



15018-B  
RECORDATION NO. Filed 1425

AUG 4 1986 -2 52 PM

STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION  
ALBANY, N.Y. 12232  
Telephone: (518) 457-2411

INTERSTATE COMMERCE COMMISSION

FRANKLIN E. WHITE  
COMMISSIONER

July 31, 1986

Office of Secretary  
Application and Fees Unit  
Room B-207  
Interstate Commerce Commission  
12th and Constitution Avenue, N.E.  
Washington, DC 20423

Re: Recording Evidence of  
Agreement, 49 USC §11303  
#D94578 dated  
September 1, 1976

Dear Madam:

I have enclosed the following true copies of original documents described below, which have been certified to be complete and identical in all respects to the original document under 49 C.F.R. 1177.3(b), to be recorded pursuant to Section 11303 of Title 49 of the U. S. Code.

This document is an Agreement, a primary document identified as Agreement No. D94578 and dated September 1, 1976 between the New York State Department of Transportation (NYSDOT) and the Delaware and Hudson Railway Company (D&H) by which New York State acquired an equitable interest to certain rolling stock (locomotives) and equipment used by the D&H in exchange for an executory promise that the D&H will upgrade and/or modernize said rolling stock, maintain it and use said rolling stock principally in New York State for a specific period.

The filing of this document does not constitute a waiver of any rights New York may have under the contract or pursuant to any law.

The names and the addresses of the parties to the documents are as follows:

Holder of equitable interest to equipment:

New York State Department of Transportation  
Legal Services Bureau  
Building 5, Room 509  
State Campus  
Albany, New York 12232

*Counterpart*

100 OFFICE OF  
THE SECRETARY  
AUG 4 2 52 PM '86  
MOTOR OPERATING UNIT

Service provider and user of equipment:

Delaware and Hudson Railway Co.  
5th Street  
Watervliet, NY 12189

A description of the rolling stock and equipment covered by the document follows:

The following thirty (30) locomotives are the engines covered by this agreement; for further details see Appendix I of this agreement (D94578).

5002	5021	5000
5007 ✓	5022	5001
5009	5023	5003
5010	711 ✓	5007 ✓
5012	701	5011
5013	704	5015
5014	702	5018
5017	707	759
5019	705	703
5020	755	762

The filing fee has been waived pursuant to 49 C.F.R. 1002.2(e)(1) because the New York State Department of Transportation is a State governmental entity.

Please return the extra certified true copies not needed by the Commission for recordation to:

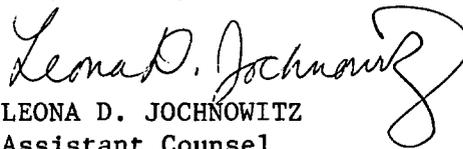
Leona Jochowitz or William J. Dwyer, Esqs.  
Legal Services Bureau  
New York State Department of Transportation  
Building 5, Room 509  
State Campus  
Albany, New York 12232

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

This is a primary document and represents an Agreement between the holder of the equitable interest, the NYSDOT and the D&H, the service provider and the user of this equipment. Under the terms of this Agreement, New York acquired an equitable interest in the aforementioned thirty (30) diesel locomotives and the D&H agreed to upgrade and/or modernize said engines at a cost to the State not to exceed \$2,000,000.00. In exchange, the D&H further agreed to maintain the said locomotives for the period specified in the agreement and to use the said engines principally in New York State to maintain rail services.

The filing of this document does not constitute a waiver of any rights New York State might have under the Agreement or pursuant to law.

Very truly yours,

A handwritten signature in cursive script, reading "Leona D. Jochnowitz". The signature is written in black ink and is positioned to the right of the typed name.

LEONA D. JOCHNOWITZ  
Assistant Counsel  
Legal Services Bureau

cc: Kathleen King, Esq.  
Office of Secretary

REGISTRATION NO. 15018-B Filed 1425

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF ALBANY )

AUG 4 1986 -2 52 PM

INTERSTATE COMMERCE COMMISSION

Catherine Kuzsman being duly sworn, deposes and says:

1. That your deponent is a Senior Rail Transportation Specialist with the Rail Division of the New York State Department of Transportation.
2. That among her duties she is involved with the capital construction projects with the Delaware and Hudson Railway Company and Guilford Transportation Industries and its subsidiaries.
3. That as such your deponent has access to the original executed agreements which have been entered into between the said Delaware and Hudson Railway Company, Guilford Transportation Industries, its subsidiaries and the New York State Department of Transportation.
4. That your deponent has read the original agreement identified as:

Agreement D94578, dated September 1, 1976  
between NYSDOT and D&H

and hereby certifies that the attached is a true, accurate and complete copy of the original agreement now on file in the offices of the New York State Department of Transportation.

*Catherine Kuzsman*  
Catherine Kuzsman

Sworn to before me  
this 1st day of Aug 1986.

*William J. Dwyer*  
Notary Public

**WILLIAM J. DWYER**  
Notary Public in the State of N. Y.  
Resident in and for ALB. County  
Commission Expires March 30, 1987

D 94578



STATE OF NEW YORK  
DEPARTMENT OF TRANSPORTATION  
RAYMOND T. SCHULER, COMMISSIONER

AGREEMENT

PIN S935.35  
DELAWARE AND HUDSON RAILWAY COMPANY  
REHABILITATE THIRTY FREIGHT LOCOMOTIVES

RECEIVED  
MAR-8 1977  
DEPARTMENT OF  
AUDIT & CONTROL  
CONSTRUCTION CONTRACT  
SECTION

RAIL PRESERVATION PROJECT

AGREEMENT

THIS AGREEMENT made this 1st day of September , 1976, by and between the People of the State of New York, acting by and through the Commissioner of Transportation, AND the Delaware and Hudson Railway Company, a railroad company authorized to do business in New York State.

WITNESSETH:

WHEREAS, Article 10-A of the Transportation Law authorizes the expenditure of monies received by the State from the sale of bonds pursuant to the Rail Preservation Bond Act of 1974 for any approved rail preservation project; and

WHEREAS, the Commissioner has reviewed and approved the project to be undertaken pursuant to this Agreement as required by said Article 10-A.

NOW, THEREFORE, the parties hereto, in consideration of the mutual promises, conditions, terms and obligations herein set forth, do agree and covenant as follows:

ARTICLE ONE

- DEFINITIONS -

"Commissioner" means the Commissioner of Transportation of the State of New York or his authorized representative.

"Department" means the New York State Department of Transportation.

"Railroad" means the Delaware and Hudson Railway Company.

"State" means the People of the State of New York.

"Locomotive(s)" means railroad locomotive(s) upgraded and/or modernized or to be upgraded and/or modernized pursuant to this Agreement.

