

REGISTRATION NO. 12842-A
MAR 7 1983 - 11 55 AM
INTERSTATE COMMERCE COMMISSION

CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N. Y. 10005

3-066A081

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No. MAR 7 1983
Date.....
Fee \$.....

ICC Washington, D. C.

March 4, 1983

The Baltimore and Ohio Railroad Company
Amended and Restated Finance Agreement and
Amendment Dated as of February 15, 1983
73 Fully Enclosed Tri-Level Auto Racks

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of The Baltimore and Ohio Railroad Company for filing and recordation counterparts of the following document:

Amended and Restated Finance Agreement and Amendment ("Amendment"), dated as of February 15, 1983, among The Baltimore and Ohio Railroad Company, as Railroad, Mercantile-Safe Deposit and Trust Company, as Agent, and the parties named in Schedules A and B thereto.

The Amendment amends a Conditional Sale Agreement dated as of January 15, 1981, previously filed and recorded with the Interstate Commerce Commission on January 30, 1981, at 10:15 a.m., Recordation Number 12842.

The amendments to the Conditional Sale Agreement are set forth on pages 16 through 19 of the Amendment. The enclosed counterparts are signed and acknowledged by each of the present parties in interest to the Conditional Sale Agreement. The other signature lines which appear in the enclosed counterparts are not relevant for this purpose since they apply only to the Restated Finance Agreement which is not a document on file with the Commission.

This is similar Rec No. 12842 but don't know what letter

RECEIVED
MAR 7 1983
FEE OPENED
MAR 7 1983

Alan Verport - John Verport

Please file and record the Amendment submitted with this letter and assign it Recordation Number 12842-A.

Enclosed is a check for \$50.00 payable to the Interstate Commerce Commission for the recordation fee for the Amendment.

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

Very truly yours,

Laurance V. Goodrich
Laurance V. Goodrich
as Agent for
The Baltimore and Ohio
Railroad Company

Agatha L. Mergenovich, Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423

Encls.

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Laurance V. Goodrich
Cravath, Swaine & Moore
One Chase Manhattan Plaza
New York, N. Y. 10005

March 7, 1983

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 3/7/83 at 11:55AM, and assigned re-
recording number(s). 12842-A

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

RECORDATION NO. 12842-A Filed 1428

MAR 7. 1983 - 11 55 AM

INTERSTATE COMMERCE COMMISSION

[CS&M Ref. 2044-378]

AMENDED AND RESTATED FINANCE AGREEMENT
AND AMENDMENT

dated as of February 15, 1983,

Among

THE BALTIMORE AND OHIO RAILROAD COMPANY
Railroad,

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
Agent,

THE PARTY NAMED IN SCHEDULE A HERETO,
Investor,

and

THE PARTIES NAMED IN SCHEDULE B HERETO,
Permanent Investors,

(Covering 73 Fully Enclosed Tri-Level Auto Racks)

[Amending and restating the Finance Agreement and the
Conditional Sale Agreement, each dated as of January 15,
1981.]

AMENDED AND RESTATED FINANCE AGREEMENT AND AMENDMENT, dated as of February 15, 1983, among MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a Maryland corporation ("Agent"), THE BALTIMORE AND OHIO RAILROAD COMPANY, a Maryland corporation ("Railroad"), and the PARTY NAMED IN SCHEDULE A HERETO (severally "Investor" and collectively, together with its successors and assigns including the Permanent Investors, "Investors" or "each Investor" or "any Investor") and the PARTIES NAMED IN SCHEDULE B HERETO (severally "Permanent Investor" and collectively, together with their successors and assigns, "Permanent Investors").

The Railroad has entered into a conditional sale agreement dated as of January 15, 1981 ("CSA", a conformed copy of which is attached hereto as Exhibit A), with Whitehead & Kales Company ("Builder") for the purchase from the Builder of the new railroad equipment referred to in the CSA ("Equipment").

The CSA provides, among other things, for the payment by the Railroad to the Builder of the purchase price of the Equipment ("CSA Indebtedness") plus interest on the unpaid balance thereof in installments.

The Agent has acquired the right, title and interest of the Builder in and to the CSA and the right, title and interest in and to the Equipment covered thereby for a consideration equal to the CSA Indebtedness thereunder and upon other terms and conditions as set forth in the Agreement and Assignment dated as of January 15, 1981 ("Assignment", a conformed copy of which is attached hereto as Exhibit B), between the Agent and the Builder.

The CSA and the Assignment were filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 on January 30, 1981, at 10:15 a.m., Recordation No. 12842.

All the Equipment has heretofore been purchased under the CSA, the Builder has been paid in full for the Equipment and the Railroad and the Agent, through the Assignment, are now the only parties in interest to the CSA.

On the Take Out Date hereinafter defined, the Investor will hold CSA Indebtedness evidenced by a certificate of interest, in the principal amount shown opposite its name in Schedule A hereto, which CSA Indebtedness the

Investor intends to sell to the Permanent Investors and which the Permanent Investors intend to purchase from the Investor on the Take Out Date.

The parties hereto desire to amend and restate the original Finance Agreement dated as of January 15, 1981, and to amend the CSA, as herein set forth.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter contained, the parties hereto hereby agree as follows:

1. Subject to the terms and conditions hereof, (a) each Permanent Investor will pay to the Agent, in immediately available funds, not later than 11:00 a.m., Baltimore time, on March 8, 1983 ("Take Out Date"), an amount equal to the amount of the commitment set forth opposite such Permanent Investor's name in Schedule B hereto and (b) the Railroad will pay to the Agent, in immediately available funds, not later than 11:00 a.m. Baltimore time, on the Take Out Date an amount equal to the unpaid interest on the outstanding CSA Indebtedness accrued to the Take Out Date.

In the event that the Agent does not in fact receive all the funds to be paid to it as provided in the preceding paragraph in a timely fashion on March 8, 1983, the Take Out Date may be postponed by the Agent for up to three business days (as hereinafter defined), in which case the Agent may invest all funds actually received in the Federal Funds Market or similar securities designated by the Railroad (any income therefrom and any loss therefrom to be for the account of the Railroad), but funds received from any Permanent Investor in a timely fashion on March 8, 1983, will bear interest from the date so received at the rate of 12% per annum.

All payments to be made hereunder by the Permanent Investors to the Agent shall be wired to Mercantile-Safe Deposit and Trust Company, Baltimore, Maryland, for credit to its Corporate Trust Department Account No. 08246-5 with advice that the deposit is "Re: B&O 2/15/83".

Subject to the terms and conditions hereof, upon payment to the Agent on the Take Out Date of the amount to be paid by each Permanent Investor and by the Railroad pursuant to this Paragraph 1, on the Take Out Date the Agent will pay to the Investor an amount equal to the unpaid CSA Indebtedness held by the Investor (as shown on Schedule A

hereto) plus accrued and unpaid interest thereon; and the Investor, simultaneously with the payment to it of such amount, will, without recourse, representation or warranty, surrender its certificate of interest to the Agent for cancelation.

