

HOPKINS, SUTTER, HAMEL & PARK

(A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS)

888 SIXTEENTH STREET, N.W., WASHINGTON, D.C. 20006 (202) 835-8100 **6174**
TELECOPIER (202) 835-8136 (202) 775-1848 TELEX 440374

CHICAGO OFFICE THREE FIRST NATIONAL PLAZA CHICAGO 60602
DALLAS OFFICE 545 EAST JOHN CARPENTER FREEWAY 75062

WILLIAM H. BRADFORD, JR.
(202) 835-8120

January 25, 1989

JAN 25 1989 3 24 PM

INTERSTATE COMMERCE COMMISSION

BY HAND

Noreta R. McGee, Secretary
Interstate Commerce Commission
12th and Constitution Avenue, NW
Washington, DC 20423

No. **9-025A018**
Date **JAN 25 1989**
Fee \$ **13.00**
ICC Washington, D. C.

Attention: Documents for Recording

Dear Secretary McGee:

I have enclosed an original and one counterpart of the document described below to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

The document is a lease, a primary document dated December 1, 1988.

The names and addresses of the parties to the document are:

Lessor: CGTX, Inc.
Suite 1600
1600 Boul. Rene Levesque ouest
Montreal, Quebec
Canada H3H 1P9

Lessee: Canadian National Railway Company
935 de La Gauchetiere Street, West
Montreal, Quebec
Canada H3B 2M9

A description of the equipment covered by the document follows:

Identifying Marks:

CNLX 5001-5027 CNLX 5263-5284
CNLX 5029-5040 CNLX 5286-5289
CNLX 5042 CNLX 5291
CNLX 5043 CNLX 5293-5305

JAN 25 3 15 PM '89
MOTOR OPERATING UNIT
ICC OFFICE OF THE SECRETARY

Countryman - Peter F. Langford

Noreta R. McGee, Secretary
January 25, 1989
Page 2

CNLX 5045-5047	CNLX 6000-6011
CNLX 5050-5054	CNLX 5013-6125
CNLX 5056	CNLX 6127-6137
CNLX 5058-5061	CNLX 6139-6144
CNLX 5063-5070	CNLX 6146-6153
CNLX 5072	CNLX 6155-6175
CNLX 5073	CNLX 6177-6179
CNLX 5075-5088	CNLX 6181-6189
CNLX 5090-5112	CNLX 6191-6199
CNLX 5114-5119	CNLX 6201-6216
CNLX 5121-5123	CNLX 6218-6228
CNLX 5125-5127	CNLX 6230-6238
CNLX 5129-5165	CNLX 6240
CNLX 5167-5186	CNLX 6243-6251
CNLX 5188-5207	CNLX 6253-6271
CNLX 5209-5211	CNLX 6273-6287
CNLX 5213-5243	CNLX 6289-6292
CNLX 5245-5248	CNLX 6294
CNLX 5250-5252	CNLX 6295
CNLX 5254-5258	CNLX 6297
CNLX 5260	CNLX 6298
CNLX 5261	CNLX 6300-6302
	CNLX 6304-6306

A fee of \$10.00 is enclosed.

Please return the original and any extra copies not needed by the Commission for recordation to William H. Bradford, Jr., Hopkins, Sutter, Hamel & Park, 888 - 16th Street, NW, Washington, DC 20006.

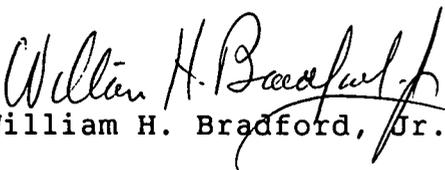
A short summary of the document to appear in the index follows:

Lease between CGTX, Inc., Lessor, Suite 1600, 1600 Boul. Rene Levesque ouest, Montreal, Quebec, Canaga H3H 1P9, and Canadian National Railway Company, Lessee, 935 de La Gauchetiere Street, West, Montreal, Quebec, Canada H3B 2M9, 564 covered hopper cars, AAR designation LO, dated December 1, 1988.

Very truly yours,

HOPKINS, SUTTER, HAMEL & PARK

By:


William H. Bradford, Jr.

WHB:pb
Enclosures

cc: D. Bekhor, Esquire

Interstate Commerce Commission
Washington, D.C. 20423

1/25/89

OFFICE OF THE SECRETARY

William H. Bradford, Jr.
Hopkins Sutter Hamel & Park
888 16th Street N.W.
Washington, D.C. 20006

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 1/25/89 at 3:20pm, and assigned recordation number(s). 16174

Sincerely yours,

Nerita L. McEwen
Secretary

Enclosure(s)

LEASE AGREEMENT

1 6174
JAN 25 1989 - 3:20 PM
INTERSTATE COMMERCE COMMISSION

THIS LEASE AGREEMENT made as of December 1, 1988 between CGTX INC. ("Lessor"), and CANADIAN NATIONAL RAILWAY COMPANY ("Lessee").

1. SCOPE

- 1.1 Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, the five hundred and sixty-four (564) covered hopper cars described in Exhibit A attached hereto. Said covered hopper cars shall be in AAR interchange condition and shall comply in all respects with the requirements and specifications set out in Exhibit A. Covered hopper cars accepted pursuant to Paragraph 3.3 shall hereinafter be referred to as "Car(s)".
- 1.2 Subject to Paragraph 3.2, all Cars shall be delivered to Lessee by March 1, 1989 except as Lessor and Lessee may otherwise agree in writing.