"Agreement" means this document and any attachments hereto referred to herein.

ARTICLE TWO

- THE PROJECT -

Section 2.1. Description of Project

Railroad shall provide for the upgrading and/or modernization of specified Locomotives in accordance with and subject to all of the provisions of the Work Schedule (Appendix 1) of this Agreement.

Section 2.2. Maintenance

Railroad shall, upon the satisfactory completion of the work specified in the Work Schedule as determined by the Commissioner, maintain the Locomotives in good order and repair and in accordance with all applicable State and Federal standards and regulation, as well as with the provisions of the Maintenance Schedule (Appendix II) of this Agreement.

Section 2.3. Reimbursement

The State shall reimburse Railroad for the Railroad's cost of upgrading and/or modernizing the Locomotives, up to the amount set forth in Section 3.16 of this Agreement. Any amount required for the completion of the upgrading and/or modernization which is in excess of the amount specified in Section 3.16 shall be the Railroad's responsibility to pay, and the Railroad agrees to pay any such excess amount.

Section 2.4. Method of Reimbursement

Monthly Progress payments shall be made by STATE to RAILROAD for Eligible Costs incurred by RAILROAD in accomplishing the work. Eligible Costs for reimbursement shall include:

(a) Costs incurred by RAILROAD for direct labor and approved fringe benefits in connection with the work to be accomplished hereunder as specified in the Work Schedule (Appendix 1) attached hereto; and

(b) The value, as evidenced by vendor's bills, of materials incorporated into the work accomplished hereunder, as such work is specified in the Work Schedule (Appendix 1).

(c) Costs incurred by RAILROAD, in connection with the accomplishment of the work specified in the Work Schedule (Appendix 1), pursuant to contracts approved by COMMISSIONER, as such costs are documented by receipted bills or other evidence satisfactory to COMMISSIONER.

Section 2.4. Use and Disposition of Locomotives

Railroad agrees that during the twenty (20) year period following the date of satisfactory completion of the modernization and/or upgrading of each Locomotive, such Locomotive shall not be sold, leased; rendered unusable, relinquished or disposed of by Railroad without the express written consent of the Commissioner first having been obtained. It is intended that the Locomotives modernized and/or upgraded pursuant to this Agreement shall be utilized principally in New York State, and any inconsistent use thereof is prohibited unless prior written consent thereto has been obtained by Railroad from the Commissioner. Such consent may be qualified by any such conditions as the Commissioner deems necessary, including the payment of any revenues received by Railroad for such use or disposition to the State.

Section 2.5. Inspection

During the twenty (20) year maintenance period required under Appendix II the Commissioner shall have the right to enter upon Railroad property for the purpose of inspecting and examining the condition of any such Locomotive.

Such right shall only be exercised at reasonable times and upon prior notice to Railroad. Railroad shall, when requested by the Commissioner, advise the Commissioner of the exact location of such Locomotives.

Section 2.6. Loss or Damage

No loss or damage to any Locomotive shall impair any obligation of Railroad under this Agreement, which Agreement shall continue in full force and effect. In the event of loss or damage to any such Locomotive, ordinary wear and tear excepted, Railroad, at the Commissioners option, shall:

(a) Place the Locomotive in good repair, condition and working order; or

(b) Replace the same with like equipment in good repair, condition and working order.

ARTICLE THREE

- GENERAL PROVISIONS -

Section 3.1. Indemnity

Railroad shall indemnify the State and its employees against, and hold them harmless from, any and all claims, actions, suits, proceedings, costs, expenses, judgments, suits, damages and liabilities, including attorney's fees, arising out of, connected with, or resulting from the work undertaken pursuant to this Agreement.

Section 3.2. Default

If the Railroad, with regard to any Locomotive for which payment is made by the State pursuant to this Agreement, fails to observe, keep or perform any provision of this Agreement required to be kept, observed or

performed by Railroad, the Commissioner shall have the right, upon ten (10) days notice in writing to the Railroad, to take such action as he deems appropriate, including the withholding of any payments then or thereafter due Railroad under this, or any other, Agreement.

Section 3.3. Assignment

The Railroad agrees that it will not assign this Agreement or any interest herein without first obtaining the Commissioner's written consent thereto.

Section 3.4. Non-Waiver

No covenant or condition of this Agreement can be waived except by the written consent of the Commissioner. Forbearance or indulgence by the State in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the Railroad, and, until complete performance by the Railroad of said covenant or condition, the State shall be entitled to invoke any remedy available to it under this Agreement or by law or in equity despite said forbearance or indulgence.

Section 3.5. Entire Agreement

This instrument and the attached Appendices and Schedules identified herein constitute the entire agreement between the State and the Railroad, and it shall not be amended, altered or changed except by a written agreement signed by the parties hereto.

Section 3.6. Force Majeure

The obligations of the parties hereunder shall be subject to force majeure (which shall include strikes, riots, floods, accidents, acts of God, and other causes or circumstances beyond the control of the party

claiming such force majeure as an excuse for non-performance), but only as long as, and to the extent that, such force majeure shall prevent performance of such obligations.

Section 3.7 Successors and Assigns

All the covenants and obligations of the parties hereunder shall bind their successors and assigns whether or not expressly assumed by such successors and assigns.

Section 3.8 Interpretation

The Article and Section headings utilized in this Agreement are for convenience only and shall not affect the construction hereof. This Agreement shall be construed in accordance with and governed by the laws of the State of New York. All Appendices attached hereto are integral parts of this Agreement and the provisions set forth in the Appendices shall bind the parties hereto to the same extent as if such provisions had been set forth in their entirety in the main body of this Agreement. Nothing expressed or implied herein shall give or be construed to give to any person, firm or corporation other than the State or the Railroad any legal or equitable right, remedy or claim under or in respect of this Agreement. Neither this Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified orally, but only by an instrument in writing signed by the Commissioner and the Railroad unless a provision hereof expressly permits either of said parties to effect termination, amendment, supplementation, waiver or modification hereunder, in which event such action shall be taken in accordance with the terms of such provision.

Section 3.9 Severability

If any part of this Agreement is determined to be invalid, illegal or unenforceable, such determination shall not affect the validity, legality or enforceability of any other part of this Agreement and the remaining parts of this Agreement shall be enforced as if such invalid, illegal or unenforceable part were not contained herein.

