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CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N. Y. 10005

ALLEN F. MAULSBY  
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SAMUEL C. BUTLER  
WILLIAM J. SCHRENK, JR.  
BENJAMIN F. CRANE  
JOHN F. HUNT  
GEORGE J. GILLESPIE, III  
WAYNE E. CHAPMAN  
THOMAS D. BARR  
MELVIN L. BEDRICK  
GEORGE T. LOWY  
ROBERT ROSENMAN  
JAMES H. DUFFY  
ALAN J. HRUSKA  
JOHN E. YOUNG  
JAMES M. EDWARDS  
DAVID G. ORMSBY  
DAVID L. SCHWARTZ  
RICHARD J. HIEGEL  
CHRISTINE BESHAR  
ROBERT S. RIFKIND  
DAVID BOIES  
DAVID O. BROWNWOOD  
PAUL M. DODYK  
RICHARD M. ALLEN  
THOMAS R. BROME  
ROBERT D. JOFFE

ROBERT F. MULLEN  
ALLEN FINKELSON  
RONALD S. ROLFE  
JOSEPH R. SAHID  
PAUL C. SAUNDERS  
MARTIN L. SENZEL  
DOUGLAS D. BROADWATER  
ALAN C. STEPHENSON  
RICHARD L. HOFFMAN  
JOSEPH A. MULLINS  
MAX R. SHULMAN  
STUART W. GOLD  
JOHN W. WHITE  
JOHN E. BEERBOWER  
EVAN R. CHESLER  
PATRICIA GEOGHEGAN  
D. COLLIER KIRKHAM  
MICHAEL SCHLER  
DANIEL F. CUNNINGHAM  
KRIS F. HEINZELMAN  
B. ROBBINS KIESSLING  
ROGER D. TURNER  
PHILIP A. GELSTON  
RORY O. MILLSON  
NEIL P. WESTREICH  
FRANCIS P. BARRON  
RICHARD W. CLARY  
WILLIAM P. ROGERS, JR.  
JAMES D. COOPER

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15050/b

No. 6-252A024

Date SEP 9 1986

Fee \$ 20.00

SEP 9 1986 10 15 PM

ICC Washington, D. C.

GREEN Docs

September 8, 1986

Chicago and North Western Transportation Company  
Lease Financing Dated as of August 1, 1986  
10.2% Conditional Sale Indebtedness  
Due July 2, 2001  
[30 Locomotives]

SEP 9 9 06 PM '86  
MOTOR OPERATING UNIT  
100 OFFICE OF THE SECRETARY

Dear Ms. McGee:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Chicago and North Western Transportation Company, for filing and recordation counterparts of the following documents:

1. (a) Conditional Sale Agreement dated as of August 1, 1986, between United States Trust Company of New York, as Vendee, and General Motors Corporation (Electro-Motive Division), as Builder; and

(b) Agreement and Assignment dated as of August 1, 1986, between General Motors Corporation (Electro-Motive Division), as Builder, and Mercantile-Safe Deposit and Trust Company, as Agent.

2. (a) Lease of Railroad Equipment dated as of August 1, 1986, between Chicago and North Western Transportation Company, as Lessee, and United States Trust Company of New York, as Vendee; and

(b) Assignment of Lease and Agreement dated as of August 1, 1986, between United States Trust Company of

*Consent of Donald Downing*

New York

A

B

C

New York, as Vendee, and Mercantile-Safe Deposit and Trust Company, as Agent.

The names and address of the parties to the aforementioned agreements are as follows:

1. Agent:

Mercantile-Safe Deposit and Trust Company  
Two Hopkins Plaza  
Baltimore, Maryland 21203

2. Vendee-Lessor:

United States Trust Company of New York  
45 Wall Street  
New York, New York 10005

3. Builder-Vendor:

General Motors Corporation  
(Electro-Motive Division)  
LaGrange, Illinois 60525

4. Lessee:

Chicago and North Western  
Transportation Company  
One North Western Center  
165 N. Canal Street  
Chicago, Illinois 60606

Please file and record the documents referred to in this letter and index them under the names of the Agent, the Vendee-Lessor, the Builder-Vendor and the Lessee.

The equipment covered by the aforementioned documents is listed on Exhibit A attached hereto. The equipment bears the legend "Ownership Subject to a Security Agreement Filed with The Interstate Commerce Commission".