2. TERM

- 2.1 Subject to the renewal options contained in Paragraph 18, this Lease Agreement shall be for a term of years, hereinafter referred to as "Lease Year(s)", the first of which shall commence on the earlier of (i) the first day of the calendar month following the date on which the last hopper car is accepted hereunder pursuant to Paragraph 3.2 and (ii) March 1, 1989, (the "Commencement Date"), and the last of which shall terminate at the expiration of the fifth Lease Year. All of the terms and provisions of this Lease Agreement shall apply and be in full force and effect with respect to Cars accepted by Lessee prior to the Commencement Date.

3. DELIVERY AND ACCEPTANCE

- 3.1 Lessor shall cause all Cars to be delivered to Lessee at a mutually agreeable interchange point on Lessee's trackage. Lessor agrees to bear freight and transportation charges to such point. Lessor shall provide Lessee with written notice of such delivery as soon as practicable prior thereto.
- 3.2 Subject to satisfactory completion of the repairs contemplated under Exhibit A, Lessee shall individually inspect each hopper car so repaired at a mutually acceptable repair facility and may reject any thereof, by written notice to Lessor, only if any such hopper car is not in conformity with the requirements and



specifications of Exhibit A. Failure of any particular hopper car to meet such specifications does not affect Lessee's obligation to accept each and every other hopper car which meets such specifications.

3.3 Acceptance of Cars by Lessee shall be evidenced by certificates of acceptance issued by a duly authorized representative of Lessee in the form attached as Exhibit B, herein referred to as "Certificate(s) of Acceptance", the issuance of which shall constitute conclusive evidence of acceptance of the Cars ("Acceptance").

4. CONSIDERATION

4.1 Lessee shall pay rental to Lessor as follows:

4.1.1 Interim rental on a pro-rata basis at the rate of thirteen dollars and thirty-two cents Cdn. (\$13.32 Cdn.) per Car per day during the period between the date of Acceptance pursuant to Paragraph 3.3 of each Car and the Commencement Date; such interim rental shall be payable on the Commencement Date.

4.1.2 Monthly rental at the rate of four hundred and five dollars Cdn. (\$405.00 Cdn.) per Car per month commencing on the Commencement Date and terminating at the expiration of the fifth Lease Year.

4.2 All amounts payable under Paragraph 4.1.2 are payable in advance on the first business day of each month (the "Rental Payment Date"); provided, however, that in the event that for any reason any such amounts are not received by Lessor by the Rental Payment Date, Lessor shall provide Lessee with written notice of such event and Lessee shall make such payment within two (2) business days by wire transfer in immediately available funds. For purposes of this Lease Agreement, the term "business day" shall mean any day other than Saturday, Sunday and any other day on which banking institutions in Montreal, Quebec are obligated to be closed. Whenever any payment shall become due on a day which is not a business day, such payment shall be made on the next succeeding business day.

4.3 Notwithstanding anything to the contrary contained herein, any nonpayment of rentals due to Lessor under this Lease Agreement shall result in the obligation on Lessee promptly to pay interest at a rate equal to 10% per annum for the period of time during which they are overdue.



5. MARKINGS, RECORD KEEPING, RECORDING, INSPECTIONS

- 5.1 Lessor will cause each Car to be restencilled with Lessee's running marks and identifying numbers as set forth in Exhibit A. In the event that Lessee changes or permits to be changed the identifying number of the Cars or any other markings of ownership of the Cars, a statement of new identifying numbers or markings to be substituted therefor shall be (i) furnished to Lessor and (ii) filed, recorded and deposited by Lessee in all public offices where this Lease Agreement shall have been filed, recorded and deposited. Except as provided above, Lessee will not allow the name of any person, association or corporation to be placed on any Car as a designation that might be interpreted as a claim of ownership; provided, however, that the Cars may be lettered with the names or initials or other insignia customarily used by Lessee, its affiliates or any authorized sublessee.
- 5.2 Subject to Lessor providing Lessee with the appropriate information, Lessee shall cause each Car to be registered at all times in the Official Equipment Register and in the Universal Machine Language Equipment Register (UMLER), and any change therein must be mutually agreed by the parties. Lessee shall maintain such records as shall be required from time to time by any applicable regulatory agency or any Association of American Railroads ("AAR") railroad interchange agreement or rule, or which relate to the use and handling of the Cars. Lessee shall, at its own expense, cause this Lease Agreement and any assignment thereof pursuant to Paragraph 15 to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. Section 11303 and deposited with the Registrar General of Canada (and notice of such deposit to be given forthwith in The Canada Gazette) pursuant to Section 86 of the Railway Act of Canada. Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by Lessor for the purpose of Lessor's rights in the Cars, or for the purpose of carrying out the intention of this Lease Agreement.
- 5.3 During the term of this Lease Agreement, Lessor, its officers, employees and agents, shall have reasonable access to the Cars to permit physical inspection



thereof and to records pertaining thereto upon reasonable prior written notice to the Chief Mechanical Officer or Chief of Transportation depending upon the nature of the inspection; provided, however, that:

- 5.3.1 Such inspections shall be at the sole risk and expense of Lessor, except in the case of gross negligence or willful misconduct of Lessee or of its employees or agents, for any damage, injury to, or death of any persons exercising on behalf of Lessor or any prospective assignee of Lessor, the rights of inspection granted hereunder;
- 5.3.2 Lessor shall exert its best efforts to prevent such inspections from interfering with the normal operation and movement of the Cars; and
- 5.3.3 Subject to Paragraph 5.3.1, Lessor shall indemnify and save harmless Lessee from and against any liability for damage to property or bodily injury including that resulting in death sustained by any of the employees or agents of Lessor arising during the course of such inspections.