Section 3.10 Notices

Any request, demand, authorization, direction, notice, consent, waiver, or other document provided for or permitted by this Agreement to be made upon, given or furnished to, or filed with one party by the other party, shall be in writing and shall be delivered by hand or by deposit in the mails of the United States, postage prepaid, if to the Commissioner, in an envelope addressed as follows:

Commissioner of Transportation  
State of New York  
Department of Transportation  
1220 Washington Avenue  
State Campus  
Albany, New York 12232

and if to the Railroad, in an envelope addressed to the attention of:

T. W. Eagan, Vice President and Comptroller  
Delaware and Hudson Railway Company  
40 Beaver Street  
Albany, New York 12207

Each party may change the address at which it shall receive notification hereunder by notifying the other of such change.

Section 3.11 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be an original.

Section 3.12 Relationship of Parties

The relationship of the Railroad to the State is that of an independent contractor and said Railroad, in accordance with its status as such contractor, covenants and agrees that it will conduct itself consistent with such status, that it will neither hold itself out as nor claim to be an officer or employee of the State by reason hereof, and that it will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State, including, but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

Section 3.13 Records and Documents

The Railroad shall maintain books, records and supporting documents in connection with the work to be accomplished pursuant to this Agreement. All books, records, bills, vouchers payrolls, invoices and other documents of every type and description pertaining to the work under this Agreement shall be available to the Commissioner or the State Comptroller, or their authorized representatives, for inspection and audit. All costs charged to the State under this Agreement shall be supported by paid invoices, contracts and such other documentation as the Commissioner may require, evidencing in detail the nature of the charges for which reimbursement is sought.

Section 3.14 Approval of Contracts

The Railroad shall not execute any contract, subcontract or amendment thereto, or obligate itself in any other manner with any third party with

respect to the project to be undertaken pursuant to this Agreement without the prior written approval of the Commissioner.

Section 3.15 Effective Date of Agreement

This Agreement shall take effect at the time at which it is approved by the State Comptroller.

Section 3.16 Executory Clause

This agreement shall be deemed executory only to the extent of  
Two Million dollars  
(\$ 2,000,000.00 ) and no liability on account thereof shall be incurred by the State beyond this amount for the purposes herein set forth unless a supplemental agreement shall have been entered into between the parties hereto.

Section 3.17 Termination Clause

The State reserves the right to terminate or suspend this Agreement, for any reason whatsoever. Such right of termination or suspension shall be exercised, at the discretion of the Commissioner, by delivery of written notice thereof to the Railroad, and such termination or suspension shall thereupon take effect immediately. However, nothing in this Agreement or in this Section 3.18 shall relieve the State of its obligation to reimburse the Railroad for costs and expense which the Railroad has incurred or committed itself to under the terms or for the purposes of this Agreement prior to such termination or suspension, subject to compliance with all other provisions of this Agreement.

Section 3.18 Documents Forming Agreement

This Agreement shall consist of this document and the following attachments:

- Appendix I - Work Schedule
- Appendix II - Maintenance Schedule
- Appendix III - Special Provisions
- Schedule B - New York State Required Standard Contract Clauses

PEOPLE OF THE STATE OF NEW YORK  
COMMISSIONER  
OF TRANSPORTATION

BY [Signature]  
Commissioner of Transportation

Delaware and Hudson Railway Company  
Railroad

BY [Signature]

TITLE President

Approved

Attorney-General

Approved

[Signature]

For the Comptroller Pursuant to  
Section 112, State Finance Law

(Acknowledgment by individual)

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF )

On this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, before me personally came \_\_\_\_\_ to me known and known to me to be the person described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

\_\_\_\_\_  
NOTARY PUBLIC

(Acknowledgment by Co-partnership)

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF )

On this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, before me personally came and appeared \_\_\_\_\_, to me known and known to me to be the person who executed the above instrument, who being duly sworn by me, did for himself depose and say that he is a member of the firm of \_\_\_\_\_, consisting of himself and \_\_\_\_\_, and that he executed the foregoing instrument in the firm name of \_\_\_\_\_, and that he had authority to sign same, and he did duly acknowledge to me that he executed the same as the act and deed of said firm of \_\_\_\_\_, for the uses and purposes mentioned therein.

\_\_\_\_\_  
NOTARY PUBLIC

(Acknowledgment of Corporation)

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF ALBANY )

On this 1st day of September 1976., before me personally came C. B. Sterzing, Jr., to me known, who being duly sworn, did depose and say that he resides in Glenmont, N. Y., that he is the President of the Delaware and Hudson Railway Company the corporation described in and which executed the foregoing instrument; that he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

GEORGE J. WUNDER  
Notary Public, State of New York  
Qualified in Schoharie County  
1977

[Signature]  
NOTARY PUBLIC

WORK SCHEDULE

Revised May 11, 1977  
Revised August 1, 1977

for modernization and upgrading, same being in a group numbered 5000 to 5023, as detailed below. Units shown OK are in service but overdue overhaul.

id	Type	Make	Model	Year Built	Present Status	Tentative Order of Shopping
1	4 Motor	ALCO	RS-11	1961	OK	6
2	"	"	"	"	OK	10
3	"	"	"	"	OK	4
4	"	"	"	"	OK	9
5	"	"	"	"	OK	7
6	"	"	RS-36	1963	OK	2
7	"	"	"	"	(1)	8
8	"	"	"	"	OK	1
9	"	"	"	"	(1)	11
10	"	"	"	"	OK	12
11	"	"	"	"	OK	13
12	"	"	"	"	OK	5
13	"	"	"	"	{1}	3
14	"	"	"	"	{1}	

The Delaware and Hudson Railway has 4 locomotives scheduled for modernization and upgrading, numbered 711, 701, 704, and 702 as described below. These 4 units are currently in service but overdue overhaul.

*R.T.M. J.P.C.*

id	Type	Make	Model	Year Built	Present Status	Tentative Order of Shopping
1	6 Motor	GE	U-30-C	1968	Deferred	3
2	"	"	"	1967	"	2
3	"	"	"	1967	"	4
4	"	"	"	1967	"	1

The Delaware and Hudson Railway has 3 locomotives numbered 755, 705, and 707 as described below. These 3 units are currently out of service awaiting repairs.

id	Type	Make	Model	Year Built	Present Status	Tentative Order of Shopping
1	6 Motor	GE	U-30-C	1967	Deferred	2
2	"	"	"	1967	{1}	3
3	"	"	U-33-C	1970	{1}	1

(1) Stored Unserviceable

The Delaware and Hudson Railway has 13 locomotives scheduled for modernization and upgrading, same being in a group numbered 5000 to 5023, as detailed below. Units shown OK are in service but overdue overhaul.

