

TRANSPORTATION CORPORATION OF AMERICA  
P.O. Box 218  
Chicago, Illinois 60411

March 1, 1978

INTERSTATE  
COMMERCE COMMISSION  
RECEIVED

Interstate Commerce Commission  
12th & Constitution, N.W.  
Room 1227  
Washington, D.C.

9266

RECORDATION NO. .... Filed & Recorded

MAR 4 1978

Att: Mrs. Mildred Lee

MAR 6 1978 - 11 45 AM

ADMINISTRATIVE SERVICES  
E MAIL BRANCH

Gentlemen:

INTERSTATE COMMERCE COMMISSION

Enclosed for recordation under the provisions of Section 20(c) of the Interstate Commerce Commission Act, as amended, are three signed copies of an Equipment Lease dated as of February 20, 1978 between Transportation Company of America, as Lessor, and Ashley, Drew & Northern Railway Company, as Lessee. Said Equipment Lease relates to the following described railroad rolling stock:

50 - 100 ton 61 foot bulkhead flat cars bearing railroad car numbers ADN550 through ADN599, both inclusive.

The undersigned is Assistant Secretary of Transportation Corporation of America, an Illinois corporation, the Lessor of the above-named equipment, and has knowledge of the matters set forth herein.

Also enclosed herewith you will find a check payable to the Interstate Commerce Commission in the amount of \$50 as a filing fee. Please return two fully stamped copies of subject document and evidence of recordation to the following:

John M. Hartigan  
Carroll, Connelly, Hartigan & Hillery  
One N. LaSalle St., Suite 2136  
Chicago, Illinois 60602

In the event you have any question or wish to communicate with anyone concerning the above, please telephone the undersigned at Area Code 312 - 236-3575. Kindly call collect.

Sincerely,

TRANSPORTATION CORPORATION OF AMERICA  
an Illinois corporation

By:

John M. Hartigan, Assistant Secretary

RECEIVED  
MAR 11 36 AM '78  
COMMUNICATION UNIT

JMH/d, enclosures  
cc: C. Wright  
S. Christianson

8-065A112  
MAR 6 1978  
fee \$ 50-  
CC Washington, D. C.

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

3/6/78

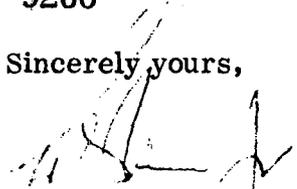
OFFICE OF THE SECRETARY

John M. Hartigan  
Carroll, Connelly, Hartigan & Hillery  
One N. LaSalle St., Suite 2136  
Chicago, Illinois 60602

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 3/6/78 at 11:45am ,  
and assigned recordation number(s) 9266

Sincerely yours,

  
H.G. Homme, Jr.  
Acting Secretary

Enclosure(s)

SE-30-T  
(6/77)

9256

RECORDATION NO. .... Filed & Recorded

MAR 6 1978 -11 45 AM

INTERSTATE COMMERCE COMMISSION

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EQUIPMENT LEASE  
Number 013178

Dated as of February 20, 1978

Between

TRANSPORTATION CORPORATION OF AMERICA

And

ASHLEY, DREW & NORTHERN RAILWAY COMPANY

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THIS EQUIPMENT LEASE Number 013178 dated as of February 20, 1978 between TRANSPORTATION CORPORATION OF AMERICA, an Illinois corporation (the "Lessor"), and ASHLEY, DREW & NORTHERN RAILWAY COMPANY (the "Lessee");

W I T N E S S E T H:

WHEREAS, the Lessor has agreed to purchase from THRALL CAR MANUFACTURING COMPANY (the "Manufacturer") the railroad equipment (collectively the "Equipment" and individually an "Item of Equipment") described in Schedule A attached hereto and made a part hereof; and

WHEREAS, the Lessor has or intends to assign certain of its rights, titles and interests hereunder to the CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO ("Assignee"); and

WHEREAS, the Lessee desires to lease all of the Items of Equipment or such lesser number as are delivered to and accepted on or prior to the outside delivery date set forth in said Schedule, at the rentals and for the terms and upon the conditions hereinafter provided;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Equipment to the Lessee upon the following terms and conditions:

SECTION 1. DELIVERY AND ACCEPTANCE OF EQUIPMENT.