Upon payment to the Agent of the amount required to be paid by a Permanent Investor pursuant to this Paragraph 1 on the Take Out Date, the Agent will execute and deliver to such Permanent Investor (or, upon the written request of such Permanent Investor, to the nominee or nominees of such Permanent Investor or to the office of the custodian for such Permanent Investor) a certificate or certificates of interest substantially in the form annexed hereto as Schedule C, dated as of the Take Out Date.

Each Investor, against payment to it of all amounts payable under any certificate of interest delivered to it pursuant to this Agreement, will surrender such certificate of interest to the Agent.

The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other days on which banking institutions in Baltimore, Maryland, or New York, New York, are authorized or obligated to be closed. All interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months. If any date for payment hereunder or under the CSA is not a business day, such payment may be made on the first business day next succeeding such date.

The parties hereto agree that, subject to the payment by the Permanent Investors and by the Railroad of the amounts to be paid pursuant to this Paragraph 1 and the receipt by the Investor of the amount due it pursuant to this Paragraph 1, from and after the Take Out Date (a) the Investor hereby transfers and assigns to the Permanent Investors all its right, title and interest in and to its CSA Indebtedness (but the Investor will retain any indemnification to which it is entitled under the CSA), (b) the Finance Agreement shall be amended and restated and the CSA shall be amended as set forth herein, and (c) unless the context otherwise requires, the terms "CSA" and "Assignment", as used in this Agreement, the CSA and the Assignment (collectively, "Finance Documents"), shall mean, respectively, the CSA and the Assignment, each as amended hereby, and the term "Finance Agreement" as used in any of the Finance Documents, other than this Agreement, shall mean this Agreement.

All transactions pursuant hereto which shall occur on the Take Out Date shall be deemed for purposes of this Agreement, the CSA and the Assignment to have occurred simultaneously.

2. The Agent will hold the rights under the CSA acquired under the Assignment and the security interest in the Equipment in trust for the benefit of the Investors in accordance with their respective interests therein as such interests shall from time to time appear, but without priority of one over the other. It is expressly agreed that the obligations of the Agent hereunder as such holder and with respect to the payments to the Investors to be made by the Agent are only those expressly set forth herein.

3. The Railroad represents and warrants to the Investor, the Permanent Investors and the Agent as follows:

(a) It is a corporation duly organized, validly existing and in good standing under the laws of the State of Maryland and is duly qualified to do business in and is in good standing in such other jurisdictions in which its business and activities require such qualification.

(b) It has full corporate power and authority and legal right to carry on its business as now conducted and is duly authorized and empowered to execute and deliver this Agreement and the CSA ("Railroad Documents"), and to fulfill and comply with the terms, conditions and provisions thereof.

(c) The Railroad Documents have been duly authorized, executed and delivered and, assuming due authorization, execution and delivery thereof by the other parties thereto, constitute legal, valid and binding agreements, enforceable against it in accordance with their terms.

(d) There are no actions, suits or proceedings (whether or not purportedly on its behalf) pending or (to its knowledge) threatened against or affecting it or any of its property rights at law or in equity or before any commission or other administrative agency which could materially and adversely affect its condition (financial or otherwise) or its ability to perform its obligations under the Railroad Documents and it is not to its knowledge in default with respect to any

order or decree of any court or governmental commission, agency or instrumentality.

(e) It is not a party to any agreement or instrument or subject to any charter or other corporate restriction materially and adversely affecting its business, operations, property, assets or condition (financial or otherwise).

(f) It has not directly or indirectly offered or sold any of the CSA Indebtedness to, solicited offers to buy any of the CSA Indebtedness from, or otherwise approached or negotiated in respect of the purchase or sale or other disposition of any of the CSA Indebtedness with, any person so as to bring the sale of the CSA Indebtedness within the provisions of Section 5 of the Securities Act of 1933. It will not offer any CSA Indebtedness to, or offer to buy any thereof from, or approach or negotiate with any other person in respect thereof, so as to bring the sale of the CSA Indebtedness within the provisions of Section 5 of said Securities Act.

(g) It has furnished to the Investor and each Permanent Investor its audited consolidated balance sheet as of December 31, 1981, and the related consolidated statements of income and retained earnings for the year then ended, and its unaudited consolidated balance sheet as of September 30, 1982, and the related unaudited consolidated statement of income and retained earnings for the nine-month period then ended. Such financial statements are in accordance with its books and records and have been prepared in accordance with generally accepted accounting principles, applied on a consistent basis throughout the periods covered thereby. The financial statements present fairly its financial condition at such dates and the results of its operations and changes in its financial position for such periods. There has not been any material adverse change in its assets, liabilities, business or condition (financial or otherwise) since September 30, 1982.

(h) Neither the execution and delivery of the Railroad Documents nor the consummation of the transactions therein contemplated nor the fulfillment of nor the compliance with the terms and provisions thereof will conflict with or result in a breach of any of the terms, conditions or provisions of (i) its charter or By-laws, (ii) any law or any regulation, order,

injunction or decree of any court or governmental instrumentality or (iii) any bond, debenture, note, mortgage, indenture, agreement or other instrument to which it is now a party or by which it or its property may be bound, or constitute (with notice or lapse of time or both) a default thereunder, or result in the creation or imposition of any lien, charge, security interest or other encumbrance of any nature whatsoever upon any of its property or upon the Equipment pursuant to the terms thereof, except as contemplated by the CSA and the Assignment.

(i) No mortgage, deed of trust, security interest or other lien of any nature whatsoever now in existence which now covers or affects or which may hereafter cover or affect any of its property or interest therein now attaches or hereafter will attach to the Equipment or in any manner affects or will affect adversely the right, title and interest of the Agent therein, except as contemplated by the CSA and the Assignment.

(j) No authorization or approval from any governmental or public body or authority of the United States of America or of any of the states thereof or of the District of Columbia is necessary for the execution, delivery and performance of the Railroad Documents.

(k) It has filed all foreign, Federal, state and local tax returns which are required to be filed and has paid or made provisions for the payment of all taxes which have or may become due pursuant to said returns or pursuant to any assessment received by it, other than taxes which are being contested in good faith and as to which it has established adequate reserves.

(l) It is not entering into the Railroad Documents or any other transaction contemplated thereby directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (other than a governmental plan) with respect to which it, the Investor, any Permanent Investor or the Agent in its individual capacity is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974 ("ERISA").

(m) It is not in default, and no event has

occurred which with notice or lapse of time or both would be a default under any of the terms, conditions or provisions of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which it is a party or by which it or its property may be bound, nor of any law or any material regulation, order, injunction or decree of any court or any governmental instrumentality.

(n) The principal place of business of the Railroad for purposes of Article 9 of the Uniform Commercial Code as in effect in the State of Maryland is at 100 North Charles Street, Baltimore, Maryland 21201.

(o) All the Equipment is in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange and has been maintained as required by Article 9 of the CSA.