6. MAINTENANCE, ALTERATIONS, IMPROVEMENTS, ADDITIONS

- 6.1 Lessee shall, at its sole cost and expense, maintain and repair Cars in accordance with the A.A.R. Interchange Rules and the rules and regulations of the National Transportation Agency and other Canadian governmental authorities having jurisdiction with respect thereto.
- 6.2 Lessee shall have the right, if not in default hereunder, at its expense and without the prior written consent of or notice to Lessor, to make any alteration, improvement or addition to any of the Cars; provided, however, that:
 - 6.2.1 Any such alteration, improvement or addition shall not impair the value of such Car;
 - 6.2.2 Lessee shall have the right, up to the termination of this Lease Agreement, to remove any such alteration, improvement or addition, provided that upon removal of any such alteration, improvement or addition, the Car shall be in AAR interchange condition suitable



for load, ordinary wear and tear excepted; and

6.2.3 Any such alteration, improvement or addition as to which Lessee has not exercised the foregoing right of removal shall become a permanent part of the Car to which it is made and title thereto shall vest in Lessor.

6.3 In the event that any alteration, improvement or addition is made pursuant to any laws, regulations, requirements or rules of any governmental authority or of the AAR, then such alteration, improvement or addition shall be made at Lessee's expense and shall become a permanent part of the Car to which it is made and title thereto shall vest in Lessor.

7. CASUALTY OCCURRENCES

7.1 In the event that during the term of this Lease Agreement or any renewal thereof, any Car is lost, stolen, destroyed or, in the sole opinion of Lessee, damaged beyond economic repair, which events shall hereinafter be referred to as "Casualty Occurrence(s)", Lessee shall give written notice to Lessor of such Casualty Occurrences, and Lessee shall pay settlement for same as shall be mutually agreed by the parties.

7.2 Lessee's future rental obligations with respect to any Car subject to a Casualty Occurrence shall cease upon the giving of a written notice of such Casualty Occurrence. Payment of the foregoing settlement amounts shall be made as of the next Rental Payment Date which is more than twenty (20) days after notice is given of such Casualty Occurrence. Upon receipt of such payment by Lessor, this Lease Agreement shall terminate with respect to such Car.

7.3 Lessor, upon receipt of such settlement pursuant to Paragraph 7.1, shall execute and deliver to Lessee a bill of sale transferring title to Cars suffering such Casualty Occurrence in the form attached as Exhibit C.

8. TAXES

8.1 Lessee agrees to pay as required by applicable law all present or future Impositions (as hereinafter defined). Lessee also agrees to indemnify and hold Lessor harmless from all taxes, assessments, duties, license and registration fees and other governmental charges including interest and penalties (hereinafter collectively referred to as "Impositions") imposed,



levied or assessed by any federal, provincial or local government or taxing authority in Canada, or, if as a result of the operation, possession or use of any Car by or through Lessee in any foreign country, by any government or taxing authority in a foreign country, against such Car or upon or measured by any interest therein, or upon or with respect to the purchase, ownership, delivery, leasing or possession thereof by Lessor, or upon or with respect to the use, possession or operation thereof by Lessee, or on account of or measured by the rentals, earnings or gross receipts arising pursuant to this Lease Agreement (including any payment or indemnity under this Lease Agreement), provided that Lessee shall not be required to pay the same (or any amount by way of indemnity of Lessor or otherwise pursuant to this Paragraph 8) if and so long as it shall in good faith and with due diligence and by appropriate legal or administrative proceedings contest the validity, applicability or amount thereof (but only so long as such proceedings shall stay the collection thereof and shall not involve any risk of the sale, forfeiture or loss of any Car or any interest therein). If a claim is made against Lessor for any Impositions then Lessor shall notify Lessee promptly and, if so requested by Lessee, shall at Lessee's expense contest the validity and amount of any Impositions which it may be required to pay and in respect of which it is entitled to reimbursement by Lessee under this Paragraph 8 so long as the rights or interest of Lessor hereunder or in such Car will not be materially endangered thereby.

8.2 Notwithstanding the provisions of Paragraph 8.1 Lessee shall have no obligation thereunder as to:

8.2.1 any Impositions on, based on or measured by the net income of Lessor; and

8.2.2 any Impositions which are or may become imposed by Canada on rental or similar payments being made under this Lease Agreement to a non-resident of Canada (as defined in the Income Tax Act (Canada)).

9. MILEAGE ALLOWANCE; SUBROGATION

9.1 Provided no Event of Default has occurred hereunder, Lessee shall be entitled to (i) all mileage allowances and other similar moneys payable by reason of the use of the Cars, and any such mileage allowances or other similar moneys received by Lessor shall be forthwith remitted to Lessee, and (ii) the proceeds of any



claim or right of Lessor or Lessee against third persons for injury, damage or loss with respect to any Car or the use or operation thereof, and Lessee shall be subrogated to the extent of Lessee's interest to all Lessor's rights of recovery therefor against any other person, firm or corporation. Lessor hereby authorizes Lessee to make settlement of, receive payment and receipt for any and all such claims on behalf of Lessor, and Lessor agrees to execute and deliver from time to time such instruments and do such other acts and things as may be necessary or appropriate more fully to evidence Lessee's authority and/or to vest in Lessee such proceeds to the extent of Lessee's interest therein or to effect such subrogation; and in the event of any loss, damage or destruction in respect of which Lessee is entitled to proceeds or subrogation as aforesaid, Lessor shall refrain from doing any act or executing any instrument which would prejudice the right of Lessee to such proceeds or to such subrogation.