The Lessor will cause each Item of Equipment to be tendered to the Lessee at the place of delivery set forth in Schedule A. Upon such tender, the Lessee will cause an authorized representative of the Lessee to accept delivery of such Item of Equipment and to execute and deliver to the Lessor and to the Manufacturer thereof a certificate of acceptance (hereinafter called "Certificate of Acceptance") substantially in the form attached hereto as Schedule B, whereupon such Item of Equipment shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all of the terms and conditions of this Lease.

## SECTION 2. RENTALS AND PAYMENT DATES.

2.1 This is a net lease and Lessee agrees to pay to Lessor in immediately available United States funds the monthly rental stated in Schedule A ("Fixed Rental") covering said cars from the date the last car is delivered to the Lessee, but in no event later than April 1, 1978 (as to all cars delivered to Lessee on or prior to that date) ("Rent Commencement Date"), and until cars are delivered to Lessor upon expiration of the rental term specified in said Schedule A. Such rentals shall be paid to the Lessor, P.O. Box 218, Chicago Heights, Illinois 60411, or such other place as the Lessor or its Assignees pursuant to Section 16 hereof may hereafter direct. Payment with respect to the Equipment will be made in advance on the first day of every month during the rental term thereof, except that on the first monthly payment date for the Equipment, the rent paid with respect thereto shall be pro rata for the period intervening the Rent Commencement Date and the date of such payment plus the first month's rent.

2.2 The parties hereto agree that the Lessor shall be entitled to all Investment Tax Credit on all subject cars as provided in the applicable provisions of the Internal Revenue Code of 1954, as amended to the date hereof. If any portion or all of such Credit is at any time or times not available to Lessor because of any deliberate act of or omission of the Lessee, the Fixed Rental hereunder shall immediately increase by an amount which is equal to the after tax value of such unavailable investment tax credit.

## SECTION 3. TERM OF THE LEASE.

The term of this Lease as to each Item of Equipment shall begin on the date of delivery to and acceptance by the Lessee of such Item of Equipment and, subject to the provisions of Section 11 and Section 14 hereof, shall terminate on the last day of Rental term stated in Schedule A.

## SECTION 4. TITLE TO THE EQUIPMENT.

4.1 The Lessor warrants and represents it is acquiring full legal title to the Equipment, and it is understood that Lessee shall acquire no right, title or interest to the Equipment except as Lessee hereunder.

4.2 The Lessor shall plainly, permanently stencil the ownership legend specified in Schedule B on each side of each Item of Equipment in letters not less than one (1) inch in height and the car numbers specified within Schedule A. Lessee agrees to replace

any such stencilling which becomes illegible, wholly or in part, within a reasonable period of time after notice. Should changes or additions be required in the foregoing legend, Lessee shall make such changes or additions, and the expense thereof shall be borne by the Lessor. The Lessee shall keep the Equipment free from any marking which might be interpreted as a claim of ownership thereof by anyone other than the Lessor; and will not change, or permit to be changed, the identifying car numbers (except as provided in Section 4.3 hereof).

4.3 Lessee may place advertising (including names, or initials, or other insignia customarily used by the Lessee on Equipment of the same or similar type) on each Item of Equipment, so long as such does not designate the Lessee as owner. Lessee, upon prior written consent of Lessor and Assignee, may change the car numbers of any one or more than one of the Items of Equipment, all at Lessee's expense.

4.4 Lessor represents, warrants and covenants that each Item of Equipment is now or will be prior to being placed in operation marked and identified in accordance with the car numbers provided for within Schedule A attached hereto and also the legend provided for within Schedule B. Lessee represents, warrants and covenants that each Item of Equipment shall remain throughout the term of this Lease marked and identified in accordance with the car numbers provided for within Schedule A.

#### SECTION 5. DISCLAIMER OF WARRANTIES.

AS BETWEEN LESSOR AND LESSEE, LESSOR LEASES THE EQUIPMENT, AS-IS WITHOUT WARRANTY OR REPRESENTATION EITHER EXPRESS OR IMPLIED, AS TO THE FITNESS OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE. The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time, in the name of the Lessor and the Lessee, for the account of the Lessee only and in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner of the Equipment against the Manufacturer, as limited by and specified within the Manufacturer's Warranty Agreement, a copy of which is attached hereto and marked as Schedule C.

#### SECTION 6. LESSEE'S INDEMNITY.

Except while cars are in possession of Lessor, Lessee will indemnify and hold Lessor harmless against loss or damage during the term of this agreement by or to any of the cars leased hereby

or the contents thereof. In addition, Lessee will indemnify Lessor against any loss, fee, expense, or damage suffered by it by reason of, or arising out of, any default of the Lessee herein.

