COMPANY

(Corporate Seal)

Attest:

Assistant Secretary

By V W Kraetsch
Vice President-Finance

STATE OF OHIO)
) SS
COUNTY OF HAMILTON)

On this 21st day of December, 1977, before me personally appeared H. E. Knuston, to me personally known, who, being by me duly sworn, says that he is a Vice President of ORTNER FREIGHT 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.

(SEAL)

Howard Parr
Notary Public

My Commission Expires:

HOWARD PARR
Notary Public, State Of Ohio
My Commission Expires August 20, 1978

COMMONWEALTH OF PENNSYLVANIA)
) SS
COUNTY OF ALLEGHENY)

On this 3rd day of January, 1978, before me personally appeared Vernon W. Kraetsch, to me personally known, who being by me duly sworn, says that he is the Vice President-Finance of UNION 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 Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Dorothy M. Teller
Notary Public

(SEAL)

My Commission Expires:

DOROTHY M. TELLER, Notary Public
PITTSBURGH, ALLEGHENY COUNTY, PA.
MY COMMISSION EXPIRES
DECEMBER 18, 1978

SCHEDULE A

To Conditional Sale Agreement

MANUFACTURER.	Ortner Freight Car Company
DESCRIPTION OF EQUIPMENT.	Sixty (60) 70-ton capacity coke hopper cars bearing Union Railroad Company Identifying Nos. 2592 to and including 2651
SPECIFICATIONS.	Specification No. OCN 1300-7-76
BASE PRICE.	$18,525.00 per car ($1,111,500 for Sixty (60) Cars)
DELIVER TO.	Union Railroad Company
PLACE OF DELIVERY	F.o.t. Manufacturer's Shop
ESTIMATED DELIVERY DATES.	December 29, 1977
OUTSIDE DELIVERY DATE	January 15, 1978