(p) The Railroad is not in default on any of its financial obligations and neither the Railroad nor any of its predecessor companies has defaulted on any financial obligation within the five years next preceding the date hereof.

(q) On or before the Take Out Date, this Agreement will have been duly filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303, a Uniform Commercial Code financing statement will have been filed in the State of Maryland and such filings will protect the Agent's interest in and to the Equipment and no other filing or recording (or giving of notice) with any other Federal, state or local government is necessary in order to protect the interests of the Agent under the CSA in and to the Equipment in the United States of America.

4. Each Permanent Investor represents to the Railroad, the Agent, the Investor and each other Permanent Investor as follows:

(a) Such Permanent Investor is acquiring its interest in the aggregate CSA Indebtedness for its own account for investment or for one or more separate accounts maintained by it and not with a view to, or for sale in connection with, the distribution of the same, nor with any present intention of distributing or selling the same; provided, however, that the

disposition of its property shall at all times be within its control.

(b) Either such Permanent Investor is acquiring its interest in the CSA Indebtedness with assets of a "governmental plan" or such Permanent Investor is not acquiring such interest directly or indirectly with assets drawn from any "separate account", all as defined in ERISA, unless such separate account is exempt from the prohibited transactions rules of ERISA.

(c) Such Permanent Investor represents that it has full power and authority to execute and deliver this Agreement and to carry out its terms.

Each Permanent Investor hereby agrees that any transfer or assignment of all or any part of such Permanent Investor's respective interest in the CSA Indebtedness shall be to an institutional investor which has no interlocking directorates with the Railroad.

Each Permanent Investor hereby agrees that any transfer of all or any part of its interest in the CSA Indebtedness shall be upon the express condition that the transferee thereof shall be bound by the terms of this Agreement. Prior to any such transfer, such Permanent Investor shall notify the Agent in writing thereof; and the Agent shall cause to be promptly prepared and delivered to such Permanent Investor an appropriate agreement, to be entered into among such Permanent Investor, such transferee and the Agent, evidencing such transfer upon the terms hereof.

5. The obligation of each Permanent Investor to make payment to the Agent pursuant to Paragraph 1 hereof and the obligation of the Agent to make payment to the Investor on the Take Out Date pursuant to Paragraph 1 hereof shall be subject to the receipt by the Agent on or prior to the Take Out Date of the funds to be paid to it by the Railroad pursuant to Paragraph 1 hereof and of the following documents, dated on or not more than 10 days prior to the Take Out Date:

(a) A complete and accurate set of all the closing documents (which may be photocopies) delivered to the Agent at each equipment closing pursuant to Section 4 of the Assignment.

(b) An opinion of Messrs. Cravath, Swaine &

Moore, special counsel for the Permanent Investors and the Agent, to the effect that:

(i) this Agreement, assuming due authorization, execution and delivery by each Permanent Investor, has been duly authorized, executed and delivered and is a legal, valid and binding instrument;

(ii) the CSA has been duly authorized, executed and delivered and is a legal, valid and binding instrument, enforceable in accordance with its terms;

(iii) the Assignment has been duly authorized, executed and delivered and is a legal, valid and binding instrument;

(iv) the Agent is vested with all the rights, titles, interests, powers and privileges of the Builder purported to be assigned to it by the Assignment and the Agent has a valid security interest in the units of Equipment, and such units, at the time of delivery thereof to the Railroad under the CSA, were free from all claims, liens, security interests and other encumbrances (other than those created by the CSA);

(v) this Agreement, the CSA and the Assignment have been duly filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303, a Uniform Commercial Code financing statement has been filed in the State of Maryland, and no other filing or recording (or giving of notice) with any other Federal, state or local government is necessary in order to protect the rights of Agent therein or in the Equipment in any state of the United States of America;

(vi) no authorization or approval from any governmental or public body or authority of the United States of America, or of any of the states thereof or the District of Columbia is, to the knowledge of said counsel, necessary in connection with the execution, delivery and performance of this Agreement, the CSA and the Assignment;

(vii) under the circumstances contemplated by

this Agreement it is not necessary to register the CSA, the Assignment or any certificate of interest delivered pursuant hereto under the Securities Act of 1933, as in effect on the date of such opinion, or to qualify the CSA or any other instrument or agreement contemplated hereby or thereby under the Trust Indenture Act of 1939, as in effect on the date of such opinion;

(viii) the legal opinion referred to in subparagraph (c) of this Paragraph 5 is satisfactory in form and scope to said special counsel and that in their opinion the Permanent Investors, the Agent and they are justified in relying thereon;

and as to such other matters incident to the transactions contemplated by this Agreement as the Permanent Investors may reasonably request.

(c) An opinion of counsel for the Railroad, to the effect set forth in subparagraphs (a), (b), (c), (d), (e), (f) as to the first sentence, (h), (i), (j), (l), (m), (n), and (p) of Paragraph 3 hereof.

(d) A Certificate of an officer of the Railroad to the effect that (i) the Railroad's representations and warranties contained in this Agreement are true on and as of the Take Out Date, with the same effect as though made on such date, (ii) the Railroad is not currently in default nor does a condition exist nor has an event occurred which with the lapse of time and/or the giving of notice would constitute a default under this Agreement or the CSA, (iii) no tax liens (including tax liens filed pursuant to Section 6323 of the Internal Revenue Code of 1954, as amended) have been filed and are currently in effect which would adversely affect the security interest of the Assignee in the Equipment, (iv) no taxes, assessments or governmental charges or levies are delinquent other than those which are being contested in good faith and which, in the opinion of the management of the Railroad, have been adequately reserved against and (v) there has been no material adverse change in the business or financial condition of the Lessee since September 30, 1982.

In giving the opinions specified in this Paragraph 5, counsel may qualify its opinion to the effect that any agreement is enforceable in accordance with its terms by a general reference to limitations as to enforceability

imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. In giving the opinion specified in subparagraph (b) of this Paragraph 5, counsel may rely (i) as to the perfection of the security interests of the Agent in the Equipment and the CSA in the State of Maryland, on the opinion of counsel for the Railroad, (ii) as to authorization, execution and delivery by the Builder of the documents executed by the Builder and, as to title of the Builder to its Equipment, on the opinions of counsel for the Builder contained in the set of closing documents referred to in subparagraph (a) of this Paragraph 5 and (iii) as to any matter governed by the law of any jurisdiction other than the State of New York or the United States, on the opinions of counsel for the Builder or the Railroad, as to such matter.

The Take Out Date closing hereunder shall take place at the offices of Messrs. Cravath, Swaine & Moore, in New York, New York.

6. The Agent will accept all sums paid to it pursuant to Article 8 of the CSA with respect to Casualty Occurrences (as therein defined). So long as, to the actual knowledge of the Agent, no event of default under the CSA shall have occurred and be continuing, the Agent will apply such sums (a) to the prompt pro rata prepayment of each of the installments of the aggregate CSA Indebtedness remaining unpaid (in proportion to the aggregate principal amount of CSA Indebtedness represented by each such installment), without premium, together with interest accrued on such prepaid CSA Indebtedness from the last date to which such interest was paid to the date of such prepayment, or (b) toward the cost of other railroad equipment, all as provided in said Article 8.