SECTION 7. RULES, LAWS AND REGULATIONS.

The Lessee agrees to comply with all governmental laws, regulations, requirements and rules (including the rules of the United States Department of Transportation) with respect to the use, maintenance and operation of each Item of Equipment subject to this Lease. In case any equipment or appliance is required to be installed on such Item of Equipment in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such changes, additions and replacements without cost or expense to the Lessor.

SECTION 8. USE AND MAINTENANCE OF EQUIPMENT.

The Lessee shall use the Equipment only in the continental United States of America; however, said Equipment may be used intermittently in Canada (such intermittent use shall be of such a term so as not to jeopardize the U.S. Internal Revenue Code defined Investment Tax Credit, and such use shall not be on a regular or sustained basis) and such Equipment shall be used only in the manner for which it is the Designated Use of Cars as specified within Schedule A and so as to subject it only to ordinary wear and tear. The Lessee shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange. The Lessee shall not modify any Item of Equipment without the written authority and approval of the Lessor which shall not be unreasonably withheld. Any part installed or replacements made by the Lessee upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereof shall be immediately vested in the Lessor, without cost or expense to the Lessor.

SECTION 9. LIENS ON THE EQUIPMENT.

The Lessee shall pay or satisfy and discharge any and all claims against, through or under the Lessee and its successors or assigns which, if unpaid, might constitute or become a lien or a charge upon the Equipment, and any liens or charges which may be levied against or imposed upon any Item of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this Lease, but the Lessee shall not be required to pay or discharge any such claims so long as it shall, in good faith and by appropriate legal proceedings, contest the validity

thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor to the Equipment. The Lessee's obligations under this Section 9 shall survive termination of the Lease as to any claims the basis of which occurred prior to the Lessee's assembly, delivery, storing, or transporting of the Equipment as provided in Section 13 or 15, as the case may be.

#### SECTION 10. FILING, PAYMENT OF FEES AND TAXES.

10.1 Filing. Prior to the delivery and acceptance of the first Item of Equipment, the Lessor will, at its sole expense, cause this Lease and, if and when desired by Lessor, all collateral documentation and any assignments thereof, to be duly filed, recorded or deposited in conformity with Section 20c of the Interstate Commerce Act and in such other places within or without the United States as the Lessor may desire for the protection of its title or the security interest of the Assignee. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will refile, re-register, or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor, for the purpose of protecting the Lessor's title to and Assignee's security interest in the Equipment, to the satisfaction of the Lessor's counsel or for the purpose of carrying out the intention of this Lease. The Lessor will pay all costs, charges and expenses incident to any such filing, re-filing, recording and re-recording or depositing and re-depositing of any such instruments or incident to the taking of such action.

10.2 Payment of Taxes. The Lessee, or the Lessor at the Lessee's expense, shall report, pay and discharge when due all license and registration fees, assessments, 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 (excluding any tax measured by the Lessor's net income and any gross receipts or gross income taxes in substitution for or by way of relief from the payment of taxes measured by such net income, provided that the Lessee agrees to pay that portion of any such tax on or measured by rentals payable hereunder or the net income therefrom which is in direct substitution for, or which relieves the Lessee from, a tax which the Lessee would otherwise be obligated to pay under the terms of this Section), together with any penalties or interest thereof, imposed by any state, Federal or local government upon any Item of Equipment and whether or not the same shall be assessed against or in the name of the Lessor or the Lessee; provided, however, that the Lessee shall not be required to pay or discharge any such tax or assessment (i)

so long as it shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor to the Equipment; however, the Lessee shall reimburse the Lessor for any damages or expenses resulting from such failure to pay or discharge; or (ii) as to assessments against or in the name of anyone other than the Lessee, until 20 days after written notice (including a copy of a written notice thereof received by Lessor, if such was in fact so received by the Lessor) thereof shall have been given to the Lessee. Lessee shall not be responsible for taxes accruing while the Equipment is under storage pursuant to Section 15.

SECTION 11. PAYMENT FOR CASUALTY OCCURRENCE OR EQUIPMENT  
UNSERVICEABLE FOR USE.

11.1 Duty of Lessee to Notify Lessor. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged or shall be condemned, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Lease for a stated period which extends beyond the term of this Lease (any such occurrence, except for any governmental requisition or taking which by its terms does not exceed the term of this Lease, being hereinafter called a "Casualty Occurrence"), the Lessee shall promptly and fully (after it has knowledge of such Casualty Occurrence) inform the Lessor in regard thereto.