There is also enclosed a check for \$20 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document), and the Lease of Railroad Equipment and related Assignment of Lease and Agreement (together constituting one document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,

*Laurance V. Goodrich*  
Laurance V. Goodrich  
as Agent for  
Chicago and North Western  
Transportation Company

Noreta R. McGee, Secretary,  
Interstate Commerce Commission,  
Washington D.C. 20423

Encls.

Annex B  
to  
Conditional Sale Agreement

Type	Builder's Specifications	Builder's Plant	Quantity	Lessee's Identification Numbers (Both Inclusive)*	Unit Base Price**	Total Base Price**	Estimated Time and Place of Delivery
Part A: SD-60 3,800 h.p. diesel electric locomotives	EMD Specification 8128, Amendment 8128-3 and Opening Specification No. 867147 dated March 19, 1986, as supplemented by the Final Specifications Supplement date as of June 23, 1986.	McCook Illinois	30	CNW 8001 through CNW 8055	\$1,295,000	\$38,850,000	Prior to October 10, 1986, at Lessee's Proviso Yard at Melrose Park, Illinois.

Part B: Additional Equipment to be supplied by Lessee	-	-	30	-	25,000	750,000	
					<u>\$1,320,000</u>	<u>\$39,600,000</u>	

\* The road numbers listed are for all units of Equipment to be delivered under this Conditional Sale Agreement and certain other conditional sale agreements. After all units of Equipment have been delivered and accepted hereunder, an appropriate amendment to this Annex B will be filed with the Interstate Commerce Commission to reflect the road numbers of the units of Equipment actually delivered and accepted hereunder.

\*\* Including prepaid freight charges estimated to be \$900 per unit to Melrose Park, Illinois.

Exhibit A

RECORDATION NO. 15050 ✓  
Filed & Recorded

SEP 9 1985 3-1 5 PM [CS&M Ref.: 2046-262B]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF LEASE AND AGREEMENT dated as of August 1, 1986 (this "Assignment"), between United States Trust Company of New York, a New York corporation, not individually but solely as Trustee (the "Lessor") under a Trust Agreement dated as of the date hereof (the "Trust Agreement"), with the Owner, as defined in the Participation Agreement hereinafter mentioned (the "Owner"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent (the "Vendor"), under a Participation Agreement dated as of the date hereof (the "Participation Agreement").

WHEREAS the Lessor is entering into a Conditional Sale Agreement dated as of the date hereof (the "CSA") with General Motors Corporation (Electro-Motive Division) (the "Builder"), providing for the conditional sale to the Lessor by the Builder of such units of railroad equipment described in Part A of Annex B thereto as are delivered to and accepted by the Lessor thereunder (which units, together with automatic train controls which may be installed on such units by the Lessee, as hereinafter defined, and settled for under the Participation Agreement are hereinafter called the "Units");

WHEREAS the Lessor and Chicago and North Western Transportation Company (the "Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") which provides for the leasing by the Lessor to the Lessee of the Units; and

WHEREAS, in order to provide security for the obligations of the Lessor under the CSA and as an inducement to the Vendor and the Investors (as defined in the Participation Agreement) for whom the Vendor is acting to invest in the CSA Indebtedness (as defined in the CSA), the Lessor has agreed to assign, for security purposes, certain of its rights in, to and under the Lease to the Vendor.

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned, the parties hereto agree as follows:

1. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment

AL-1  
SEP 9 1985  
RECORDATION NO.  
INTERSTATE COMMERCE COMMISSION

and performance of the obligations of the Lessor under the CSA, all the Lessor's rights, titles and interests, powers, privileges, and other benefits under the Lease (other than the Lessor's rights under §§ 13 and 23 of the Lease), including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, termination payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease; provided, however, that, notwithstanding the foregoing, the Lessor shall be entitled to receive directly from the Lessee any indemnification provided for the Lessor under §§ 6 and 9 of the Lease and any indemnification under the Indemnity Agreement (as defined in the Participation Agreement), which indemnification is excluded from this Assignment (the "Excluded Indemnity"). In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor, or as attorney for the Lessor, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments first, to satisfy the obligations of the Lessor under the CSA, and second, so long as no event of default (or event which with the lapse of time and/or demand provided for in the CSA could constitute an event of default thereunder) shall have occurred and be continuing, any balance shall be paid to the Lessor or to such other party as the Lessor may direct in writing, on the first business day following receipt by the Vendor of such balance, at the Lessor's address specified in the Lease or at such other address as may be specified to the Vendor in writing. If the Vendor shall not receive any rental payment under the first paragraph of § 3 of the Lease when due, the Vendor shall notify the Lessor at its address specified in the Lease; provided, however, that the failure of the Vendor so to notify the Lessor shall not affect the obligations of the