7. The Agent will accept payments made to it by the Railroad pursuant to the CSA and the Assignment on account of the principal of or interest on the CSA Indebtedness thereunder and, so long as, to the actual knowledge of the Agent, no event of default under the CSA shall have occurred and be continuing, will apply such payments promptly to the payment to the Investors, first, of interest payable to them on their respective interests in the installments of CSA Indebtedness, and second, of their respective interests in the installments of CSA Indebtedness in the order of maturity thereof, until the same shall have been paid in full. If, to the knowledge of the Agent, an event of default under the CSA shall have occurred and be continuing,

all moneys held by or coming into the possession of the Agent which, under the provisions of the CSA, are applicable to the payment or prepayment of the CSA Indebtedness or interest thereon (including, without limitation, the net proceeds of any repossession and sale or lease of any unit of the Equipment after deduction of all expenses, including reasonable counsel fees, incurred by the Agent in connection with such repossession and sale or lease and otherwise hereunder in connection with the CSA and the Assignment which shall not theretofore have been reimbursed to the Agent by the Railroad pursuant to the CSA) shall be distributed promptly by the Agent pro rata among the Investors in accordance with their respective interests in the principal and interest on the CSA Indebtedness at the time of such distribution and the Agent shall otherwise take such action as is referred to in Paragraph 8 hereof.

The Railroad agrees to pay all amounts due pursuant to this Agreement and the CSA on or before 11:00 a.m., Baltimore time, on the date due in Federal funds or other immediately available Baltimore funds. All payments to be made by the Agent hereunder shall (subject to timely receipt by the Agent of available funds) be made by check mailed to the Permanent Investors on the date such payment is due or, upon written request of any Permanent Investor or as specified in Schedule B hereto, by bank wire transfer of Federal funds or other immediately available funds by 12:00 noon, Baltimore time, on the date such payment is due to such Permanent Investor at such address as may be specified to the Agent in writing.

8. So long as the Agent shall have no actual knowledge that the Railroad is in default under this Agreement or that an event of default or event which with the lapse of time and/or demand or failure to take action provided for in the CSA could constitute an event of default thereunder shall have occurred and be continuing (any such default, event of default or event being herein called a "Default"), the Agent shall be entitled to use its discretion with respect to exercising or refraining from exercising any rights or taking or refraining from taking any action which may be vested in it, or which it may be entitled to assert or take, under the CSA, except as otherwise specifically provided herein. The Agent shall incur no liability hereunder in acting upon any notice, certificate, warrant or other paper or instrument believed by it in good faith to be genuine and signed by the proper party or parties, or with respect to anything which it may do or refrain from doing in the exercise of its best judgment, or which may seem to it

to be necessary or desirable in the premises, except liability resulting from its willful misconduct or negligence; provided, however, that in case the Agent shall have actual knowledge of the occurrence of a Default, the Agent shall notify the Investors thereof promptly by registered mail and shall take such action and assert such rights under the CSA as shall be agreed upon by Investors holding interests totaling more than 50% of the aggregate CSA Indebtedness then outstanding. In case the Agent is required to take action hereunder, it shall be indemnified by the Investors in proportion to their respective interests in the aggregate CSA Indebtedness then outstanding against any liability or expense, including reasonable counsel fees, in connection with taking such action or asserting such rights. So long as the Railroad or any person controlling, controlled by or under common control with the Railroad shall hold any interest in the CSA Indebtedness, such interest shall be disregarded for purposes of any direction of Investors to the Agent pursuant to this Paragraph 8.

The Agent may consult with legal counsel of its own choice and the Agent shall be under no liability for any action taken or suffered in good faith by it in accordance with the opinion of such counsel, so long as such opinion relates to legal matters.

9. So long as any CSA Indebtedness shall be unpaid, the Railroad will deliver to the Agent and to each Investor, (i) as soon as practicable after the end of each quarterly fiscal period in each fiscal year of the Railroad and in any event within 45 days thereafter, copies of the consolidated balance sheet of the Railroad and its consolidated subsidiaries as of the end of each such quarter and consolidated statements of income and surplus of the Railroad and its consolidated subsidiaries for each such quarter and (in the case of the second and third quarters) for the portion of the fiscal year ending with such quarter, setting forth in each case in comparative form the figures for the corresponding periods in the previous fiscal year, all in reasonable detail and certified as complete and correct and prepared in accordance with generally accepted accounting principles, subject to changes resulting from year-end adjustments, by a principal financial officer of the Railroad; (ii) if so requested in writing by any Investor, as soon as available, the reports of the Railroad filed with the Interstate Commerce Commission on Form R-1; (iii) as soon as practicable after the end of each fiscal year of the Railroad, and in any event within 120 days thereafter, copies of the audited consolidated balance sheet of the

Railroad and its consolidated subsidiaries at the end of such year, and audited consolidated statements of income and of surplus of the Railroad and its consolidated subsidiaries for such year, setting forth in each case in comparative form the figures for the previous fiscal year, accompanied by an opinion thereon of independent certified public accountants of recognized national standing selected by the Railroad that such consolidated balance sheet and statements of income and surplus have been prepared in accordance with generally accepted accounting principles; (iv) if so requested in writing by any Investor, promptly upon it becoming available, copies of any registration statement or prospectus filed by the Railroad or any consolidated subsidiary of the Railroad with any securities exchange or with the Securities and Exchange Commission or any successor agency; (v) immediately upon becoming aware of the existence of a Default, written notice by registered mail which specifies the nature of the Default and what action the Railroad is taking or proposes to take with respect thereto; and (vi) with reasonable promptness, such other data, reasonably related to this transaction, as from time to time reasonably may be requested by the Agent or any Investor.

Within 120 days of the end of each fiscal year of the Railroad, the Railroad will deliver to the Agent, and to any Investor which shall request the same in writing, a certificate of the President or Vice President and Treasurer or an Assistant Treasurer of the Railroad stating that the signatories have reviewed the relevant terms of the CSA and the Assignment and have made, or caused to be made under their supervision, a review of the transactions or conditions of the Railroad and its consolidated subsidiaries from the beginning of the accounting period covered by the income statements being delivered separately or therewith to the date of the certificate and that such review has not disclosed the existence during such period of any Default or if any such Default existed or exists, specifying the nature and period of existence thereof and what action the Railroad has taken or proposes to take with respect thereto.

If a Default shall occur, the Railroad will permit the Agent and any representatives of the Investors to discuss the affairs, finances and accounts of the Railroad with its officers and employees, all at such reasonable times and as often as reasonably may be requested.