11.2 Payment for Casualty Loss. The Lessee shall pay to the Lessor a sum equal to the Casualty Value as of the date any Item or Items of Equipment which have suffered a Casualty Occurrence. Such payment shall be made upon Lessee receiving from the responsible person the depreciated value of the Item which is the subject of the casualty but in no event later than 120 days following the date of such Casualty Occurrence.

11.3 Rent Termination. Upon (and not until) payment of the Casualty Value in respect of any Item or Items of Equipment, the obligation to pay rent for such Item or Items of Equipment accruing subsequent to the Casualty Value payment date shall terminate, but the Lessee shall continue to pay rent for all other Items of Equipment. Lessor shall have the option to replace or repair any Item of Equipment which has suffered a Casualty Occurrence in which event Lessee shall become obligated to pay rent as with all other Items of Equipment. Provided, however, that any such repair or replacement shall be of the same or similar equipment and shall be subject to the approval and acceptance of Lessee.

11.4 Disposition of Equipment. The Lessee shall, as agent for the Lessor, dispose of such Item or Items of Equipment having suffered a Casualty Occurrence while on Lessee's track as soon as it is able to do so for the fair market value thereof. Any such disposition shall be on an "as-is", "where-is" basis without representation or warranty, express or implied. As to each separate Item of Equipment so disposed of, the Lessee may retain all amounts of such price plus any insurance proceeds and damages received by the Lessee by reason of such Casualty Occurrence. In disposing of such Item or Items of Equipment, the Lessee shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after such disposition from or connected with such Item or Items of Equipment and the Lessor will, at the written request of the Lessee, execute a release in respect of its interest in any such Item or the salvage thereof in order to complete such disposition. In the event the Lessor receives money from any governmental authority upon any such Casualty Occurrence, the Lessor shall apply that money in the same manner as it is required to do upon its or the Lessee receiving monies for any other Casualty Occurrence under this Section.

11.5 The value as set forth by the Association of American Railroads shall govern and control the "Casualty Value" of each Item of Equipment leased hereunder.

## SECTION 12. INSPECTION.

12.1 Certification and Inspection. On or before April 1 in each year beginning in 1979 and thereafter throughout the term of this Lease and any extensions thereof, the Lessee shall deliver to the Lessor an Annual Certification signed by the President or any Vice President of the Lessee and dated within 15 days of the date of it being delivered to the Lessor. That Annual Certification shall be in the following form:

ANNUAL CERTIFICATION

To Lessor: TRANSPORTATION CORPORATION OF AMERICA

From Lessee: ASHLEY, DREW & NORTHERN RAILWAY COMPANY

Subject Lease Date: February 20, 1978

Date of this Annual Certificate:

Car Numbers: ADN through , both inclusive

The undersigned hereby certifies to the Lessor that:

1. He is a duly authorized officer of the Lessee;
2. That he, on behalf of the Lessee, represents and warrants that the facts herein stated are true;
3. That each railroad car herein scheduled meet the Code of Interchange as proscribed by the Association of American Railroads, is in all respects maintained in accordance with the terms of subject Lease, and is in actual service except for the following specified cars:
  - A. Items of Equipment lost, damaged, destroyed or for any other reason unserviceable - cars numbered: \_\_\_\_\_.
  - B. Items of Equipment undergoing repairs or withdrawn from use for repairs - cars numbered: \_\_\_\_\_.
4. The legend required by Section 4.2 of the subject Lease has been renewed on all Items of Equipment that have been repainted or repaired since the date of the last preceding certificate, or in the case of the first certificate, since the date of this Lease.

Lessee: ASHLEY, DREW & NORTHERN RAILWAY COMP

By: \_\_\_\_\_  
President/Vice President

12.2 Lessor's Inspection Rights. In addition to the foregoing, the Lessor and the Assignee each shall have the right, at their sole cost and expense by their authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor all relevant information during the continuance of this Lease. In the event the Lessor's inspection reveals any significant major defect as to an Item of Equipment or any failure of Lessee to comply with any term of this Lease, the Lessee must promptly reimburse Lessor for all costs and expenses of such inspection and must otherwise comply with all terms of this Lease.

SECTION 13. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM.