10. REPRESENTATIONS AND WARRANTIES

10.1 Lessor represents and warrants that:

10.1.1 Lessor shall at the Commencement Date be the owner of the Cars and shall have full title thereto and full corporate right and authority to lease the Cars as provided in this Lease Agreement.

10.1.2 So long as an Event of Default shall not have occurred and be continuing under this Lease Agreement, Lessor shall not do (or suffer to be done by any person claiming through or against Lessor) any act which interferes with any and all rights of Lessee to the possession, use and quiet enjoyment of the Cars in accordance with the terms of this Agreement.

10.1.3 Lessor is a duly incorporated and validly existing corporation under the laws of Canada, with adequate corporate power to enter into this Lease Agreement.

10.1.4 This Lease Agreement has been duly authorized, executed and delivered by Lessor and constitutes a legal, valid and binding obligation of Lessor enforceable in accordance with its terms except to the extent that enforcement may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors'

7 

rights generally and except to the extent that enforcement is subject to general principles of equity (including but not limited to, all matter of public policy) regardless of whether such enforceability is considered in a proceeding in equity or at law.

10.1.5 The entering into and performance of this Lease Agreement will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which Lessor is a party or by which it may be bound or contravene any provision of law, statute, rule or regulation to which Lessor is subject or any judgement, decree, franchise, order or permit applicable to Lessor.

10.1.6 There are no actions, suits or proceedings pending or, to the knowledge of Lessor, threatened against Lessor affecting this Lease Agreement or the transaction contemplated hereby which could, if adversely determined, materially and adversely affect the carrying out of such transaction.

10.1.7 Lessor shall obtain any and all consents that it is required to obtain in connection with the transaction contemplated by this Lease Agreement from any of its creditors or any other party having any right or security interest in the Cars, including consent to quiet enjoyment as provided in Paragraph 10.1.2; such consents shall be evidenced in writing to the satisfaction of Lessee and shall be obtained no later than the Commencement Date, failing which the sole remedy of Lessee shall be to terminate this Lease Agreement without penalty or recourse by Lessor.

10.2 Lessee represents and warrants as follows:

10.2.1 Lessee is a duly incorporated and validly existing corporation under the laws of Canada, with full corporate power and authority to own its properties and to carry on its business as presently conducted and to enter into and perform its obligations under this Lease Agreement;



- 10.2.2 This Lease Agreement has been duly authorized, executed and delivered by Lessee and constitutes a legal and valid agreement binding upon Lessee and enforceable in accordance with its terms;
- 10.2.3 No approval is required from any public regulatory body with respect to the entering into or performance of this Lease Agreement by Lessee, or if any such approval is required, it has been properly obtained;
- 10.2.4 There are no actions, suits or proceedings pending or, to the knowledge of Lessee, threatened against Lessee or its properties or affecting this Lease Agreement or the transactions contemplated hereby which could, if adversely determined, materially and adversely affect the carrying out of such transactions.

11. USE OF CARS

- 11.1 The parties agree that Lessee intends to place the Cars in Canadian domestic service; provided, however that Lessee may at any time and at its sole discretion withdraw the Cars from such service, and such action shall not constitute a default under this Lease Agreement.
- 11.2 Lessee agrees that while the Cars are in the physical possession of Lessee, the Cars shall be used and operated in compliance with the laws of the jurisdiction or jurisdictions in which the Cars are located and with all lawful acts, rules, regulations and orders of any government bodies or officers having power to regulate or supervise the use thereof, except that Lessee may in good faith, at its expense and by appropriate proceeding or other reasonable manner, contest the application of such act, rule, regulation or order. Lessee shall operate the Cars in accordance with its management practices as to railroad cars in its ownership.
- 11.3 Lessee, at its own expense, will promptly cause to be duly discharged any lien, charge, security interest or other encumbrance (other than an encumbrance resulting from claims against Lessor not related to the ownership of the Cars or to

the extent that the provisions of any mortgage now or hereafter created on any property of Lessee may subject Lessee's leasehold interest to the lien thereof) which may at any time be imposed on or with respect to any Car including any accession thereto or the interest of Lessor or Lessee therein; provided, however, that:

- 11.3.1 Lessee may in good faith and by appropriate proceeding or other reasonable manner contest such claim, lien, security interest or encumbrance;
- 11.3.2 Lessee's obligation hereunder shall not arise if any such claim, lien, security interest or encumbrance arose solely through the action or inaction of Lessor;
- 11.3.3 Lessor shall reimburse or compensate Lessee for expenses or losses resulting from any such claim, lien, security interest or encumbrance referred to in Paragraph 11.3.2.