10. The Agent will promptly mail or deliver one counterpart or copy of all notices, reports, statements or documents received by it from the Railroad pursuant to this Agreement, the CSA or the Assignment to each Investor who shall have requested the same in writing.

11. All notices, instructions, directions and approvals to be delivered hereunder to the Agent by any Investor shall be in writing signed by an officer, assistant officer, manager or assistant manager of such Investor or another person thereunto duly authorized by such Investor, and the Agent may rely on any notice, instruction, direction or approval so signed.

12. The Agent represents and warrants that it has all necessary corporate authority to enter into this Agreement and the Assignment and to execute and deliver the certificates of interest. The Agent makes no representation and assumes no responsibility with respect to (i) the validity of the CSA or the Assignment or any certificate of interest (except with respect to its own execution thereof) or any of the matters covered thereby or (ii) the value of or the title to the Equipment.

13. In the event of any dispute with respect to the delivery or ownership or right to possession of funds or documents at any time held by the Agent hereunder, or with respect to title to any unit of the Equipment, the Agent is hereby authorized and directed to retain, without liability to anyone, all or any of such funds or documents and title to such unit of the Equipment until such dispute shall have been settled either by agreement of the Investors or by final order, decree or judgment of a court of competent jurisdiction.

14. All documents and funds deliverable hereunder to the Permanent Investors shall be delivered or mailed to them at their respective addresses set forth in Schedule B hereto, or as any Permanent Investor may otherwise specify.

All documents deliverable hereunder to the Agent shall be delivered to it at its address at P.O. Box 2258 (Two Hopkins Plaza, if by hand), Baltimore, Maryland 21203, Attention of Corporate Trust Department, or as the Agent may otherwise specify.

All documents and funds deliverable hereunder to the Railroad shall be delivered to it at its address at 100

North Charles Street, Baltimore, Maryland 21201, Attention of Treasurer.

15. The Agent shall be entitled to terminate its duties and responsibilities hereunder by giving written notice to the Investors that it desires to terminate such duties and responsibilities on a date (at least 30 days subsequent to the giving of such notice) stated in said notice; it being understood and agreed that the Agent shall also give such notice if it is directed to do so by Investors holding interests totaling more than 50% of the aggregate CSA Indebtedness then outstanding. If, prior to the date stated in said notice, Investors holding interests totaling more than 50% of the aggregate CSA Indebtedness then outstanding shall have requested in writing that the Agent assign to a person or institution designated by such Investors all right, title and interest of the Agent under the CSA and the Assignment and in and to the Equipment, the Agent shall comply with such request. In the event that such request is not received by the Agent on or before the date designated in said notice, the Agent shall be entitled to appoint a successor to act hereunder and to assign to such successor, subject to the provisions of this Agreement, all such right, title and interest of the Agent. Upon such assignment by the Agent to a person or institution designated by such Investors or, in the absence of such designation, to a successor appointed by the Agent, the Agent shall be thereafter relieved of all duties and responsibilities hereunder. Any successor appointed hereunder shall be a bank or trust company located in Baltimore, Maryland, or in New York, New York, having capital and surplus aggregating at least \$50,000,000.

Any corporation resulting from any merger or consolidation to which the Agent or any successor to it shall be a party, or any corporation in any manner succeeding to all or substantially all the corporate trust business of the Agent or any successor Agent, provided such corporation shall be a bank or a trust company doing business in New York, New York, or in Baltimore, Maryland, having a capital and surplus aggregating at least \$50,000,000, shall be the successor agent hereunder without the execution or filing of any paper or further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

16. The Railroad and the Agent, as assignee of the Builder under the Assignment, agree that, subject to the payment of the amount to be paid by the Permanent Investors

and by the Railroad pursuant to Paragraph 1 hereof, the CSA shall be amended as follows:

(a) The fourth and fifth paragraphs of Article 4 of the CSA are deleted and the following is substituted therefor:

"The Railroad hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay to the Vendor at such place as the Vendor or its assignee shall designate, the remainder of the Purchase Price of the Equipment (\$2,536,365.60 as of February 15, 1983, hereinafter called the "CSA Indebtedness") in eight (8) equal annual installments as hereinafter provided."

"The installments of the CSA Indebtedness payable pursuant to the fourth paragraph of this Article 4 shall be payable annually, in immediately available funds, on January 15 in each year commencing on January 15, 1984, to and including January 15, 1991. The unpaid portion of the CSA Indebtedness shall bear interest from the respective dates on which such indebtedness was incurred at the rate of 12% per annum. Such interest shall be payable to the extent accrued, in immediately available funds, on January 15 and July 15 in each year, commencing July 15, 1983."

(b) The second paragraph of Article 8 of the CSA is deleted and the following substituted therefor:

"So long as no event of default shall have occurred and be continuing, any money paid to the Vendor pursuant to the preceding paragraph of this Article 8 shall, as the Railroad shall direct in a written instrument filed with the Vendor, be applied on or before the next installment date for the payment of CSA Indebtedness occurring more than 180 days following the date of such payment to the Vendor, in whole or in part, to prepay installments of CSA Indebtedness or, in whole or in part, toward the cost of a unit or units of auto racks to replace units suffering a Casualty Occurrence; and in the event that no direction is so received by the Vendor, such moneys shall be applied by the Vendor to the prepayment of the CSA Indebtedness as aforesaid. Any units of replacement equipment shall be new and shall have a remaining useful life (as evidenced by a certificate of an operating officer of the Railroad) at least as long as that which the Equipment

being replaced would have had, but for the Casualty Occurrence. In case any money is applied pursuant to this Article 8 to prepay CSA Indebtedness, it shall be so applied without premium but with interest accrued thereon to the aforesaid installment date, to reduce installments thereafter falling due pro rata."

(c) The fifth paragraph of Article 8 of the CSA is deleted and the following is substituted therefor:

"Whenever the Railroad shall file with the Vendor a written direction to apply amounts toward the cost of any replacement unit or units, the Railroad shall file therewith:

(1) a certificate of a Vice President or Treasurer or Chief Accounting Officer of the Railroad certifying that such replacement unit is new and is an auto rack and has been marked as required by the provisions of this Article 8 and certifying the cost of such replacement unit and that such replacement equipment has a remaining useful life at least as long as that which the Equipment being replaced would have had but for the Casualty Occurrence; and

(2) an opinion of counsel for the Railroad that the Vendor has a valid and perfected security interest in such replacement unit, free and clear from all claims, liens, security interests and other encumbrances except the rights of the Railroad under this Agreement, and that such unit has come under and become subject to this Agreement."

(d) The sixth paragraph of Article 8 of the CSA is amended to delete the parenthetical phrase which begins in the fourth line, the intention being not to allow repurchase agreements in respect of Investments.

(e) Article 19 of the CSA is amended to add the following as a new first sentence:

"The Railroad will cause appropriate financing statements and continuation statements to be filed and (from time to time when required) refiled in accordance with the applicable provisions of the Uniform Commercial Code as in effect in the State of Maryland (and, if the Railroad changes its principal place of business to a different state, in any such other state) and in any other State of the United States of America or the

District of Columbia where filing is reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of the Vendor, of its security interest in the Equipment and its rights under this Agreement."