Upon the expiration of the term of this Lease whether by default or otherwise with respect to any Item of Equipment, the Lessee will, at its own cost and expense, promptly deliver possession of such Item of Equipment to the Lessor in good order and repair, ordinary wear and tear excepted, and upon such storage tracks in Chicago Heights, Illinois as Lessor may designate.

SECTION 14. DEFAULT.

14.1 Events of Default. Any of the following events shall constitute an Event of Default hereunder:

(a) Nonpayment by the Lessee for 30 days after the same becomes due of any installment or rental hereunder;

(b) Failure of the Lessee to comply with, or perform, any of the other conditions of this agreement within 30 days after receipt of written notice from the Lessor, or its Assignee, demanding compliance therewith and performance thereof.

(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 Lessee, and if filed against the Lessee, shall not be dismissed by court order within 30 days after such filing; or

(d) Any other proceedings shall be commenced by or against the Lessee 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 if such proceedings are involuntary, they shall have continued for a period in excess of 30 days.

14.2 Remedies. If any Event of Default has occurred and is continuing, the Lessor, at its option, may:

(a) Proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) By notice in writing to the Lessee, terminate this Lease, whereupon all right of the Lessee to the use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Equipment may be located and take possession of all or any of such Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Equipment for any purpose whatever, but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by a fraction of which the numerator is such accrued number of days in such full rental period and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Item of Equipment, which represents the excess of the present worth, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease over the then present worth of the then fair rental value of such Item for such period computed by discounting from the end of such term to the date of such termination rentals which the Lessor reasonably estimates to be obtainable for the use of the Item during such period, such present worth to be computed in each case on a basis of a 5-3/4% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated; and (ii) any damages and expenses including reasonable attorney's fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease, other than for the payment of rental.

14.3 Cumulative Remedies. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity.

14.4 Lessor's Failure to Exercise Rights. The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

SECTION 15. RETURN OF EQUIPMENT UPON DEFAULT.

15.1 Lessee's Duty to Return. If the Lessor or the Assignee shall terminate this Lease pursuant to Section 14 hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk (except as hereinafter stated):

(a) Forthwith place all such Equipment in such reasonably single storage area as the Lessor may designate or, in the absence of such designation, as the Lessee may select;

(b) Permit the Lessor to store such Equipment in such reasonable storage place on track leased by the Lessee for a period not exceeding 180 days at the risk of the Lessee;

(c) Transport the Equipment, at any time within such 180 day period, to any place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as the Lessor may reasonably direct upon not less than 30 days' written notice to the Lessee.

15.2 Specific Performance. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so as to assemble, deliver, store and transport the Equipment.

SECTION 16. ASSIGNMENTS BY LESSOR.

16.1 This Lease and all rent and other sums due and to become due hereunder have been assigned by the Lessor to the Assignee, and all rent and other sums due and to become due hereunder shall be paid to Transportation Corporation of America, Post Office Box 218, Chicago Heights, Illinois 60411, or at such other place as the Assignee shall specify in writing. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of the Assignee in and to the sums payable by the Lessee under any provisions of this Lease shall be absolute and unconditional and shall not be subject to any abatement whatsoever, and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of or defect in Lessor's title, or any interruption from whatsoever cause (other than from a wrongful act of the Assignee)

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 whenever arising, of the Lessor to the Lessee 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 event of a wrongful act on the part of the Assignee, the Lessee shall be unconditionally and absolutely obligated to pay the Assignee all of the rents and other sums which are the subject matter of the assignment; and (ii) the Assignee shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of the Assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor.

16.2 The Lessee shall not be entitled to any abatement of rent or reduction thereof, including, but not limited to, abatements or reductions due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against Manufacturer or against the Assignee, nor except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss or destruction of all or any of the Equipment from whatsoever cause, the taking or requisitioning of the Equipment by condemnation or otherwise, the lawful prohibition of Lessee's use of the Equipment, the interference with such use by any government, private person or corporation, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to Section 11 hereof, or until, pursuant to Section 13 hereof, the Equipment is placed and ready for delivery to the Lessor on the Lessee's lines, or is stored for the Lessor on the Lessee's lines or leaves the Lessee's lines for off-line delivery to the Lessor. However, rent shall not accrue during the hereinafter defined period as to any Item of Equipment which is returned to Manufacturer for a breach of Manufacturer's Warranty but is not repaired or corrected and shipped to Lessee within 14 days after such Item of Equipment is received by the Manufacturer.