12. DEFAULTS AND REMEDIES

- 12.1 Any of the following events shall constitute an event of default by Lessee ("Event(s) of Default"):
 - 12.1.1 Non-payment of any amount required to be paid by Lessee pursuant to Paragraph 4.1 within the time frames provided in this Lease Agreement, provided that such default shall continue unremedied for five (5) business days; provided, however, that there shall be no Event of Default under this Paragraph 12.1.1 as long as Lessee is in compliance with the provisions of Paragraph 4.2;
 - 12.1.2 Subject to Paragraph 12.1.1, failure to cure a breach by Lessee of any material term, covenant or condition of this Lease Agreement within thirty (30) days following Lessor's written notice to Lessee of such default;
 - 12.1.3 The filing by Lessee of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law or any other law for the relief of debtors, or the filing of any such petition or action against



Lessee not dismissed within sixty (60) days;

12.1.4 Appointment of any receiver or trustee to take possession of a substantial portion of Lessee's properties not set aside within sixty (60) days;

12.1.5 Any unauthorized assignment or transfer of any Car resulting from acts of Lessee not voided or otherwise cured within sixty (60) days.

12.2 Upon the occurrence of any Event of Default as described in Paragraph 12.1, then, in any such case, Lessor, at its option may:

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

(b) by notice in writing to Lessee terminate this Lease Agreement, whereupon all rights of Lessee to the use of the Cars shall absolutely cease and terminate as though this Lease Agreement had never been made, but Lessee shall remain liable as hereinafter provided; and thereupon Lessor may by its agents enter upon the premises of Lessee or other premises where any of the Cars may be and take possession of all or any of such Cars and thenceforth hold, possess, enjoy, sell, lease or otherwise dispose of the same in such manner as Lessor may in its sole discretion determine, with or without notice to Lessee, free from any right of Lessee, or its successors or assigns, to use the Cars for any purposes whatever and without any duty to account to Lessee in respect thereof, but Lessor shall, nevertheless, have a right to recover from Lessee any and all amounts which under the terms of this Lease Agreement may be then due or which may have accrued to the date of such termination (computing the rental due to Lessor for any number of days less than a full month by multiplying such rental due to Lessor for any number of days less than



a full month by multiplying such rental for such full month by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full month) and also to recover forthwith from Lessee (i) as liquidated damages for loss of the bargain and not as a penalty, a sum, with respect to all Cars, which equals the Casualty Value of all the Cars as of the Rental Payment Date next preceding the date of termination of this Lease Agreement, and (ii) any damages and expenses in addition thereto, including, without limitation, transportation costs, reasonable attorneys' fees and court costs, which Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease Agreement other than for the payment of rental in the event Lessor collects liquidated damage described herein, and other than arising from the exercise by Lessor of any other remedies hereunder. Notwithstanding anything to the contrary contained in this clause 12.2 (b), it is understood and agreed that upon and/or after payment of the amount to be paid by Lessee to Lessor under subclause (i) of this clause 12.2 (b) Lessor shall refund to Lessee an amount equal to the net amount received by Lessor, such refunded amount not to exceed the Casualty Value, on any sale, lease or disposition of the Cars after deducting all costs and expenses incurred, including attorney's fees, in connection therewith.

- 12.3 The remedies in this Lease Agreement provided in favour of Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favour existing at law or in equity. Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent such waiver is permitted by law. Lessee hereby waives any and all existing or future claims to any offset against the rental payments due to Lessor, and agrees to make such rental payments regardless of any offset or claim which may be asserted by Lessee or on its behalf.

A handwritten signature in black ink, appearing to be initials or a stylized name, located in the lower right quadrant of the page.

13. INDEMNITIES

13.1 Except as otherwise herein provided, Lessee shall indemnify and save harmless Lessor from and against all loss, expense or liability howsoever arising from the lease, use or operation of any Car or any commodity loaded or transported therein during the term hereof, whether or not such Car is within Lessee's physical possession or subject to its control; provided, however, that Lessee shall not be required to indemnify Lessor under this Paragraph for:

13.1.1 gross negligence or willful misconduct on the part of Lessor, its employees or agents;

13.1.2 any patent infringement claims or liabilities.

The indemnity under this Paragraph 13.1 shall survive termination of this Lease Agreement only to the extent that any such loss, expense or liability is attributable to any Car or commodity loaded or transported therein while such Car is subject to this Lease Agreement. Acceptance of a Car by Lessor, which acceptance shall be in writing, upon expiry of the term hereof will preclude any claims for loss, expense or liability on the part of Lessor occasioned to such Car by commodities transported therein after such acceptance. The provisions of this Paragraph 13.1 are subject to the requirements of Paragraph 5.3. Upon the payment in full by Lessee of any indemnities as contained in this Paragraph 13.1, Lessee shall be subrogated to any right of Lessor in respect of the matters against which indemnity has been given. Any payments received by Lessor from any person (except Lessee) as a result of any matter with respect to which Lessor has been indemnified by Lessee pursuant to this Paragraph 13.1, shall be paid over to Lessee to the extent necessary to reimburse Lessee for indemnification payments previously made to Lessor by Lessee in respect of such matter.

13.2 Lessor will defend, indemnify and hold Lessee harmless against any claim, cause of action, damage, liability, cost or expense which may be asserted against Lessee with respect to the



quiet enjoyment of the Cars as provided in Paragraph 10.1.2 and with respect to the ownership thereof and title thereto.