(f) All references in the CSA to more than one Builder shall be deemed to refer only to the Builder which executed the CSA.

17. The Railroad will pay or cause to be paid (i) the reasonable fees and disbursements of Messrs. Cravath, Swaine & Moore, as special counsel for the Permanent Investors and the Agent, and the cost of producing and reproducing this Agreement, the CSA and the Assignment, (ii) the fee payable to the placing agent in connection with the placement of the CSA Indebtedness with the Permanent Investors, (iii) the reasonable routine and ordinary fees, costs and disbursements of the Agent, (iv) the costs of filing and recording this Agreement and any amendments or supplements thereto with the Interstate Commerce Commission and the costs of filing the financing statements and continuation statement required by this Agreement, and (v) the costs of producing and reproducing any amendments or supplements and the reasonable fees and disbursements of Messrs. Cravath, Swaine & Moore in connection therewith. The Investor, the Permanent Investors and the Agent shall have no liability for any of the aforesaid fees, costs, disbursements and expenses.

18. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Maryland; provided, however, that the parties shall be entitled to all rights conferred by applicable Federal law and such additional rights arising out of the filing or recording hereof and of financing statements and continuation statements as shall be conferred by the laws of the several jurisdictions in which this Agreement, financing statements and continuation statements shall be filed or recorded.

19. This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any

counterpart be signed by all the parties so long as at least one counterpart shall be signed by each party hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers or other persons thereunto duly authorized, as of the date first above written.

[Seal]

Attest:

W. Palmer
Assistant Corporate
Trust Officer

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY, as Agent,

by

[Signature]
Assistant Vice President

[Seal]

Attest:

Corporate Secretary

THE BALTIMORE AND OHIO
RAILROAD COMPANY,

by

Assistant Vice President
and Treasurer

INVESTOR:

RAILEASE, INCORPORATED,

by

Assistant Vice President
and Treasurer

counterpart be signed by all the parties so long as at least one counterpart shall be signed by each party hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers or other persons thereunto duly authorized, as of the date first above written.

[Seal]

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent,

Attest:

by

Assistant Corporate Trust Officer

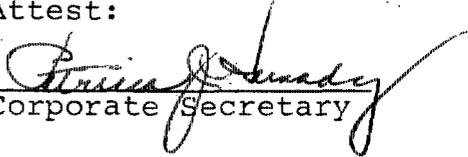
Assistant Vice President

[Seal]

THE BALTIMORE AND OHIO RAILROAD COMPANY,

Attest:

by



Corporate Secretary



Assistant Vice President and Treasurer Appd

INVESTOR:



AGA

RAILEASE, INCORPORATED,

by



Assistant Vice President and Treasurer Appd



AGA

District of Columbia where filing is reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of the Vendor, of its security interest in the Equipment and its rights under this Agreement."

(f) All references in the CSA to more than one Builder shall be deemed to refer only to the Builder which executed the CSA.

17. The Railroad will pay or cause to be paid (i) the reasonable fees and disbursements of Messrs. Cravath, Swaine & Moore, as special counsel for the Permanent Investors and the Agent, and the cost of producing and reproducing this Agreement, the CSA and the Assignment, (ii) the fee payable to the placing agent in connection with the placement of the CSA Indebtedness with the Permanent Investors, (iii) the reasonable routine and ordinary fees, costs and disbursements of the Agent, (iv) the costs of filing and recording this Agreement and any amendments or supplements thereto with the Interstate Commerce Commission and the costs of filing the financing statements and continuation statement required by this Agreement, and (v) the costs of producing and reproducing any amendments or supplements and the reasonable fees and disbursements of Messrs. Cravath, Swaine & Moore in connection therewith. The Investor, the Permanent Investors and the Agent shall have no liability for any of the aforesaid fees, costs, disbursements and expenses.

18. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Maryland; provided, however, that the parties shall be entitled to all rights conferred by applicable Federal law and such additional rights arising out of the filing or recording hereof and of financing statements and continuation statements as shall be conferred by the laws of the several jurisdictions in which this Agreement, financing statements and continuation statements shall be filed or recorded.

19. This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any

PERMANENT INVESTORS:

HOME BENEFICIAL LIFE INSURANCE
COMPANY,

by

Title:

KENTUCKY CENTRAL LIFE
INSURANCE COMPANY,

by

Title:

VOYAGER LIFE INSURANCE
COMPANY,

by

Title:

WOODMEN ACCIDENT AND LIFE
COMPANY,

by

Title:

WESTERN STATES LIFE INSURANCE
COMPANY,

by

Title:

STATE OF MARYLAND)
) ss:
CITY OF BALTIMORE)

On this day of February, 1983, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is Assistant Vice President and Treasurer of THE BALTIMORE AND OHIO RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires

STATE OF MARYLAND)
) ss:
CITY OF BALTIMORE)

On this *2nd* day of *March*, 1983, before me personally appeared R. E. Schreiber , to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Patricia A. Conn
Notary Public

[Notarial Seal]

My Commission expires *7-1-86*

PERMANENT INVESTORS:

HOME BENEFICIAL LIFE INSURANCE
COMPANY,

by

Title:

KENTUCKY CENTRAL LIFE
INSURANCE COMPANY,

by

Title:

VOYAGER LIFE INSURANCE
COMPANY,

by

Title:

WOODMEN ACCIDENT AND LIFE
COMPANY,

by

Title:

WESTERN STATES LIFE INSURANCE
COMPANY,

by

Title:

OHIO
STATE OF MARYLAND)
COUNTY CUYAHOGA) SS:
CITY OF BALTIMORE)

On this 3rd day of ~~February~~ March, 1983, before me personally appeared L.E. Raig, Jr., to me personally known, who, being by me duly sworn, says that he is Assistant Vice President and Treasurer of THE BALTIMORE AND OHIO RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Louis Recher

Notary Public

[Notarial Seal]

My Commission expires

LOUIS RECHER, Attorney
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date.
section 147.03 R. C.

STATE OF MARYLAND)
CITY OF BALTIMORE)) SS:

On this day of February, 1983, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires

Name and Address of InvestorInvestment

Railease, Incorporated
P. O. Box 6419
Cleveland, Ohio 44101

\$2,536,365.60

Name and Address of
Permanent Investors

Commitment

Home Beneficial Life Insurance Company
P.O. Box 27572
Richmond, Virginia 23261

\$ 1,000,000.00

Attention of Securities Department

Payments by bank wire transfer of immediately available funds to First & Merchants National Bank, Richmond, Virginia, for credit to Home Beneficial Life Insurance Company's Account No. 03-26-3200, with notation as to payment of principal and interest and source of payment.

In the case of all other communications, to the first address above.

Certificate to be sent to Mr. P. M. Farmer, Jr., Trust Department, First & Merchants National Bank, P.O. Box 26986, Richmond, Virginia 23261.