The time period during which such rent shall not accrue is that period commencing on the 15th day following the date the Manufacturer receives such Item of Equipment through that date such Item of Equipment is repaired or corrected and shipped to Lessee.

SECTION 17. ASSIGNMENTS BY LESSEE; USE AND POSSESSION.

17.1 Lessee's Rights to the Equipment. So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee shall not sublease, assign, transfer or encumber its leasehold interest under this Lease in any of the Equipment (except to the extent that the provision of any mortgage now existing or hereafter created on any of the lines of the Lessee may subject such leasehold interest to the lien thereof). The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Equipment, except to the extent permitted by the provisions of Section 17.2 hereof.

17.2 Use and Possession on Lines Other Than Lessee's Own. So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Equipment and to the use thereof upon the lines of railroad owned or operated by it (either alone or jointly) or by any corporation, a majority of whose voting stock (i.e. having ordinary voting power for the election of a majority of its Board of Directors) is owned directly or indirectly by the Lessee, or upon lines of railroad over which the Lessee or such corporation has trackage or other operating rights or over which equipment of the Lessee is regularly operated pursuant to contract, and also to permit the use of the Equipment upon connecting and other railroads in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Lease. Notwithstanding the foregoing, the Lessee will not assign any Item of Equipment to service including the regular operation and maintenance thereof outside the continental United States of America. However, the Equipment may be intermittently but not regularly used in Canada as provided in Section 8 of this Lease. No assignment or sublease entered into by the Lessee hereunder shall relieve the Lessee of any liability or obligations hereunder which shall be and remain those of a principal and not a surety.

17.3 Merger, Consolidation or Acquisition of Lessee. Nothing in this Section 17 shall be deemed to restrict the right of Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any corporation (which shall have duly assumed the obligations hereunder of Lessee) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of Lessee as an entirety or substantially as an entirety.

SECTION 18. OPINION OF COUNSEL.

18.1 Concurrently with the delivery and acceptance of the first Item of Equipment hereunder, the Lessee will deliver to the Lessor six counterparts of the written Opinion of Counsel for the Lessee addressed to the Lessor and to the Assignee, in scope and substance satisfactory to the Lessor, to the effect that:

(a) The Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the state of its incorporation;

(b) The Lessee has the corporate or other power and authority to own its property and carry on its business as now being conducted and to execute and perform this Lease;

(c) The Lease has been duly authorized, executed and delivered by the Lessee and constitutes the valid, legal and binding agreement of the Lessee enforceable in accordance with its terms, except as such terms may be limited by bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally;

(d) No approval, consent or withholding of objection is required from any public regulatory body with respect to the entering into or performance by the Lessee of said Lease;

(e) The execution and delivery by the Lessee of this Lease does not violate any provision of any law, any order of any court or governmental agency, the Charter or By-Laws of the Lessee, or any indenture, agreement, or other instrument to which the Lessee is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Lessee, except as contemplated and permitted hereby; and

(f) No consent, approval or authorization of any governmental authority is required on the part of the Lessee in connection with the execution and delivery of this Lease.

18.2 Concurrently with the delivery and acceptance of the first Item of Equipment hereunder, the Lessor will deliver to the Lessee a written Opinion of Counsel for the Lessor addressed to the Lessee, in scope and substance satisfactory to the Lessee, to the effect that:

(a) The Lessor is a corporation legally incorporated and validly existing, in good standing, under the laws of the State of Illinois;

(b) The Lessor has the corporate or other power and authority to own its property and carry on its business as now being conducted and to execute and perform this Lease and is duly qualified to do business in all states in which such qualification is necessary to carry out the terms of the Lease;

(c) This Lease has been duly authorized, executed and delivered by the Lessor and constitutes the valid, legal and binding agreement of the Lessor enforceable in accordance with its terms, except as such terms may be limited by bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally; and

(d) The execution and delivery by the Lessor of this Lease does not violate any provision of any law, any order of any court or governmental agency, the Charter or By-Laws of the Lessor, or any indenture, agreement, or other instrument to which the Lessor is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument.