14. RETURN OF CARS UPON TERMINATION

14.1 Subject to Paragraphs 7 and 18, upon termination of this Lease Agreement as to any Car, whether at the end of the fifth Lease year or otherwise, Lessee shall, within thirty (30) days of written notice from Lessor, surrender possession thereof to Lessor at an interchange point on Lessee's trackage in Canada as mutually agreed by Lessor and Lessee. Transportation costs so incurred shall be at the expense of Lessee. All cars so returned shall be restencilled at the expense of Lessee with reporting marks as shall be specified in writing by Lessor and shall be clean and free from residue and in AAR interchange condition, ordinary wear and tear excepted. Lessee shall make or cause to be made all repairs necessary to restore any car to such condition. Lessor, by its officers, employees and agents, shall have reasonable access to maintenance and repair records pertaining to the Cars upon reasonable prior written notice to the Chief Mechanical Officer of Lessee, and may, at its own expense, copy such records as it deems necessary. Upon thirty (30) days written notice by Lessor to Lessee, Lessee shall provide at its own risk storage on its trackage for any terminated Car for up to ninety (90) days at Lessee's customary rates in order to permit Lessor to arrange disposal thereof. If any Casualty Occurrence occurs while any terminated Car is being so stored, Lessee shall promptly pay to Lessor settlement for same in accordance with the provisions of Paragraph 7.1.

15. LEASE ASSIGNMENT; SUB-LEASE

15.1 This Lease Agreement shall be fully assignable by Lessor; provided, however, that Lessor shall provide prior written notice to Lessee of such assignment. Lessor covenants that any sale, assignment, transfer, mortgage or disposition which it may make of this Lease Agreement or of any Car, whether prior or subsequent to Acceptance by Lessee, shall be expressly subject to the terms and provisions of this Lease Agreement.



- 15.2 Lessee shall be entitled to the quiet enjoyment, possession and use of the Cars in accordance with the terms of this Lease Agreement, but, except as otherwise expressly provided herein, Lessee shall not without the prior written consent of Lessor assign or transfer all or any portion of its leasehold interest under this Lease Agreement in the Cars or any of them (except to the extent that the provisions of any mortgage now or hereafter created on any property of Lessee may subject Lessee's leasehold interest to the lien thereof).
- 15.3 Lessee shall be entitled to the possession of the Cars and to the use thereof by it or any affiliated or subsidiary corporation, but only upon and subject to all the terms and conditions of this Lease Agreement and without in any way relieving Lessee from any obligation or liability hereunder.
- 15.4 Nothing in this Paragraph 15 shall be deemed to restrict the right of Lessee (i) to assign or transfer its leasehold interest under this Lease Agreement in the Cars or possession of the Cars to any company incorporated under the laws of Canada (which shall have duly assumed the obligations of Lessee hereunder) into or with which Lessee shall have become amalgamated, merged or consolidated and which shall have acquired the property of Lessee as an entirety or substantially as an entirety; or (ii) to sublease any Car to any party for a period (including renewals) not exceeding one year without the prior written consent of Lessor; or (iii) to sublease any Car to any party for a period (including renewals) of more than one year with the prior written consent not to be unreasonably withheld. No such sublease shall relieve Lessee of any liability or obligation hereunder.

16. NOTICES

- 16.1 Any notice required or permitted to be given hereunder shall be in writing and shall be deemed to have been given when personally served upon an officer of the recipient, when sent by telex, faxmittal or other similar electronic means, or when mailed double registered, addressed as follows:

A handwritten signature in black ink, appearing to be initials or a stylized name, located in the bottom right corner of the page.

If to Lessor: CGTX Inc.
Suite 1600
1600 Boul. René Lévesque ouest
Montreal, Quebec H3H 1P9
Attention:
Telex: 05-267562
Telecopier: 514-931-5534

If to Lessee: Canadian National Railway Company
935 de Lagachetiere St. W.
Montreal, Quebec, Canada H3B 2M9
Attention: Treasurer
Telex: 055-60957
Telecopier: 514-399-5479
Telecopier: 514-399-5586

Any party hereto may change the address to which notice is to be sent written notice thereof to the other.

16.2 All payments made to Lessor shall be sent to:

CGTX Inc.
Suite 1600
1600 Boul. René Lévesque ouest
Montreal, Quebec H3H 1P9
Attention: Mr. J.G. Buckley

17. MISCELLANEOUS

17.1 The waiver of any right accruing to any party by failure of that party to exercise that right in a given instance, or delay in exercising that right, shall not be deemed a waiver of that right in future instances of a similar nature or affect any other right, power or remedy available to that party.

17.2 Nothing contained herein shall be construed in any way whatsoever so as to constitute or establish a partnership, joint venture or contract of employment between the parties.

17.3 Subject to Paragraph 15, this Lease Agreement shall be binding upon and enure to the benefit of, the parties, their respective successors and permitted assigns.

18. RENEWAL OPTIONS

18.1 Lessee shall have the option, if not in default hereunder, to extend the term of this Lease Agreement for all but not fewer than all of the



cars upon the terms and conditions of this Lease Agreement, for a five (5) year renewal period.

- 18.2 The renewal option described in Paragraph 18.1 shall be exercised by Lessee giving Lessor written notice thereof not less than one hundred and eighty (180) days prior to the termination of the initial five (5) year term.

19. INSURANCE

- 19.1 Lessee will, at all time prior to the return of the Cars to Lessor in accordance with the terms of this Lease Agreement and during any storage period, at its own expense, cause to be carried and maintained public liability and property damage insurance in respect of the Cars against the risks and in the amounts, if any, customarily insured against by Lessee in respect to similar equipment owned or leased by it. Notwithstanding anything to the contrary in this Paragraph 19, Lessee shall be permitted to provide for customary deductibles and/or self insurance.

20. SEVERABILITY; EFFECT AND MODIFICATION OF LEASE AGREEMENT

- 20.1 Any provision of this Lease Agreement which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.
- 20.2 This Lease Agreement exclusively and completely states the rights of Lessor and Lessee with respect to the leasing of the Cars and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for Lessor and Lessee.