DATE INSPECTED

Road No.	Type	HP	Make	Model	Year Built	Present Status	Tentative Order of Shopping	DATE
5002	4 Motor	1800	ATCO	RS-11	1961	OK	6	
5008	"	"	"	"	"	OK	10	
5009	"	"	"	"	"	OK	6*	4/24/77
5010	"	"	"	"	"	OK	9	
5012	"	"	"	RS-36	1963	OK	7	
5013	"	"	"	"	"	(1)	1*	2/28/77
5014	"	"	"	"	"	OK	8	
5017	"	"	"	"	"	(1)	2*	3/22/77
5019	"	"	"	"	"	OK	11	
5020	"	"	"	"	"	OK	12	
5021	"	"	"	"	"	OK	13	
5022	"	"	"	"	"	(1)	7*	6/10/77
5023	"	"	"	"	"	(1)	4*	4/26/77

The Delaware and Hudson Railway has 4 locomotives scheduled for modernization and upgrading, numbered 605, 615, 616 and 618 as described below. These 4 units are currently out of service awaiting repairs.

Road No.	Type	HP	Make	Model	Year Built	Present Status	Tentative Order of Shopping
605	6 Motor	2750	ATCO	C-628	1964	(1)	4
615	"	"	"	"	1965	(1)	3
616	"	"	"	"	1965	(1)	1
618	"	"	"	"	1965	(1)	2

The Delaware and Hudson Railway has 3 locomotives numbered 755, 705, and 701 as described below. These 3 units are currently out of service awaiting repairs.

Road No.	Type	HP	Make	Model	Year Built	Present Status	Tentative Order of Shopping
701	6 Motor	3000	GE	U-30-C	1967	Deferred	5*
705	"	3000	"	"	1967	(1)	3
755	"	3300	"	U-33-C	1970	(1)	3*

← G.E. LOCOMOTIVE LESSEE

(1) Stored Unserviceable

11 ~~605~~ 615 } CONVENTIONAL SALE  
 104 ~~616~~ 618 } CONVENTIONAL SALE  
 102 ~~618~~ } CONVENTIONAL SALE  
 ← see ledger in file 3/8/77

DELAWARE AND HUDSON RAILWAY COMPANY

Listing of Locomotives Which Will Be Rehabilitated  
with Delaware and Hudson Railway Company's Funds

Road No.	Type	4 Motor	Make	Model	Year Built	Present Status	Tentative Order of Shopping
5000 ✓ 7/5/77	1800 HP	"	Alco	RS-11	1961	(1)	3 7/5/77
5001P	"	"	"	"	"	OK	5
5003	"	"	"	"	"	OK	6
5007P	"	"	"	"	"	(1)	7
5011	"	"	"	"	"	OK	2
5015 ✓ 10/7/77	"	"	"	RS-36	1963	OK	3
5018	"	"	"	"	"	OK	4
759 <del>511</del>	2750 HP	6 Motor	Alco	C-628	1964	OK	1
703 5/17/77	3000 HP	6 Motor	GE	U-30-C	1967	(1)	1 5/17/77
762 6/21/77	3300 HP	"	"	U-33-C	1970	(1)	2 6/21/77

see list in file  
5/18/77

(1) Stored Unserviceable  
Office of Vice President and Comptroller  
December 27, 1976

The locomotives will be rehabilitated in such a manner that:

1. The life and frame expectancy of the chassis of the rebuilt locomotive is the same as for new locomotives.
2. Traction motors receive the same life expectancy as new components.
3. The engine is completely remanufactured and has the same life expectancy as a new engine. Engines remanufactured by the original manufacturer shall carry the same guarantee as a new engine.
4. The main generator, auxiliary generators and other electrical rotating equipment receive the same life expectancy as new components.
5. Wiring that is replaced has the same life expectancy as a new locomotive.
6. Axles and gears are inspected and replaced as necessary.
7. Radiators and cooling system have the same life expectancy as new locomotives.
8. Fuel tanks and fuel system components have the same life expectancy as on new locomotives.
9. Air brake equipment has the same life expectancy as a new locomotive.
10. Dynamic brakes will be completely reconditioned and they have the same life expectancy as a new locomotive.
11. The chassis and body is thoroughly inspected and brought back to same standards as a new locomotive.

To insure that the rehabilitations performed meet these standards, at least the work detailed in the following outline will be done.

MINIMUM REMANUFACTURING OPERATIONS TO  
QUALIFY AS REBUILT MODERNIZED ALCO LOCOMOTIVE

In the following remanufacturing operations, unless otherwise specified, basic overhaul is required. Basic overhaul is defined for the purpose of this specification as remove, disassemble, discard non-reusable or wearing parts such as brushes, baskets, seals, O-Rings, cotter pins, piston rings, bushings, etc., clean, inspect, repair or recondition as required, reassemble replacing discarded items with new, test and reapply.

Other Remanufacturing, Replacing:

- New - Mandatory replacement with new parts or assembly.
- Salvage - Salvage by plating, welding machining or other methods permissible. Dimensions must be restored to new unless otherwise specified.
- Modify - Modification required.
- Check - Qualify by inspection and/or test; if qualified reuse as is; if not qualified replace or repair as appropriate.
- Delete - Remove item completely.

1. Diesel Engine

Prime Mover: The prime mover will be completely remanufactured. Each diesel engine will be completely remanufactured and modernized by the original builder, i.e., Alco Engine Division of White Industrial Power, or Delaware and Hudson Railway Company. The appropriate engine modifications or modernizations that can be used to best advantage on the locomotive being overhauled will be specified.

Remanufacture of the diesel engine at the builder's plant includes, wherever possible, all design changes released for production of a new engine of this model up to the time the rebuilt engine is assembled. The engine is therefore comparable to a new engine of the same size as it would be built if ordered today.

Included in the changes are all the below listed items. Those marked with an asterisk are specifically requested by D&H.

Steel cap pistons replacing original cast aluminum.

Enlarged bore in con rod oil passages for added piston cooling.

Oil supply to vibration damper through free end oil seal.  
(Oil formerly came from #1 main bearing - change insures more oil for bearings and piston cooling.)

\*Oil pressure relief valve built into lube oil pump. Eliminates external valve and permits simplification of chassis piping.

\*Oil pressure regulating valve mounted directly to engine base.  
(Same comment as above.)

\*Original crankcase exhauster replaced with larger capacity blower. Reduces oil leakage and improves crankcase ventilation.

Model 520 turbocharger applied. (Some engines are presently equipped with an obsolete model turbo.)

\*Water cooled gas inlet applied to turbo in lieu of original air cooled design. Eliminates cracking of this component.

Note: This change to start on second engine.

\*Cylinder heads to be equipped with 30 degree air valves and seats in lieu of original 45 degree design. This extends air valve life.

Note: Some heads will be replaced with new. This will probably be done in a full engine set. When new heads are applied, a new design is used, designated "M-Head" which is internally strengthened and has revised internal cooling passages.

