

EARL C. OPPERTHAUSER  
VICE PRESIDENT & GENERAL COUNSEL

JOHN C. DANIELSON  
GENERAL ATTORNEY

DENNIS W. KRAKOW  
SENIOR TRIAL ATTORNEY

ROBERT I. SCHELLIG, JR.  
TRIAL ATTORNEY

JOHN A. PONITZ  
TRIAL ATTORNEY

MARY P. SCLAWY  
SENIOR ATTORNEY

KEVIN M. STANKO  
ATTORNEY

GREGORY A. ROBERTS  
ATTORNEY

BRYAN A. SUNISLOE  
ATTORNEY



Grand Trunk Western Railroad Co.

Law Department

131 West Lafayette Blvd.  
Detroit, Michigan 48226  
(313) 237-4000

Writer's Direct Line:  
(313) 237- 4357

14865

RECORDATION NO. .... Filed 1425

DEC 18 1985 - 3 22 PM

INTERSTATE COMMERCE COMMISSION

December 12, 1985  
File: 372

Secretary  
Interstate Commerce Commission  
Room 2215  
12th and Constitution Ave., N.W.  
Washington, D.C. 20423

No. 5-352A035  
Date DEC 18 1985  
Fee \$ 10.00

Dear Sir/Madam:

ICC Washington, D. C.

Enclosed for recordation with the Interstate Commerce Commission is an original and a counterpart of an agreement for the purchase of equipment. This document is an agreement for Lloyds Bank California, as successor in interest to First Western Bank and Trust Company, as owner trustee under a trust agreement to sell certain railroad equipment to Canadian National Railway Company.

The parties to the current agreement are as follows:

Seller: Lloyds Bank California  
444 Market Street  
San Francisco, CA 94111

Purchaser: Canadian National Railway Co.  
935 de la Gauchetiere Street, W.  
Montreal, Quebec, H3B 2M9

The equipment covered by such agreement is various pieces of rolling stock bearing road numbers as shown on schedule 1 attached hereto.

Also enclosed is our check No. 1290 in the amount of \$10.00. Please accept the original of the document for filing, stamp the remaining counterpart with your recordation number and return it and your fee receipt to the undersigned at the address set out above.

Sincerely,

Mary P. Sclawy  
Senior Attorney

MPS:mg  
Enclosures

SCHEDULE 1  
LEASED EQUIPMENT

<u>QUANTITY</u>	<u>ROAD NUMBERS (inclusive)</u>
54	CNIS 379250 - 379303
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13	CNIS 379466 - 379478
13	CNIS 379480 - 379492

REGISTRATION NO. 14865 FILED 1985

AGREEMENT FOR THE PURCHASE OF EQUIPMENT

DEC 18 1985 3 52 PM

INTERSTATE COMMERCE COMMISSION

This Agreement for the Purchase of Equipment ("Agreement"), dated as of October 11, 1985 by and between LLOYDS BANK CALIFORNIA as successor-in-interest to FIRST WESTERN BANK AND TRUST COMPANY, as Owner-Trustee under a Trust Agreement dated as of December 15, 1970 ("Trust Agreement"), as seller ("Seller") and CANADIAN NATIONAL RAILWAY COMPANY, as purchaser ("Purchaser").

WITNESSETH

WHEREAS, on or about December 15, 1970 Seller, in its capacity as Owner-Trustee and Lessor, entered into a certain Lease of Railroad Equipment ("Lease") with Grand Trunk Western Railroad Company ("GTW"), as Lessee, including certain Tri-Level Flat Cars (hereinafter referred to as the "Flat Cars") and certain Covered Hopper Cars (hereinafter referred to as individually as a "Unit" and collectively as "Leased Equipment") and more particularly described in Schedule A to the Lease; and

WHEREAS, pursuant to that certain Finance Agreement dated as of December 15, 1970, First Trust Company of Saint Paul ("Agent") was appointed as Agent for the investors ("Initial Investors") denominated on Schedule A thereto; and