#### SECTION 19. MISCELLANEOUS

19.1 Notices. Any notice required or permitted to be given by any party hereto shall be deemed to have been given when personally delivered or three business days after being deposited in the United States certified mails, first class postage prepaid, addressed as follows:

If to the Lessor:

(a) If by mail:

TRANSPORATION CORPORATION OF AMERICA  
Post Office Box 218  
Chicago Heights, Illinois 60411

Attention: Stanley D. Christianson

(b) If by personal delivery:

TRANSPORTATION CORPORATION OF AMERICA  
26th and State Streets  
Chicago Heights, Illinois 60411

Attention: Stanley D. Christianson

If to the Lessee:

(a) If by mail:

ASHLEY, DREW & NORTHERN RAILWAY COMPANY  
Post Office Box 757  
Crossett, Arkansas 71635

(b) If by personal delivery:

ASHLEY, DREW & NORTHERN RAILWAY COMPANY  
Crossett, Arkansas 71635

If to the Assignee:

CONTINENTAL ILLINOIS NATIONAL BANK AND  
TRUST COMPANY OF CHICAGO  
231 South LaSalle Street  
Chicago, Illinois 60693

Attention: Transportation Department

or addressed to any of the parties above at such other address as such party shall hereafter furnish to the other parties in writing.

19.2 Execution in Counterparts. This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

19.3 Law Governing. This Lease shall be construed in accordance with the laws of Illinois; provided, however, that the parties shall be entitled to all rights conferred by any applicable Federal statute, rule or regulation.

19.4 Successors and Assigns. This Lease shall be binding upon and shall inure to the benefit of the Lessee and the Lessor and their respective permitted successors and assigns, and the term "Lessor" shall, where appropriate, be deemed to include the Assignee.

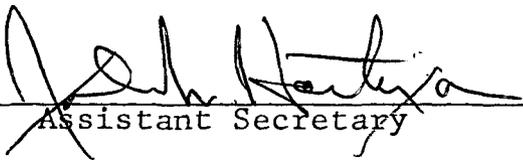
19.5 Date of Lease. This Lease is dated as of the date first above written but in fact was executed by the respective parties on the dates indicated within the notarizations hereof.

TRANSPORTATION CORPORATION OF AMERICA  
(Lessor)

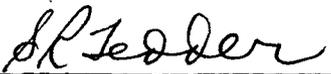
By:   
Vice President

ATTEST:

(Corporate Seal)

  
Assistant Secretary

ASHLEY, DREW & NORTHERN RAILWAY COMPANY  
(Lessee)

By:   
~~Senior Vice~~ President

ATTEST:

(Corporate Seal)

  
Secretary

STATE OF ILLINOIS )  
                          ) SS.  
COUNTY OF C O O K )

On this 20 day of February, 1978, before me personally appeared CHESTER WRIGHT, to me personally known who being by me duly sworn, says that he is a Vice President of TRANSPORTATION CORPORATION OF AMERICA, an Illinois corporation, 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.

*Cara Lynn Simon*  
Notary Public

(SEAL)

My Commission Expires: 12/5/80

STATE OF *Arkansas* )  
                          ) SS.  
COUNTY OF *Ashley* )

On this 24th day of February 1978, before me personally appeared S. R. Judder, to me personally known who being by me duly sworn, says that he is Vice President of ASHLEY, DREW & NORTHERN RAILWAY COMPANY, an Arkansas corporation, 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.

*Cora Sue Hill*  
Notary Public

(SEAL)

My Commission Expires:

1-20-81

SCHEDULE A  
(to Equipment Lease)

MANUFACTURER: Thrall Car Manufacturing Company

PLANT OF MANUFACTURER: Chicago Heights, Illinois

DESCRIPTION OF EQUIPMENT: Fifty (50) 100 Ton-61' Bulkhead Flat Cars

CAR NUMBERS: ADN 550 through 599, both inclusive

CAR OWNER'S MARKS: Leased from TRANSPORTATION CORPORATION OF AMERICA, Owner and Lessor, and subject to a security interest recorded with the Interstate Commerce Commission

BASE PRICE PER CAR: Approximately \$41,200.00

DELIVER TO: ASHLEY, DREW & NORTHERN RAILWAY COMPANY

PLACE OF DELIVERY: East Chicago, Indiana

ESTIMATED DELIVERY DATE: February 20, 1978 - July 1, 1978

OUTSIDE DELIVERY DATE: July 1, 1978

FIXED RENTAL PAYMENTS: Sixty (60) monthly rental payments for each Item of Equipment in advance in the amount of Four Hundred Thirty-Eight and no/100 Dollars (\$438.00), for each Item of Equipment.