Fuel pump lift lever bushings of silicone bronze material applied in lieu of original bronze bushings. This extends bushing life.

\*Secondary fuel oil filter: original to be replaced with dual "Spin-on" type for improved filtration and reduced maintenance expense.

Exposed flexible fuel lines covered with jackets to reduce fire hazard in event of leakage.

Strengthened overspeed trip dog applied. Also new trip spring for more consistent operation.

There are other changes and improvements of a minor nature in such areas as piping, fasteners, gaskets, seals, covers, etc. These are incorporated automatically because, as pointed out above, the engine is assembled insofar as possible to the latest drawing.

## 2. Lube Oil Cooler, Filter, Strainer, Regulating Valves, Piping

Lube Oil Cooler: Remove, clean oil and water side, test and reapply. Bolted cover Alco Coolers to be modified by welding cover.

Lube Oil Filter: Modify by adding duplex pressure gauge to indicate inlet and outlet pressure.

Lube Oil Filter Bypass: Delete bypass, if used, thus providing full-flow filtration.

Lube Oil Strainer: Delete strainer if used.

Piping: Clean piping

Flexible Connections on Lube Oil Piping: Apply new Aeroquip Marman Flex-master Coupling or equivalent.

Priming Connection: Retain

Plug in Engine Base: Delete plug in engine base; apply globe valve and plug

3. Fuel System: Fuel Pump, Filters, Strainers, Regulating Valves, Fuel Tank, Piping

Fuel Level Gauge: Check and replace if necessary.

Fuel Oil Hoses: Install new.

Booster Pump: Install new or rebuilt unit exchange.

Regulating and Relief Valves: Install new.

Pressure Gauge and Snubber: Apply Snubber GE CAT. NO. 41A 288314 G1 or equivalent.

Fuel Filter (Primary): Renew element.

Fuel Filter (Secondary): Apply Wix Dual Spin-on Element Filter. Mount with elements up; i.e., on top of bracket. (Alco Units only.)

4. Engine Air Filters

Air Filters: Clean and reapply.

5. Cooling System: Expansion Tank, Radiators, Temperature Control, Water Piping

Radiators: Basic overhaul.

Shutters: Recondition linkage and pneumatic cylinders.

Low Water Switch: Basic overhaul.

Thermometers: Apply new water temperature dial gauge.

Drain and Fill Valves: Apply ball type. Apply emergency 1½ or 1¼ inch drain valve to dump water into sump.

Flexible Couplings on Water Piping: Apply new Marman Flexmaster (Aeroequip) or equivalent in lieu of original.

Water Hoses: Install new.

6. Motor-driven Auxiliaries

Cab Heater Motors: Install new.

Fuel Pump Motor: Basic overhaul.

Engine Exhauster Motor: None - motor included on Unit Exchange engine.

3. Fuel System: Fuel Pump, Filters, Strainers, Regulating Valves, Fuel Tank, Piping

Fuel Level Gauge: Check and replace if necessary.

Fuel Oil Hoses: Install new.

Booster Pump: Install new or rebuilt unit exchange.

Regulating and Relief Valves: Install new.

Pressure Gauge and Snubber: Apply Snubber GE CAT. NO. 41A 288314 G1 or equivalent.

Fuel Filter (Primary): Renew element.

Fuel Filter (Secondary): Apply Wix Dual Spin-on Element Filter. Mount with elements up; i.e., on top of bracket. (Alco Units only.)

4. Engine Air Filters

Air Filters: Clean and reapply.

5. Cooling System: Expansion Tank, Radiators, Temperature Control, Water Piping

Radiators: Basic overhaul.

Shutters: Recondition linkage and pneumatic cylinders.

Low Water Switch: Basic overhaul.

Thermometers: Apply new water temperature dial gauge.

Drain and Fill Valves: Apply ball type. Apply emergency 1½ or 1¼ inch drain valve to dump water into sump.

Flexible Couplings on Water Piping: Apply new Marman Flexmaster (Aeroquip) or equivalent in lieu of original.

Water Hoses: Install new.

6. Motor-driven Auxiliaries

Cab Heater Motors: Install new.

Fuel Pump Motor: Basic overhaul.

Engine Exhauster Motor: None - motor included on Unit Exchange engine.

7. Mechanical Driven Auxiliaries and Drives

Cooling Fan: Retorque blades.

Fan Drive Gear Box: Check and relubricate.

Fan Clutch: (If used) Check - renew brushes.

Horizontal Drive Shaft: Check.

Engine to Compressor Shaft and Couplings: Gear type coupling. Inspect teeth. Renew if worn beyond limits specified in Maintenance Instructions. Couplings requires Klingfast 370 type grease or equivalent.

Compressor to Fan Shaft and Couplings: Renew rubber elements and sleeve.

Air Ducts in Frame: Clean and vacuum.

Traction Motor Flexible Air Ducts: Install new.

8. Air Compressor and Filter

Heads and Valves: Basic overhaul.

Cylinders: Basic (Salvage by plating.)

Base, Oil Pump: Basic overhaul.

Crankshaft: Basic (Salvage by plating).

Oil Pressure Indicator : Check.

Filter: Clean filter.

9. Couplers and Drawgear

Coupler: Check. Alignment control required.

Coupler Pin: Inspect and replace pin and bushings as required.

Knuckle: Check.

Drawgear: Check.

Drawgear Pocket: Salvage.

Drawgear Support: Check.

Wear Liner Under Coupler: Install new.

Alignment Control: Check.

Section 3.9 Severability

If any part of this Agreement is determined to be invalid, illegal or unenforceable, such determination shall not affect the validity, legality or enforceability of any other part of this Agreement and the remaining parts of this Agreement shall be enforced as if such invalid, illegal or unenforceable part were not contained herein.

Section 3.10 Notices

Any request, demand, authorization, direction, notice, consent, waiver, or other document provided for or permitted by this Agreement to be made upon, given or furnished to, or filed with one party by the other party, shall be in writing and shall be delivered by hand or by deposit in the mails of the United States, postage prepaid, if to the Commissioner, in an envelope addressed as follows:

Commissioner of Transportation  
State of New York  
Department of Transportation  
1220 Washington Avenue  
State Campus  
Albany, New York 12232

and if to the Railroad, in an envelope addressed to the attention of:

T. W. Eagan, Vice President and Comptroller  
Delaware and Hudson Railway Company  
40 Beaver Street  
Albany, New York 12207

Each party may change the address at which it shall receive notification hereunder by notifying the other of such change.

Section 3.11 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be an original.

12. Main Generator or Alternator Group

Main Generator or Alternator: Clean and check. Renew brushes.

Gearing: Check.

Auxiliary Generator: Basic overhaul.

Exciter Generator: Basic overhaul.