WHEREAS, certain of the Initial Investors, acting in the ordinary course of business, have sold or otherwise conveyed their investment interests to secondary investors (the "Secondary Investors"), (together, the remaining Initial Investors and the Secondary Investors, as listed on Exhibit A hereto, are referred to as the "Current Investors"); and

WHEREAS, Purchaser, of which GTW is a wholly-owned subsidiary, is the guarantor of GTW's financial obligations under the Lease; and

WHEREAS, pursuant to that certain Agreement for the Purchase of Equipment dated as of March 15, 1984 between Seller and Canadian National Railway Company ("CNR"), as Purchaser, it was agreed that a portion of the Flat Cars would be sold by Seller to CNR upon expiration of the Lease; and

WHEREAS, pursuant to that certain Agreement for the Purchase of Equipment dated as of April 15, 1984, between Seller and GTW, as Purchaser, it was agreed that the balance of the Flat Cars would be sold by Seller to GTW upon expiration of the Lease; and

WHEREAS, Purchaser desires to purchase the remaining Leased Equipment more particularly identified on Exhibit B hereto upon expiration of the Lease; and

WHEREAS, Seller agrees to sell and Purchaser agrees to purchase the remaining Leased Equipment for a sum certain upon expiration of the Lease.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, and other good and valuable consideration, the parties hereto hereby agree as follows:

1. Sale and Purchase of Units of Leased Equipment:

1.1 Seller hereby agrees to sell to Purchaser and Purchaser hereby agrees to purchase from Seller all Units of the Leased Equipment including the absolute right to the possession thereof, title thereto and property therein at the expiration of the Lease for the consideration of \$4,375 per Unit.

1.2 The total purchase price ("Purchase Price") shall be determined by multiplying the per Unit Purchase Price specified in Section 1.1 by the number of Units listed in Exhibit B less any Units that shall have suffered "Casualty Occurrences" and for which the "Casualty Value", as such terms are defined in the Lease, shall have been paid pursuant to SS 6 of the Lease.

1.3 The Purchase Price shall be payable in U.S. dollars on January 15, 1986 ("Closing Date") to be remitted to Seller at an address and in a form to be specified by Seller.

2. Rights, Title, Interest; Bill of Sale:

Upon payment of the Purchase Price by Purchaser on the Closing Date all rights, title and interest in all Units of Leased Equipment shall pass, be transferred and be assigned to the Purchaser as of and effective on the Closing Date. Such transaction shall be evidenced by a Bill of Sale substantially in the form set forth in Exhibit C hereto issued by the Seller which shall also take such other action as Purchaser may reasonably request for the purposes of transferring to Purchaser ownership of and title to all Units of Leased Equipment.

3. Delivery and Standard of Acceptance:

Seller shall be under no obligation to deliver the Leased Equipment to any location. Purchaser agrees to accept the Leased Equipment on an "as-is, where-is" basis.

4. Warranties:

SELLER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO DESIGN, VALUE, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP IN, THE LEASED EQUIPMENT. SELLER MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE LEASED EQUIPMENT FOR ANY PARTICULAR PURPOSE OR ANY OTHER WARRANTY OR REPRESENTATION WHATSOEVER EXCEPT THE SPECIFIC REPRESENTATIONS AND WARRANTIES SPECIFIED IN EXHIBIT C AND IN SECTION 7 OF THIS AGREEMENT. SELLER SHALL IN NO EVENT BE RESPONSIBLE FOR DAMAGES ARISING IN STRICT LIABILITY OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, HOWEVER ARISING.