21. EXECUTION

- 21.1 This Lease Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and in such case such counterparts together shall constitute but one and the same instrument.



22. GOVERNING LAW

22.1 This Lease Agreement shall be subject to and construed in accordance with the internal laws of the Province of Quebec.

23. EXPENSES

23.1 Lessee and Lessor shall pay and assume their respective costs and expenses (including fees and expenses of counsel) incurred in connection with the preparation of this Lease Agreement and all documents related hereto.

24. EFFECTIVE DATE

24.1 This Lease Agreement and the obligations of the parties hereto shall be effective as and from the date first above written.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be executed on the day and year first above written.

CGTX INC. (LESSOR)

R. Parkynall
V.P. Jels and Marketing
Inc, Scott

Approved
as to form only
[Signature]
Attorney

^{Secretary}
CANADIAN NATIONAL RAILWAY COMPANY
(LESSEE)

[Signature]
VICE-PRESIDENT

[Signature]
Vice-President and Secretary

PROVINCE OF QUEBEC }
DISTRICT OF MONTREAL }

ss:

On this 23rd day of December, 1988, before me personally appeared Richard A. Podsiadlo, to me personally known, who being by me duly sworn says that he is the Vice-President, Marketing & Sales of CGTX INC. that the seal affixed to the instrument is the seal of said organization, that said instrument was signed and sealed on behalf of said organization by authority of its governing body, and ~~(X)~~ he acknowledged that the execution of the foregoing instrument was the free act and deed of said organization.

..... *John Buckley*
Commissioner for Oaths John G. Buckley
Province of Quebec

MY COMMISSION EXPIRES: *July 10, 1989*

PROVINCE OF QUEBEC }
DISTRICT OF MONTREAL }

ss:

On this *December 23*, 1988, before me appeared *Paul J. Folist*, to be personally known, who, being by me duly sworn, says that he is the Vice-President of Canadian National Railway Company, that one of the seals affixed to the foregoing instrument is the seal of said Company, that said instrument was signed and sealed on behalf of said Company 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 Company.

..... *L. Burton*
Commissioner for Oaths
Province of Quebec

L. BURTON
Commissioner for Oaths
Commissaire à l'Assermentation
District-Montreal
Expires July 10, 1989

EXHIBIT A

DESCRIPTION OF REQUIREMENTS AND SPECIFICATIONS FOR CARS

1. Car Identification

<u>Present Car Marking</u>	<u>Number of Cars</u>	<u>CN Car Markings</u>
CGLX 5000 to CGLX 6297 non-inclusive	564	Listed on Schedule "A" to this Exhibit A.

2. Car Description

UMLER Value	\$19,605.00	Cdn. Funds
Date Built	1970	

Car Builder and Location National Steel Car,
Hamilton, Ont. Cda.

AAR Mechanical Designation LO

3. Car Specifications

Lessee has been provided with detailed specifications and drawings for the Cars.

4. General Condition and Car Modifications

All Cars will be in suitable mechanical condition, repaired to the specifications referred to in item 3 above and to AAR, FRA or NTA requirements prior to being tendered for final inspection and acceptance. Car components worn to AAR condemnable limit or otherwise defective will be changed out or repaired and all safety appliances will be within acceptable limits, all as prescribed by AAR, FRA or NTA.



EXHIBIT A - PAGE 2

Without limiting the generality of the foregoing, specific attention will be paid to the following items:

Draft and Truck Components

The draft and truck components are to be inspected and repaired if necessary, in accordance with the Field Manual of the A.A.R. Interchange Rules. Broken truck springs are to be renewed and missing coupler wear plates are to be reapplied.

Brakes

Both the air brake and hand brake are to be inspected and repaired if necessary, in accordance with the Field Manual of the A.A.R. Interchange Rules.

BODY CONSTRUCTION

Sides and Ends

The sides and ends are to be free of cuts or dents that could hinder the containment of loads or cause a loss in its protection from the elements of weather. Excessive dents are to be straightened. Cuts are to be repaired by welding patch plates to the outside of the side sheet.

Centre Sills

All centre sills are to be inspected. If cracks are detected, they are to be repaired.

Hatch Covers

Any broken or cracked hatch covers are to be repaired.

Gates

All gate mechanisms are to be in good operating condition. Any missing parts must be replaced and bent or broken parts must be repaired or replaced. Gates must open and close with moderate amount of force.

Wheels

Wheels worn to AAR condemnable limits or which have A.A.R. condemnable defects are to be replaced.

All above work to be carried out in an AAR approved manner by Lessor at Lessor's expense at AAR billing rates.