Power Take-Off: Basic overhaul.

13. Electrical Switchgear and Control

Braking Switch: Repack pneumatic cylinders; renew insulators, tips as required; renew interlock shunt.

Reverser: Repack pneumatic cylinders; renew insulators, tops as required; renew interlock shunt.

Power Contractors: Repack pneumatic cylinders; adjust interlocks; renew loose or broken arc chute.

Magnetic Contractors: Basic overhaul.

Relays: Check.

Static Panels: Check.

Lighting: Check.

Instruments: Check. Calibrate loadmeter.

Circuit Breakers: Check.

Switches: Check.

Resistor Panels: Check condition or wire. High temperature wire only must be used to resistors.

Grid Resistors: Check.

Insulators: Check and clean.

Rectifiers: (Selenium plate type in control circuits). Renew if signs of heating or corrosion are present.

Magnet Valves: Check.

Controllers: Basic overhaul.

14. Cable and Wiring, Batteries

Batteries: Apply new or shop reconditioned.

Main Power Cable: Change aluminum cable to copper.

M U Jumpers: Install new.

M U Receptacles: Renew as required.

Shunts: Renew shunts on braking and reverser switches.  
Use extra flexible wire.

15. Painting and Glazing

Exterior: Paint with a polyurethane system as required per D&H color scheme. Apply non-skid adhesive treads where necessary for crew to stand for servicing.

Interior: Paint interior of cab and engine with an epoxy enamel as required per D&H color scheme.

16. Pool trucks will be used and will meet the following minimum specs:

Wheels: Reuse 2" rims or better.

Axles: Must be magnafluxed. Maximum permissible undersize 1/16" on traction motor support bearing area.

Springs-Leaf: Check.

Springs-Coil: Check.

Journal Bearings: Basic overhaul..

Equalizers: Salvage to D&H drawing V42000. Salvaged equalizers must be put through furnace to relieve stress.

Pins and Bushings: Install new.

Brake Rigging: Salvage.

Brake Cylinders: Clean, oil and test.

Slack Adjusters: Modify by applying Touchstone type pin slack adjusters.

Wear Plates and Liners: Install new.

17. Pool traction motors will be used and will meet the following specs:

Gearing: OK to gauge

Brushes: Renew.

Insulation Resistance: 100,000 Meg ohms minimum to ground.

DELAWARE AND HUDSON RAILWAY COMPANY

MINIMUM REMANUFACTURING OPERATIONS  
AS A REBUILT MODERNIZED GENERAL ELECTRIC LOCOMOTIVE

the following remanufacturing operations, unless otherwise specified, basic overhaul is required. Basic overhaul is defined for the purpose of this specification as remove, disassemble, discard non-reusable or wearing parts such as brushes, gaskets, seals O-Rings, cotter pins, piston rings, bushings, etc., clean, inspect, repair or recondition as required, reassemble replacing discarded items with new, test and reapply.

Other Remanufacturing, Replacing:

- New - Mandatory replacement with new parts or assembly.
- Salvage - Salvage by plating, welding machining or other methods permissible. Dimensions must be restored to new unless otherwise specified.
- Modify - Modification required.
- Check - Qualify by inspection and/or test; if qualified reuse as is; if not qualified replace or repair as appropriate.
- Delete - Remove item completely.

Diesel Engine

Prime Mover: The prime mover will be completely remanufactured. Each diesel engine will be completely remanufactured and modernized by the original builder, General Electric Co., or Delaware and Hudson Railway Company. The appropriate engine modifications or modernizations that can be used to best advantage on the locomotive being overhauled will be specified. (See detail attached - page 17).

2. Lube Oil Cooler, Filter, Strainer, Regulating Valves, Piping

Lube Oil Cooler: Remove, clean oil and water side, test and reapply.

Lube Oil Filter: Modify by adding duplex pressure gauge to indicate inlet and outlet pressure.

Piping: Clean piping.

Water Expansion Tank: Apply stainless steel screen over lube cooler inlet.

Flexible Connections on Lube Oil Piping: Apply new Aeroquip Marman Flexmaster Coupling or equivalent.

Priming Connection: Add if not already applied.

3. Fuel System: Fuel Pump, Filters, Strainers, Regulating Valves, Fuel Tank, Piping

Fuel Level Gauge: Check and replace if necessary.

Fuel Oil Hoses: Install new.

Booster Pump: Install new or rebuilt unit exchange.

Regulating and Relief Valves: Install new.

Pressure Gauge and Snubber: Apply Snubber GE CAT. No. 41A 288314 G1 or equivalent, if not already applied.

Fuel Filter (Primary): Renew element.

4. Engine Air Filters:

Air Filters: Clean and reapply.

5. Cooling System: Expansion Tank, Radiators, Temperature Control, Water Piping

Thermometers: Apply new water temperature dial gauge.

Drain and Fill Valves: Apply ball type. Apply emergency 1½ or 1¼ inch drain valve to dump water into sump.

Expansion Tank: Install stainless steel screen over lube cooler inlet.

Flexible Couplings on Water Piping: Apply new Marman Flexmaster (Aeroquip) or equivalent in lieu of original.

Water Hoses: Install new.

6. Motor-driven Auxiliaries

Fuel Pump Motor: Basic overhaul.

7. Mechanical Driven Auxiliaries and Drives

Fan Drive Gear Box: Check and relubricate.

Horizontal Drive Shaft: Check

Engine to Compressor Shaft and Couplings: Gear type coupling. Inspect teeth. Renew if worn beyond limits specified in Maintenance Instructions. Couplings requires Klingfast 370 type grease or equivalent.

Compressor to Fan Shaft and Couplings: Renew rubber elements

Air Ducts in Frame: Remove, clean inertial filter elements.

Traction Motor Flexible Air Ducts: Check

8. Air Compressor and Filter

Heads and Valves: Basic overhaul.

Cylinders: Basic (Salvage by plating).

Base, Oil Pump: Basic overhaul.

Crankshaft: Basic (Salvage by plating).

Oil Pressure Indicator: Check.

9. Couplers and Drawgear

Coupler: Check. Alignment control required.

Coupler Pin: Inspect and replace pin and bushings as required.

Knuckle: Check

Drawgear: Check

Drawgear Pocket: Salvage.

Drawgear Support: Check

Wear Liner Under Coupler: Install new.

Alignment Control: Check

10. Cab and Carbody

Steps and Handrails: Check.

Sander Valves, Sand Traps and Shut-Offs: Check

Sand Control Console: Apply latching toggle switch with pilot light for lead axle. Apply wobble stick for consist sanding.

Headlights: Check.

Engine Hood Doors and Latches: Check. Repair as required.