5. Taxes:

Purchaser agrees to pay any and all sales taxes, use taxes, transfer taxes, documentatry taxes, customs duties or similar taxes or charges ("Taxes"), but excluding income taxes, arising out of, as the result of or in connection with the transaction contemplated by this Agreement; and Purchaser further agrees to indemnify and hold Seller harmless with respect to any claim against Seller

for any such Taxes; provided, however, that Seller will execute any documents as reasonably requested by Purchaser to enable Purchaser to dispute the imposition or amount, or to reclaim the amount paid or payable Purchaser hereunder.

6. Effect of this Agreement upon the Lease:

Nothing contained in this Agreement shall be construed as a modification or waiver of any provision of the Lease, said Lease remaining in full force and effect and enforceable in accordance with its terms, except that solely for the purpose of enabling the parties hereto to perform this Agreement, Seller does waive the restriction embodied in SS 12 of the Lease limiting Purchaser's right to purchase "all but not fewer than all Units" covered by the Lease.

7. Purchaser's Representations:

Purchaser hereby represents that it has received from authorized representative of GTW, a waiver of GTW's rights to possession of the Leased Equipment subsequent to the expiration of the Lease, either (i) by way of an extension, if any, of the terms of the Lease, or (ii) by way of the exercise of any option to purchase. A copy of said waiver is attached hereto as Exhibit D.

8. Seller's Representations:

Seller hereby represents that:

7.1 Seller is the successor-in-interest to FIRST WESTERN BANK AND TRUST COMPANY, the original Owner-Trustee under the Trust Agreement.

7.2 No action has been taken to modify or terminate the Trust Agreement.

7.3 Seller has given notice substantially in the form of Exhibit E hereto of the substance of the transaction contemplated by this Agreement to the Agent and Current Investors and that as of the date of this Agreement, Seller has received no written objection to consummation of this transaction.

9. Events of Default:

An "Event of Default", as defined in SS 9 of the Lease, under the Lease shall constitute an event of default under this Agreement. Further, non-payment by Purchaser of the Purchase Price shall constitute an event of default under this Agreement.

10. Remedies Upon Default:

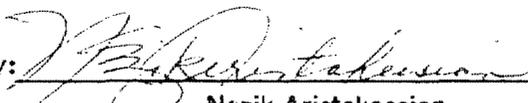
Upon the occurrence of any Event of Default, all remedies available to Seller (in its capacity as Lessor) under the Lease shall be available to Seller under this Agreement. Further, in the event that Seller properly exercises its remedy of entering and taking possession of the Leased Equipment, all Capital Improvements made to the Leased Equipment by Purchaser shall inure to the benefit of Seller.

11. Miscellaneous

- 11.1 The execution and delivery of this Agreement, and the transaction contemplated hereby, have been duly authorized by all necessary corporate action of the parties, which have the right, power and authority to enter into and perform the undertaking provided for in this Agreement, and this Agreement has been duly executed and delivered by the parties and constitutes the legal, valid and binding agreement of the parties enforceable in accordance with its terms.
- 11.2 This Agreement shall be governed by the laws of the State of California.
- 11.3 This agreement may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same Agreement, which shall be sufficiently evidenced by any one of such original counterparts.
- 11.4 No modification or waiver of any provision hereof shall be effective unless in writing, duly executed by the parties hereto.
- 11.5 This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

IN WITNESS WHEREOF, Seller and Purchaser have executed this Agreement by their duly authorized officers, all as of the date first above written.

Seller: LLOYDS BANK CALIFORNIA as successor-in-interest to First Western Bank and Trust Company, as Owner-Trustee

By:   
Title: Nazik Aristakessian  
Trust Administrator  
Date: OCT 29 1985

Purchaser: <sup>Approved</sup> CANADIAN NATIONAL RAILWAY COMPANY  
<sub>as to facts only</sub>