Lessor hereunder or under the CSA; except that the Vendor may not make a Declaration of Default (as defined in the CSA) with respect to, or terminate the Lease pursuant to clause (i) of the first paragraph of Article 15 of the CSA by reason of, an event of default under subparagraph (a) or (f) of Article 15 of the CSA arising solely by reason of the failure of the Lessee to make any such rental payment, which failure, pursuant to subparagraph (f) of Article 15 of the CSA, would not constitute an event of default thereunder if the Lessor complies with the provisions thereof, unless such event of default is not remedied within seven business days after notification is received by the Lessor as aforesaid.

2. The assignment made by the Lessor hereunder is executed only as security and, therefore, the execution and delivery of this Assignment by the Lessor shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify, the liability of the Lessor under the Lease, it being agreed that, notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor. Any action taken by the Lessor in connection with its obligations or duties under the Lease shall be at its sole cost.

3. The Lessor will faithfully abide by, perform and discharge each and every obligation and agreement which the Lease provides is to be performed by the Lessor. Without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee of or from the obligations, covenants, conditions and agreements to be performed by the Lessee thereunder, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void.

4. The Lessor does hereby constitute the Vendor its true and lawful attorney, irrevocably, with full power (in the name of the Lessor or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other

instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Vendor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all sums due from the Lessor under the CSA and the Participation Agreement (without giving effect to any limitation of liability therein), the Lessor's assignment hereunder of its rights in, to and under the Lease shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall automatically revert to the Lessor. However, the Vendor, if so requested by the Lessor at that time, will at the Lessor's expense (a) execute an instrument releasing its entire estate, right, title and interest in the Lease and transferring such estate, right, title and interest to the Lessor and (b) execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Lessor in order to confirm or further assure that all such estate, right, title and interest in the Lease shall have so reverted or shall have been so transferred to the Lessor. Promptly following such full discharge and satisfaction, the Vendor agrees that it will advise the Lessee in writing that all sums and other obligations due from the Lessor under the CSA and the Participation Agreement have been fully discharged and satisfied and instruct the Lessee that no further payments under the Lease are to be made to the Vendor.

6. The Lessor will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rerecord or redeposit) any and all further instruments required by law and reasonably requested by the Vendor in order to confirm or further assure the interests of the Vendor hereunder.

7. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder; provided, however, the Lessor and the Lessee shall not be bound to honor such assignment until they have received written notice thereof. Payment to the assignee of any Payments shall constitute full compliance with the terms of this Assignment and the Lease. The Lessor

and the Lessee may rely on instruments and documents of assignment which they believe in good faith to be true and authentic.

8. This Assignment shall be governed by the laws of the State of Illinois, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303 and such additional rights arising out of the filing or deposit hereof, if any, as shall be conferred by the laws of the several jurisdictions in which this Assignment shall be filed or deposited.

9. The Lessor shall cause copies of all notices and other documents received by it in connection with the Lease and all Payments hereunder to be promptly delivered or made to the Vendor at its address set forth in the CSA, or at such other address as the Vendor shall designate.

10. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no event of default under the CSA has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Lease and the CSA, the Lessor may, so long as no event of default under the CSA has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges, and remedies arising out of § 10(a) and § 10(b) of the Lease; provided, however, that the Lessor may, whether or not an event of default under the CSA has occurred and is then continuing, exercise or enforce, or seek to exercise and enforce, its or the Owner's rights, powers, privileges and remedies arising out of § 10(a) of the Lease in respect of its or the Owner's rights under §§ 6 and 9 of the Lease; provided, further, however, that the Lessor shall not, without the prior written consent of the Vendor, terminate the Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of § 10(b) of the Lease.