RENTAL TERM: Sixty (60) full calendar months

LESSEE: ASHLEY, DREW & NORTHERN RAILWAY COMPANY

DESIGNATED USE OF CARS: Forest Products

CERTIFICATE OF ACCEPTANCE  
UNDER EQUIPMENT LEASE

To:           TRANSPORTATION CORPORATION OF AMERICA ("Lessor") and  
          THRALL CAR MANUFACTURING COMPANY ("Manufacturer")

I, a duly authorized representative of ASHLEY, DREW & NORTHERN RAILWAY COMPANY ("Lessee") do hereby certify that I have received and accepted delivery, on behalf of the Lessee and under the Equipment Lease dated as of February 20, 1978 between the Lessor and the Lessee, the following Items of Equipment ("Equipment"):

TYPE OF EQUIPMENT:                   100 Ton, 61' Bulkhead Flat Cars

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF ITEMS:

NUMBERED:

I do further certify that at the time of delivery to the Lessee there was plainly, distinctly, permanently and conspicuously marked in contrasting colors upon each side of each Item of Equipment the following legend in letters not less than one inch in height:

"Leased from TRANSPORTATION CORPORATION OF AMERICA  
as owner and Lessor, and subject to a security interest  
recorded with the Interstate Commerce Commission."

The execution of this Certificate will in no way relieve or decrease the responsibility of the Manufacturer of the Equipment for warranties it has made with respect to the Equipment.

Authorized Representative of Lessee

WARRANTY AGREEMENT

THIS AGREEMENT dated as of February 20, 1978 between TRANSPORTATION CORPORATION OF AMERICA, an Illinois corporation ("Vendee") and THRALL CAR MANUFACTURING COMPANY, a Delaware corporation ("Vendor");

W I T N E S S E T H:

WHEREAS, the Vendee has agreed to purchase 50 units of railroad equipment described as 100 Ton 61' bulkhead flat cars built in accordance with specifications and conforming to all applicable United States Department of Transportation and Association of American Railroads requirements and specifications ("Specifications"); and

WHEREAS, the Vendee and Vendor desire to establish all warranties of every kind and nature, both express and implied within the confines of this document;

NOW, THEREFORE, in consideration of the premises, the Vendor and the Vendee agree that the warranty from the Vendor to the Vendee relating to the above described units of railroad equipment is as follows:

THE VENDOR GUARANTEES TO BUILD THE ABOVE DESCRIBED UNITS OF RAILROAD EQUIPMENT IN ACCORDANCE WITH THE SPECIFICATIONS ABOVE NAMED AND (EXCEPT AS TO ITEMS SPECIFIED BY VENDEE AND NOT MANUFACTURED BY VENDOR) THAT THOSE UNITS OF RAILROAD EQUIPMENT WILL BE FREE FROM DEFECT IN MATERIAL AND WORKMANSHIP UNDER NORMAL USE AND SERVICE.

VENDOR'S OBLIGATIONS UNDER THIS WARRANTY SHALL BE LIMITED TO MAKING GOOD AT ITS PLANTS ANY PART OR PARTS OF ANY UNITS OF RAILROAD EQUIPMENT WHICH SHALL WITHIN ONE YEAR AFTER DELIVERY OF ANY SUCH UNITS OF RAILROAD EQUIPMENT BE RETURNED TO THE VENDOR WITH TRANSPORTATION CHARGES PREPAID (EXCEPT NO SUCH PREPAYMENT IF RETURN IS WITHIN WARRANTY PERIOD AND RELATES TO A LATENT DEFECT), AND WHICH THE VENDOR'S EXAMINATION SHALL DISCLOSE TO ITS SATISFACTION TO HAVE BEEN THUS DEFECTIVE.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE VENDOR.

The parties hereto agree that the above specified warranty may be asserted and enforced, from time to time, by ASHLEY, DREW & NORTHERN RAILWAY COMPANY against the Vendor pursuant to an equipment lease relating to subject units of railroad equipment wherein the Vendee is Lessor and ASHLEY, DREW & NORTHERN RAILWAY COMPANY is Lessee.

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals on the date first above written.

THRALL CAR MANUFACTURING COMPANY,  
a Delaware corporation

ATTEST:

(CORPORATE SEAL)

By: \_\_\_\_\_  
Vice President

\_\_\_\_\_  
Assistant Secretary

TRANSPORTATION CORPORATION OF AMERICA,  
an Illinois corporation

ATTEST:

(CORPORATE SEAL)

By: \_\_\_\_\_  
Vice President

\_\_\_\_\_  
Assistant Secretary