  
Attorney

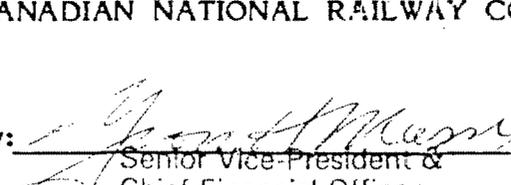
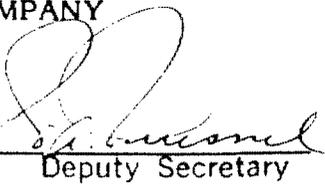
By:    
Title: Senior Vice-President & Chief Financial Officer Deputy Secretary  
Date: November 14, 1985

EXHIBIT A

**Agent:**

First Trust Company of St. Paul  
Corporate Trust Department  
First National Bank Building  
Saint Paul, MN 55101  
Attn: Diane Running

Secondary Investors:

Jaquith & Co.  
P.O. Box 2408  
Church Street Station  
New York, NY 10008

Los Angeles Unified School Dist. Annuity  
Reserve Fund  
437 Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Safeco Life Insurance Co.  
Safeco Plaza  
Seattle, WA 98195  
Attn: Investment Dept. T-14

Trustees Acacia Retirement Plan for Agents  
Managers and Employees  
51 Louisiana Avenue N.W.  
Washington, D.C. 20001

Leslie and Co.  
c/o Irving Trust Co.  
Personal Trust Division  
1 Wall Street  
New York, NY

Century Life Insurance Company  
Heritage Way  
Waverly, IA 50677  
Attn: Cashier's Dept.

MOCO  
Cal First Bank  
Securities Cage No. 14800  
P.O. Box 109  
San Diego, CA 92112

PABCO  
P.O. Box 1907  
Des Moines, IA 50306

EXHIBIT B  
LEASED EQUIPMENT

<u>QUANTITY</u>	<u>ROAD NUMBERS (inclusive)</u>
54	CNIS 379250 - 379303
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13	CNIS 379466 - 379478
13	CNIS 379480 - 379492

EXHIBIT C

**Bill of Sale**

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

Attention: Mr. Paul J.D. Miller  
Manager - Leasing

Lloyd's Bank California as successor-in-interest to First Western Bank and Trust Company, as Owner-Trustee ("Seller"), in consideration of the payment of the sum of \_\_\_\_\_ dollars and other good and valuable consideration, the receipt of which is hereby acknowledged, sells and transfers to purchaser ("Purchaser") as named above all of Seller's rights, title and interest in and to the equipment as listed and described in the attached Schedule 1 hereto ("Equipment") to have and to hold the same unto Purchaser, its successors and assigns forever.

Warranties

- (1) Seller warrants unto Purchaser, its successors and assigns that, as of the date hereof, Seller has legal title to the aforesaid property and good and lawful right to dispose of said property, and Seller, for itself, its successors and assigns, covenants that it will warrant and defend such title against all claims and demands whatsoever.
- (2) Seller represents and warrants that the Equipment is free and clear of liens and encumbrances arising by, through or under Seller.
- (3) Seller represents and warrants that it has not executed any bill of sale or other instrument which by its express terms purported to transfer title to the Equipment to any other person.

SELLER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO DESIGN, VALUE, OPERATION, OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP IN, THE EQUIPMENT. SELLER MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE EQUIPMENT FOR ANY PARTICULAR PURPOSE OR ANY OTHER WARRANTY OR REPRESENTATION WHATSOEVER EXCEPT AS IS SET FORTH SPECIFICALLY IN PARAGRAPHS 1, 2 AND 3. SELLER SHALL IN NO EVENT BE RESPONSIBLE FOR DAMAGES ARISING IN STRICT LIABILITY OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, HOWEVER ARISING.

IN WITNESS WHEREOF, Seller has caused this instrument to be executed in its name by a duly authorized representative on the 15th day of January, 1986.

By: \_\_\_\_\_

Title: \_\_\_\_\_

SCHEDULE 1

TO

BILL OF SALE

<u>QUANTITY</u>	<u>ROAD NUMBERS (inclusive)</u>
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13	CNIS 379480 - 379492



EXHIBIT D

Grand Trunk Western Railroad Co.