11. Notwithstanding any other provision of this Assignment (including, but not limited to, any provision of the first paragraph of Paragraph 1 and of Paragraph 3 hereof), ~~(a) the terms of this Assignment shall not impose~~ any obligations on the Lessor in addition to the obligations of the Lessor under the Lease or under the CSA or in any way

limit the effect of the last paragraph of Article 4 of the CSA or Article 21 of the CSA, and (b) each and all of the warranties, representations, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, warranties, undertakings and agreements by United States Trust Company of New York, or for the purpose or with the intention of binding said trust company personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Assignment is executed and delivered by said trust company solely in the exercise of the powers expressly conferred upon said trust company as trustee under the Trust Agreement, and no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said trust company, except for wilful misconduct or gross negligence on the part of said trust company or on account of any representation, warranty, undertaking or agreement of said trust company, either expressed or implied, all such personal liability (except as aforesaid), if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under it, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

12. This Assignment may be executed in any number of counterparts, but the counterpart delivered to the Vendor shall be deemed to be the original counterpart. It shall not be necessary that any counterpart be signed by both the parties hereto so long as each party hereto shall have executed and delivered one counterpart hereof. Although for convenience this Assignment is dated as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their

respective corporate seals to be affixed and duly attested,  
all as of the date first above written.

UNITED STATES TRUST COMPANY  
OF NEW YORK, not in its  
individual capacity but solely  
as Trustee as aforesaid,

by

\_\_\_\_\_  
Assistant Vice President

[Corporate Seal]

Attest:

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

MERCANTILE-SAFE DEPOSIT AND  
TRUST COMPANY, as Agent,

by

\_\_\_\_\_  
Vice President

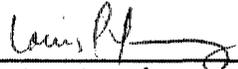
[Corporate Seal]

Attest:

\_\_\_\_\_  
Assistant Corporate Trust Officer

respective corporate seals to be affixed and duly attested,  
all as of the date first above written.

UNITED STATES TRUST COMPANY  
OF NEW YORK, not in its  
individual capacity but solely  
as Trustee as aforesaid,

by   
Assistant Vice President

[Corporate Seal]

Attest:

  
Assistant Secretary

MERCANTILE-SAFE DEPOSIT AND  
TRUST COMPANY, as Agent,

by \_\_\_\_\_  
Vice President

[Corporate Seal]

Attest:

\_\_\_\_\_  
Assistant Corporate Trust Officer









## LESSEE'S CONSENT AND AGREEMENT

The undersigned, CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY (the "Lessee"), the lessee named in the Lease (the "Lease") referred to in the foregoing Assignment of Lease and Agreement (the "Lease Assignment"), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consents to all the terms and conditions of the Lease Assignment and agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities (except the Excluded Indemnity defined in Paragraph 1 of the Lease Assignment) and other moneys provided for in the Lease, due and to become due under the Lease or otherwise in respect of the Units leased thereunder, directly to MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent (the "Vendor"), the assignee named in the Lease Assignment, by bank wire transfer of immediately available funds to Mercantile-Safe Deposit and Trust Company, Baltimore, Maryland, for credit to its Corporate Trust Department's Account No. 620081-8, with notation that funds are "Re: CNW 8/1/86" (or at such other address as may be furnished in writing to the Lessee by the Vendor);

(2) it shall not be entitled to any abatement of rent or additional rent, reduction thereof or setoff against or recoupment of rent or additional rent, including, but not limited to, abatements, reductions, setoffs or recoupments due or alleged to be due by reason of any past, present or future claims or counter-claims of the Lessee against the Lessor under the Lease or under the CSA referred to in the Lease Assignment, or against the Builder (as defined in the Lease Assignment) or either of them or the Vendor or otherwise;

(3) except as and to the extent otherwise specifically provided in the Lease Assignment, the Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Lessor;

(4) the Vendor shall not, by virtue of the Lease Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise; and



(5) the Lease shall not, without the prior written consent of the Vendor, be terminated, amended or modified, nor shall any waiver or release be given or accepted with respect thereto nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement, when accepted by the Vendor by signing the acceptance at the foot hereof, shall be deemed to be a contract for the benefit of the Vendor and its successors and assigns under the laws of the State of Illinois and, for all purposes, shall be construed in accordance with the laws of said State.

CHICAGO AND NORTH WESTERN  
TRANSPORTATION COMPANY,

by

\_\_\_\_\_  
Vice President

[Corporate Seal]

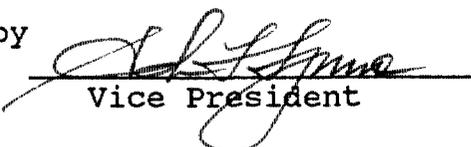
Attest:

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

The foregoing Consent and Agreement is hereby accepted, as of the 1st day of August 1986.

MERCANTILE-SAFE DEPOSIT AND  
TRUST COMPANY, as Agent,

by

  
\_\_\_\_\_  
Vice President