Centerplates and Bolsters: Check

Heater and Defroster: Check

Floor: Repair as required.

Seats: Install new.

Doors and Latches, Weather Stripping: Repair as required.

Contactors Compartment Doors and Latches and Hinges: Check and repair as required.

Contactors Compartment Door Insulation and Gaskets: Renew gaskets if required.

## 11. Air Brake Equipment

Main Reservoirs: Check

Check Valve (between reservoirs): Check.

Automatic Drain Valves: Basic overhaul.

Cooling Coils: Check.

Control Valves: Qualify for 24 month test.

Magnet Valves: Clean - test.

Double Check Valves: Clean.

Main Air Filter: Clean.

Air Gauges and Test Fittings: Calibrate gauges.

Compressor Governor: Check.

Cut Out Cocks: Use ball type cut out cocks only where replacement is necessary.

## 12. Main Generator or Alternator Group

Main Generator or Alternator: Clean, check, renew brushes.

Gearing: Modify by replacing oiler gear support with needle bearing type. (Not applicable to units with helical gearing)

Auxiliary Generator: Basic overhaul.

Exciter Generator: Basic overhaul.

Power Take-Off: Basic overhaul.

## Electrical Switchgear and Control

Braking Switch: Repack pneumatic cylinders; renew insulators, tips as required; renew interlock shunt.

Reverser: Repack pneumatic cylinders; renew insulators, tips as required; renew interlock shunt.

Power Contactors: Repack pneumatic cylinders; adjust interlocks; renew loose or broken arc chute.

Magnetic Contactors: Basic overhaul.

Relays: Check.

Static Panels: Check.

Lighting: Check.

Instruments: Check. Calibrate loadmeter.

Circuit Breakers: Check.

Switches: Check.

Resistor Panels: Check condition of wire. High temperature wire only must be used to resistors.

Grid Resistors: Check.

Insulators: Check and clean.

Magnet Valves: Check.

Controllers: Basic overhaul.

## Cable and Wiring, Batteries

Batteries: Apply new or shop reconditioned.

Main Power Cable: High Potential test - reuse if CFR49 FRA Section DOT Rule 253 specifications are met.

M U Jumpers: Install new.

M U Receptacles: Renew as required.

Shunts: Renew shunts on braking and reverser switches. Use extra flexible wire.

15. Painting and Glazing

Exterior: Paint with a polyurethane system as required per D&H color scheme. Apply non-skid adhesive treads where necessary for crew to stand for servicing.

Interior: Paint interior of cab and engine with an epoxy enamel as required per D&H color scheme.

GE 700 Class

16. Pool trucks will be applied, and will meet the following minimum specifications:

Wheels: Reuse 2" rims or better.

Axles: Must be magnafluxed (or have been magnafluxed at time of last wheel change). Maximum permissible undersize 1/16" on traction motor support bearing area.

Springs - Coil: Check.

Journal Bearings: Basic Overhaul.

Brake Rigging, Pins & Bushings: Renew pins and bushings as required. Salvage brake rigging as necessary.

Wear Plates & Liners: Renew.

Brake Cylinders: Clean, oil & test.

All Classes

17. Pool traction motors will be used and will meet the following minimum specifications:

Gearing: Must be gauged with approved GE tooth gauge. Gearing which does not pass, must not be re-used.

Insulation: An insulation reading of 100,000 meg-ohms to ground or better is required.

Brushes: Brushes will be new.

Cleaning: Motors which have not been reconditioned, will be thoroughly blown out and oily deposits, if present, removed with a suitable solvent.

DIESEL ENGINE REMANUFACTURE AND MODERNIZATION - GE

Remanufacture of the diesel engine at the builder's plant includes, wherever possible, all design changes released for production of a new engine of this model up to the time the rebuilt engine is assembled. The engine is therefore comparable to a new engine of the same size as it would be built if ordered today.

Included in the changes are all the below listed items:

Steel cap pistons are applied in lieu of original cast iron design.

An oil pump suction screen is installed in the base to protect against lube oil pump failures caused by foreign material.

15 degree air valves are applied in lieu of the original 45 degree design for extended air valve life.

An improved rubber isolated accessory drive gear is applied.

The main bearing caps are ground and polished in critical areas to reduce the possibility of breakage.

A new one-piece governor drive housing is applied in lieu of the original three-piece design eliminating several critical oil leakage points.

An improved fuel limit - pressure bias type governor is applied to minimize visual exhaust emission.

A collapsible overspeed link of improved design is applied to improve the reliability of engine shutdown in event of overspeed.

There are other changes and improvements of a minor nature in such areas as piping, fasteners, gaskets, seals, covers, etc. These are incorporated automatically because the engine is assembled insofar as possible to the latest drawing.

## MAINTENANCE SCHEDULE

Locomotives shall be maintained in good working order and in accordance with Federal Railroad Administration Laws, Rules and Instructions for Inspection and Testing of Locomotives Other Than Steam and shall have a current Locomotive Inspection and Repair Record, form FRA F6180-49 at all times during the period of this Agreement. This will constitute a 20-year maintenance provision which should conform to the anticipated locomotive life. Maintenance performed must be in accordance with the requirements of Section 2.2 of this Agreement.

*[Signature]* — 2/17/77  
K. W. [Signature] 2/17/77

## SPECIAL PROVISIONS

1. The State assistance provided for this project shall be used solely for the direct costs of the locomotive rehabilitation. All costs not directly of a capital nature such as inspection trips, administrative costs, etc. will be borne by the Railroad.
2. The unit cost for rehabilitating each locomotive is acknowledged to be approximately \$100,000 with the total amount for rehabilitating 20 locomotives not to exceed \$2,000,000.
3. In the event of the disposal of a project locomotive or should a project locomotive be rendered unuseable within the 20-year period, the Railroad shall, at the option of the Commissioner, either:
  - a. Reimburse the State for the unamortized portion of the State's investment, or
  - b. Invest in any other State approved Railroad program as designated by the Commissioner.

The amount of reimbursement or investment referred to in (a) or (b) above shall be computed by multiplying \$13.70 per calendar day per unit so disposed of or rendered unuseable, commencing from the date of such disposition and terminating at the end of said twenty (20) year period.