SCHEDULE "A"
LIST OF CN CAR MARKINGS - CNLX

5001-5027	6127-6137
5029-5040	6139-6144
5042	6146-6153
5043	6155-6175
5045-5047	6177-6179
5050-5054	6181-6189
5056	6191-6199
5058-5061	6201-6216
5063-5070	6218-6228
5072	6230-6238
5073	6240
5075-5088	6243-6251
5090-5112	6253-6271
5114-5119	6273-6287
5121-5123	6289-6292
5125-5127	6294
5129-5165	6295
5167-5186	6297
5188-5207	6298
5209-5211	6300-6302
5213-5243	6304-6306
5245-5248	
5250-5252	
5254-5258	
5260	
✓5261	
5263-5284	
5286-5289	
5291	
5293-5305	
6000-6011	
5013-6125	



EXHIBIT B

CERTIFICATE OF ACCEPTANCE

TO: CGTX INC. (Lessor)
Suite 1600
1600 Boul. René Lévesque ouest
Montreal, Quebec H3H 1P9
Attention:

Canadian National Railway Company (Lessee)
935 de Lagauchetiere Street West
Montreal, Quebec
Canada H3B 2M9
Attention: Chief of Motive Power & Car Equipment

The undersigned, a duly authorized inspector of Lessee, under Lease Agreement dated as of 198 , with Lessor, does hereby certify that:

Under authority of Lessee, I have inspected at , of the units of railroad equipment specified in Schedule A hereto attached and made a part hereof (Cars), as conforming in all respects to the terms and provisions of said Lease Agreement.

Under authority of Lessee, I further certify that by virtue of my said acceptance of said Cars the same have, on the dates and at the place stated, come under lease to Lessee pursuant to the terms and provisions of said Lease Agreement.

.....
Authorized Inspector



EXHIBIT B - PAGE 2

SCHEDULE "A"

Description of Cars referred to in the foregoing Certificate of Acceptance:

<u>Previous</u> <u>Car Number(s)</u>	<u>CN Car Number(s)</u>	<u>Date(s) of</u> <u>Delivery and</u> <u>Acceptance</u>
-----------------------------------------	-------------------------	---------------------------------------------------------------



EXHIBIT C

BILL OF SALE

KNOW ALL PERSONS BY THESE PRESENTS THAT, in
, in consideration of the payment of \$ and for
other good and valuable consideration, the receipt and
sufficiency of which are hereby acknowledged, CGTX INC.
("Seller") does hereby grant, bargain, sell, convey, transfer
and deliver to Canadian National Railway Company ("Purchaser"),
its successors and assigns forever, all right, title and
interest of Seller in and to all of the hopper cars specifically
identified on Schedule 1 (the "Cars"), TO HAVE AND TO HOLD the
same unto Purchaser, its successors and assigns forever.

Seller does hereby assign, grant, bargain, sell, convey,
transfer and deliver to Purchaser, its successors and assigns
forever, all right, title, interest, powers and privileges of
Seller in and to such warranties, if any, made by third parties
with respect to the Cars as currently exist or will exist to the
extent that Seller has rights in such warranties and such rights
are assignable.

Seller represents and warrants as follows:

(a) THE CARS ARE PURCHASED BY PURCHASER "AS IS, WHERE IS" AND
SELLER DOES NOT MAKE ANY OTHER WARRANTIES OR REPRESENTATIONS,
EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE CARS,
MERCHANTABILITY OF THE CARS, FITNESS OF THE CARS FOR A
PARTICULAR PURPOSE OR ANY OTHER MATTER CONCERNING THE CARS.

(b) Seller has good, valid and marketable title to the Cars
free and clear of all liens, pledges, security interests,
charges, encumbrances or other defects of title of any nature
whatsoever, and there is no contract, covenant or restriction
which prevents Seller from conveying or transferring to
Purchaser unencumbered title to the Cars or giving possession of
the Cars to Purchaser.

(c) Seller is not a party to any contracts, arrangements or
commitments respecting the Cars or which affect the Cars.



WITNESS WHEREOF, Seller has executed this instrument
 , this day of , 198 .

By:

Title:

In the presence of:

.....

.....

.....

.....



LAW OFFICES
OF
DONALD KENNETH ANDERSON, JR.
8011 CLAYTON ROAD
ST. LOUIS, MISSOURI 63117

(314) 727-7100

RECORDATION NO. 16175
FILED 1423

JAN 26 1989 - 10 25 AM

INTERSTATE COMMERCE COMMISSION

January 20, 1989

9-027A061

Interstate Commerce Commission
1 and Constitution Avenue N.W.
Washington, D.C. 20423

Attention: Mildred Lee
Room 2303

RE: Bill of Sale Between St. Louis Locomotive Company
and Manufacturers Railway Company

Dear Ms. Lee:

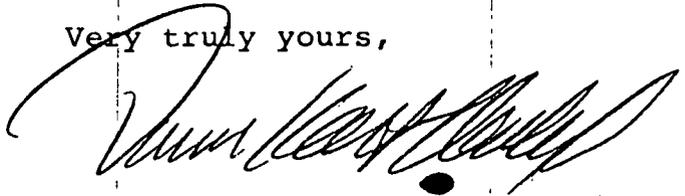
Enclosed herewith please find a notarized Bill of Sale between St. Louis Locomotive Company, 8011 Clayton Road, St. Louis, Missouri, 63117, and Manufacturers Railway Company, 3850 South Broadway, St. Louis, Missouri 63118, pertaining to one Alco S-2 1000 Horsepower Switcher Numbered 212.

Further, enclosed herewith please find a check in the amount of \$13.00 to cover the recording costs for said Bill of Sale.

Further, please file-stamp the enclosed copy of the Bill of Sale and return same to me at your earliest convenience.

Thank you for your courtesy and cooperation. If you have any questions, please do not hesitate to contact me.

Very truly yours,



Donald Kenneth Anderson, Jr.

DKA:cah
Encls.

cc: Edmund J. Boyce, Jr.
Daniel J. Dewes

1 6175
JAN 26 1989 - 10 25 AM
INTERSTATE COMMERCE COMMISSION

6
13.00
Date 1/25/89
\$ 13.00
Washington, D.C.