P. E. Tatro  
Senior Vice President  
Finance

131 West Lafayette Blvd.  
Detroit, Michigan 48226

July 25, 1985

Lloyds Bank California  
444 Market Street  
San Francisco, CA 94111

Attention: Ms. Nazik Aristakessian  
Trust Administrator Associate

RE: Lease of Railroad Equipment dated as of  
December 15, 1970 ("Lease") between First  
Western Bank and Trust Company (as  
"Owner-Trustee" and "Lessor") and Grand  
Trunk Western Railroad Company (as  
"Lessee").

Dear Sirs:

This letter is addressed to you in your capacity as  
Owner-Trustee and Lessor, successor-in-interest to First  
Western Bank and Trust Company under Trust Agreement dated  
as of December 15, 1970. This will confirm that Grand  
Trunk Western Railroad Company hereby waives its rights to  
possession of the units of equipment subject to the  
captioned Lease listed on the attached Schedule 1; such  
rights to possession being either;

- (I) by way of an extension of the terms of the  
Lease, if any, or
- (II) by way of the exercise of any option to purchase  
provided under the Lease.

Very truly yours,

*P. E. Tatro*

P. E. Tatro

Attachment

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SCHEDULE 1  
LEASED EQUIPMENT

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13	CNIS 379480 - 379492

EXHIBIT E

July 3, 1985

Gentlemen:

(Addressee) has an investment in certain railroad equipment leased by Lloyd's Bank California as successor-in-interest to First Western Bank and Trust Company, as Owner-Trustee, to Grand Trunk Western Railroad Company ("GTW"), as Lessee, pursuant to a certain Lease of Railroad Equipment dated as of December 15, 1970 (the "Lease"). It is the intention of the Owner-Trustee to comply with the instructions of the Beneficiary of the trust and to execute and enter into a certain Agreement For The Purchase Of Equipment (the "Agreement") on August 15, 1985.

Canadian National Railway Company ("Purchaser") of which GTW is a wholly-owned subsidiary, is the guarantor of GTW's financial obligations under the Lease. The Purchaser has had possession and use of 230 covered hopper cars (the "Equipment") more particularly described in Schedule A to the Lease, for substantially the entire term of the Lease and expects to continue to possess and use the Equipment through expiration of the Lease. The Purchaser now wishes to enter into an Agreement to purchase the Equipment for a sum certain upon expiration of the Lease. The purpose of the Agreement is to establish the purchase price to be paid upon Lease expiration and to memorialize the commitments of Owner-Trustee and Purchaser to sell and purchase, respectively, the Equipment.

The substance of the Agreement is as follows:

- (1) The Lease and all ancillary agreements, will remain in full force and effect and enforceable in accordance with their terms.
- (2) The Owner-Trustee has agreed to sell and the Purchaser has agreed to purchase the Equipment for a sum certain upon expiration of the Lease.
- (3) Any capital improvements made to the Equipment shall inure to the benefit of Purchaser unless an Event of Default under the Lease shall occur and remain uncured.

This notification is intended solely as a courtesy and requires no action on your part. Should you have any questions, please contact Ms. Carol E. Baker of ITEL Corporation, acting as agent for the Beneficiary, at (415) 984-4408.

Very truly yours,

Ms. Nazik Aristakessian  
Trust Administrator



CORPORATE FORM OF ACKNOWLEDGEMENT

STATE OF CALIFORNIA )  
 )  
COUNTY OF SAN FRANCISCO )

On this 29th day of October, 1985, before me  
Pilar A. Glass, a Notary Public in and for said County, personally  
appeared Nazik Aristakessian, to me personally known, who,  
being by me duly sworn, says that he is Trust Administrator  
of Lloyd's Bank California, that the seal 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.



Pilar A. Glass  
Notary Public

(Seal)

My Commission Expires: March 7, , 198<sup>9</sup>