4. The Railroad shall rehabilitate a total of ten (10) locomotives at Railroad expense in conjunction with the twenty (20) locomotives rehabilitated at State expense.
5. The ten (10) additional locomotives specified in Paragraph (4) above shall be rehabilitated to the same specifications as set forth in Appendix I.
6. The State shall not make payment for the rehabilitation of locomotives under the provisions of this agreement until the Railroad has satisfactorily rehabilitated at least one locomotive at their own expense for every two locomotives rehabilitated and billed to the State.
7. The Railroad shall keep in regular use the locomotives rehabilitated under the terms of this agreement. By January 31 of each year, the Railroad shall submit to the Commissioner an annual report detailing the utilization rate of the subject locomotives. In the annual report, the utilization rate of the rehabilitated locomotives shall be compared to the utilization rate of the Railroad's entire locomotive fleet. Regular use shall be considered as a rate per year:
  - a. for the first ten (10) years of this agreement, not less than the mean utilization rate of the Railroad's entire locomotive fleet;
  - b. for the remaining period of this agreement, not less than one-half the mean utilization rate of the Railroad's entire locomotive fleet.

*Handwritten:*  
 [Signature] — 1/17/77  
 R. W. [Signature] 2/17/77

## SCHEDULE B

### NEW YORK STATE REQUIRED STANDARD CLAUSES

The parties to the attached contract further agree to be bound by the following, which are hereby made a part of said contract:

I. This contract may not be assigned by the contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous consent, in writing, of the State.

II. This contract shall be deemed executory only to the extent of money available to the State for the performance of the terms hereof and no liability on account thereof shall be incurred by the State of New York beyond moneys available for the purpose thereof.

III. The contractor hereby agrees to the provisions of sections 139-a and 139-b of the New York State Finance Law which require that upon the refusal of a person, when called before a grand jury, head of a State department, temporary State commission or other State agency, or the organized crime task force in the Department of Law, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation, concerning any transaction or contract had with the State, any political subdivision thereof, a public authority or with any public department, agency or official of the State or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract,

(a) such person, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with New York State or any public department, agency or official thereof, for goods, work or services, for a period of five years after such refusal, and

(b) any and all contracts made with the State of New York or any public department, agency or official thereof, since the effective date of this law, by such person, and by any firm, partnership or corporation of which he is a member, partner, director or officer may be canceled or terminated by the State of New York without incurring any penalty or damages on account of such cancellation or termination, but any moneys owing by the State of New York for goods delivered or work done prior to the cancellation or termination shall be paid.

IV. During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin, and will take affirmative action to insure that they are afforded equal employment opportunities without discrimination because of race, creed, sex, color or national origin. Such action shall be taken with reference, but not be limited, to: recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.

b. The contractor will send to each labor union or representative of workers with which he has or is bound by a collective bargaining or other agreement or understanding, a notice, to be provided by the State Division of Human Rights, advising such labor union or representative of the contractor's agreement under clauses (a) through (g) (hereinafter called "non-discrimination clauses"). If the contractor was directed to do so by the contracting agency as part of the bid or negotiation of this contract, the contractor shall request such labor union or representative to furnish him with a written statement that such labor union or representative will not discriminate because of race, creed, sex, color or national origin and that such labor union or representative either will affirmatively cooperate, within the limits of its legal and contractual authority, in the implementation of the policy and provisions of these non-discrimination clauses or that it consents and agrees that recruitment, employment and the terms and conditions of employment under this contract shall be in accordance with the purposes and provisions of these non-discrimination clauses. If such labor union or representative fails or refuses to comply with such a request that it furnish such a statement, the contractor shall promptly notify the State Division of Human Rights of such failure or refusal.

c. The contractor will post and keep posted in conspicuous places, available to employees and applicants for employment, notices to be provided by the State Division of Human Rights setting forth the substance of the provisions of clauses (a) and (b) and such provisions of the State's laws against discrimination as the State Commissioner of Human Rights shall determine.

d. The contractor will state, in all solicitations, or advertisements for employees placed by or on behalf of the contractor, that all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, sex, color or national origin.

e. The contractor will comply with the provisions of Sections 291-299 of the Executive Law and the Civil Rights Law, will furnish all information and reports deemed necessary by the State Commissioner of Human Rights under these non-discrimination clauses and such sections of the Executive Law, and will permit access to his books, records and accounts by the State Commissioner of Human Rights, the Attorney General and the Industrial Commissioner for purposes of investigation to ascertain compliance with these non-discrimination clauses and such sections of the Executive Law and Civil Rights Law.

f. This contract may be forthwith canceled, terminated or suspended, in whole or in part, by the contracting agency on the basis of a finding made by the State Commissioner of Human Rights that the contractor has not complied with these non-discrimination clauses, and the contractor may be declared ineligible for future contracts made by or on behalf of the State or a public authority or agency of the State, until he satisfies the State Commissioner of Human Rights that he has established and is carrying out a program in conformity with the provisions of these non-discrimination clauses. Such finding shall be made by the State Commissioner of Human Rights after conciliation efforts by the State Division of Human Rights have failed to achieve compliance with these non-discrimination clauses and after verified complaint has been filed with the State Division of Human Rights, notice thereof has been given to the contractor and an opportunity has been afforded him to be heard publicly before the State Commissioner of Human Rights or his designee. Such sanctions may be imposed and remedies invoked independently of or in addition to sanctions and remedies otherwise provided by law.

g. The contractor will include the provisions of clauses (a) through (f) in every subcontract or purchase order in such manner that such provisions will be binding upon each subcontractor or vendor as to operations to be performed within the State of New York. The contractor will take such action in enforcing such provisions of such subcontract or purchase order as the contracting agency may direct, including sanctions or remedies for non-compliance. If the contractor becomes involved in litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor shall promptly so notify the Attorney General, requesting him to intervene and protect the interest of the State of New York.

V. It is hereby agreed that all applicable provisions of the Labor Law of the State of New York shall be carried out in the performance of this contract.

VI. This agreement shall be void and of no effect unless the contractor shall secure compensation insurance for the benefit of, and keep insured during the life of this agreement, such employees engaged therein as are required to be insured by the provisions of the Workmen's Compensation Law of the State of New York.

VII. The relationship of the contractor to the State is that of an independent contractor, and said contractor, in accordance with its status as such contractor, covenants and agrees that it will conduct itself consistent with such status, that it will neither hold itself out as nor claim to be an officer or employee of the State by reason hereof, and that it will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State, including, but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

~~VIII. In the submission of this bid, each bidder, whether a natural person or a partnership, firm, corporation or other organization, under penalty of perjury, that to the best of his knowledge and belief:~~

- ~~1. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;~~
- ~~2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and~~
- ~~3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.~~

~~b. A bid shall not be considered for award nor shall any award be made where (a) (1) (2) and (3) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where (a) (1) (2) and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the state, public department or agency to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.~~

~~The fact that a bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of subparagraph one (a).~~

~~Any bid hereafter made to the state or any public department, agency or official thereof by a corporate bidder for work or service performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule or regulation, and where such bid contains the certification referred to in subdivision one of this section, shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to noncollusion as the act and deed of the corporation.~~