Kentucky Central Life Insurance Company
Kincaid Towers
300 West Vine Street
Lexington, Kentucky 40507

500,000.00

Attention of Investment Department

All payments to be made by bank wire or interbank transfer of immediately available funds through the Federal Reserve System to Central Bank & Trust Company, Lexington, Kentucky, ABA No. 042100146, for further credit to its customer Kentucky Central Life Insurance Company, Account Number 1000983401, with sufficient information to identify the source and application of the funds.

Name and Address of
Permanent Investors

Commitment

Voyager Life Insurance Company
P.O. Box 2918
Jacksonville, Florida 32202

\$ 500,000.00

Attention of Mr. Mike Harhai

Woodmen Accident and Life Company
P. O. Box 82288
Lincoln, Nebraska 68501

336,365.60

Attention of Investment Division

Payment by wire transfer of Federal funds
to The First National Bank and Trust
Company of Lincoln, Nebraska 68508, for
deposit in the Woodmen Accident and Life
Company, General Fund Account No. 092-909,
with sufficient notation to identify the
source and application of such funds.

Certificate to be registered in the name
of Woodmen Accident and Life Company
and delivered to George Bahe, Vice President,
Security Accounting Division, Harris Trust
and Savings Bank, 111 West Monroe Street,
Chicago, Illinois 60690.

Name and Address of
Permanent Investors

Commitment

Western States Life Insurance
Company
Box 2907
Fargo, North Dakota 58108

\$ 200,000.00

Attention of W. Thomas Joyce,
Treasurer

Payment by wire transfer to
First Trust Company of North
Dakota, Fargo, North Dakota,
for deposit to the account of
Western States Life Insurance
Company, Account No. 6301-02902-9,
with sufficient notation to
identify the source and application
of such funds.

Certificate of Interest to be
registered in the name of
Western States Life Insurance
Company and delivered to Mr. Harry
Moe, Vice President, First Trust
Company of North Dakota, P.O. Box
1980, Fargo, North Dakota 58107.

\$2,536,365.60

CERTIFICATE OF INTEREST

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY
("Agent") hereby acknowledges receipt from

("Permanent Investor") of

Dollars (\$ _____), such sum having been paid by the Investor under and pursuant to the terms and conditions of an Amended and Restated Finance Agreement and Amendment dated as of February 15, 1983 ("Finance Agreement"), among the Agent, THE BALTIMORE AND OHIO RAILROAD COMPANY ("Railroad"), the party named in Schedule A to the Finance Agreement, the Permanent Investor and the other parties named in Schedule B to the Finance Agreement. By reason of such payment the Permanent Investor has an interest in a principal amount equal to such sum in the CSA Indebtedness (as defined in the CSA hereinafter mentioned) and in and to (i) the Conditional Sale Agreement dated as of January 15, 1981 ("CSA"), between WHITEHEAD & KALES COMPANY ("Builder"), and the Railroad, (ii) the related Agreement and Assignment dated as of January 15, 1981, between the Builder and the Agent, (iii) the right, title and interest of the Agent in and to the railroad Equipment covered by the CSA and (iv) all cash and other property from time to time held by the Agent under the Finance Agreement, except to the extent that installments of such principal amount shall have been paid.

Under the terms of the CSA and the Finance Agreement, subject to the rights of prepayment contained therein in the event of a Casualty Occurrence (as defined therein), (i) such principal amount is repayable in 8 consecutive equal annual installments on January 15 in each year commencing January 15, 1984, to and including January 15, 1991, (ii) such principal amount bears interest, payable semi-annually on January 15 and July 15 in each year, commencing July 15, 1983, on the unpaid portion thereof from time to time outstanding from the date of this certificate until the same shall have become due and payable, at the rate of 12% per annum, and (iii) all such principal and interest remaining unpaid after the same shall have become due and payable bears interest, to the extent legally enforceable, at the rate of 13% per annum. All payments received by the Agent in accordance with the terms of the Finance Agreement

and the CSA shall be disbursed by the Agent in accordance with the terms and conditions of the Finance Agreement.

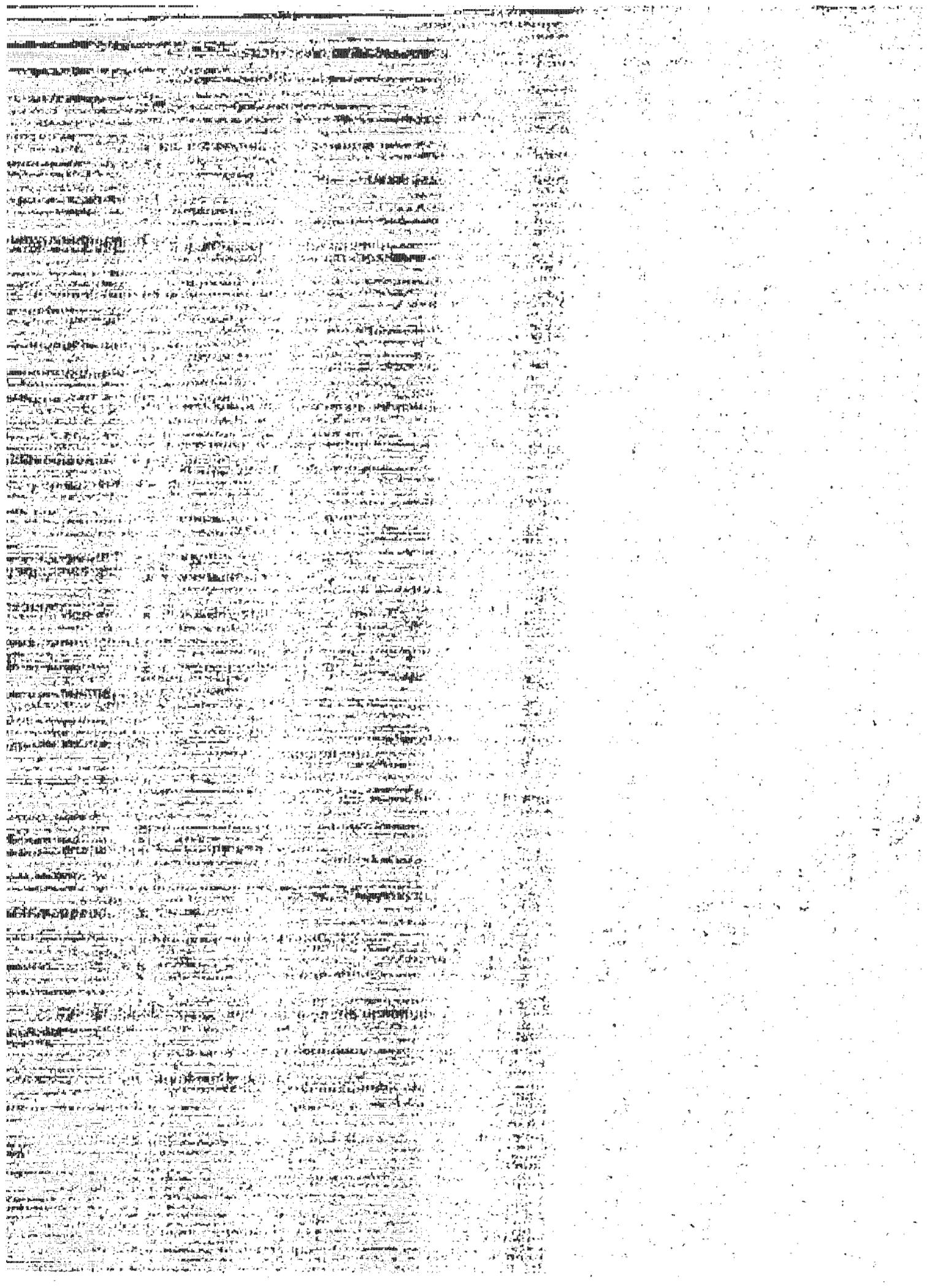
DATED:

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY, as Agent under
the Finance Agreement,

By

Authorized Officer

INQUIRY SHOULD BE MADE OF THE AGENT
IF CERTIFICATION AS TO BALANCE DUE
HEREUNDER IS REQUIRED



CONDITIONAL SALE AGREEMENT

Dated as of January 15, 1981

between

WHITEHEAD & KALES COMPANY

and

THE BALTIMORE AND OHIO RAILROAD COMPANY

CONDITIONAL SALE AGREEMENT dated as of January 15, 1981, between each of WHITEHEAD & KALES COMPANY, a Michigan corporation, (the "Builder" or the "Vendor" as the context may require), and THE BALTIMORE AND OHIO RAILROAD COMPANY, a Maryland corporation (the "Railroad").

The Builder has agreed to construct, sell and deliver to the Railroad, and the Railroad has agreed to purchase, the equipment described in Schedule B hereto (the "Equipment");

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Definitions. The term "Vendor", whenever used in this Agreement, means, before any assignment of any of their rights hereunder, the corporation listed in Item 1 of Schedule A, attached hereto and made a part hereof, and any successor or successors for the time being to its manufacturing properties and businesses, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment. The term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the corporation (as to the units of Equipment to be constructed by such corporation and sold hereunder) listed in Item 1 of Schedule A hereto and any successor or successors for the time being to its manufacturing properties and businesses. The term "work equipment" shall mean equipment listed in the Interstate Commerce Commission Chart of Accounts, 49 C.F.R., Part 1201, Account 57, as such is in force as of the date of this Conditional Sale Agreement.

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, the Builder shall construct the units of Equipment to be constructed by it as described in Schedule B hereto (such units of Equipment with respect to such Builder being hereinafter called "its Equipment") described in Schedule B hereto and will sell and deliver to the Railroad, and the Railroad will purchase from such Builder and accept delivery of and pay for (as hereinafter provided), such Equipment, each unit of which shall be constructed in accordance with the specifications set forth therefor in Schedule B hereto and in accordance with such modifications thereof as may be agreed upon in writing between such Builder and the Railroad (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture of each thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to equipment of the character of such units of the Equipment and each unit of the Equipment (except to the extent, if any, referred to in Schedule A hereto and/or in Article 8 hereof) will be new railroad equipment.

ARTICLE 3. Inspection and Delivery. The Builder will deliver the units of its Equipment to the Railroad at the place or places specified in Schedule B hereto (or if Schedule B does not specify a place or places, at the place or places designated from time to time by the Railroad), freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Schedule B hereto; provided, however, that no Builder shall have any obligation to deliver any unit of Equipment hereunder at any time after the commencement of any proceedings specified in Clause (c) or (d) of Article 16 hereof or if any event of default (as described in Article 16 hereof), or event which with the lapse of time and/or demand or failure to take action could constitute such an event of default, shall have occurred and be continuing.

The Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond such Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 3, any Equipment not delivered, accepted and settled for pursuant to Article 4 hereof on or before the Cut-Off Date (as defined in Article 4 hereof) shall be excluded herefrom. If any unit or units of Equipment shall be excluded from this Agreement pursuant to the immediately preceding sentence, the Builder of such unit or units and the Railroad shall execute an agreement supplemental hereto limiting this Agreement to the units of Equipment not so excluded herefrom. If the Builder's failure to deliver Equipment so excluded from this Agreement resulted from one or more of the causes set forth in the immediately preceding paragraph, the Railroad shall nevertheless be obligated to accept such Equipment and pay the full purchase price therefor, determined as provided in this Agreement, if and when such Equipment shall be completed and delivered by such Builder, such payment to be in cash on the delivery of such Equipment, either directly or, in case the Railroad shall arrange therefor, by means of a conditional sale agreement, equipment trust or such other appropriate method of financing as the Railroad shall determine and as shall be reasonably acceptable to such Builder.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Railroad and each Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect all materials used in the construction of the Equipment in accordance with the standard quality control practices of such Builder. Upon completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Railroad for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Railroad shall execute and deliver to such Builder a certificate of acceptance (the "Certificate of Acceptance") stating that such unit or units have been inspected and accepted on behalf of the Railroad and are marked in accordance with Article 7 hereof; provided, however, that such Builder shall not thereby be relieved of its warranty referred to in Article 14 hereof.

On delivery of each such unit hereunder at the place specified for delivery, the Railroad will assume the responsibility and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such unit.

ARTICLE 4. Purchase Price and Payment. The estimated base price or prices per unit of the Equipment are set forth in Schedule B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder thereof and the Railroad. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased, including without limitation any increase pursuant to the presentation of a supplemental invoice as hereinafter provided.

If the aggregate Purchase Price of the Equipment should exceed \$3,150,000 plus an amount equal to the same percentage thereof as the percentage of increase of the Investor's commitment pursuant to Paragraph 2 of the Finance Agreement dated as of the date hereof among Mercantile-Safe Deposit and Trust Company, Maryland Construction Company of Baltimore City and the Railroad (such amount being hereinafter referred to as the "Maximum Purchase Price"), the Builder (and any assignee of such Builder) and the Railroad, unless waived by the Railroad, will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Railroad, as will, after giving effect to such exclusion, reduce the aggregate Purchase Price of each Builder under this Agreement to not more than the Maximum Purchase Price, and the Railroad agrees to purchase any such unit or units so excluded from this Agreement from the Builder thereof for cash on the date such unit or units would otherwise have been settled for under this Agreement either directly, or by means of a conditional sale, equipment trust or other appropriate method of financing as the Railroad shall determine and shall be reasonably acceptable to such Builder.

For the purpose of making settlement, the Equipment of each Builder shall be divided into such number of groups of units of the Equipment, delivered to and accepted by the Railroad (each such group being hereinafter called a "Group"), as such Builder and the Railroad may agree to.

The Railroad hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) on each Closing Date (as hereinafter defined) the amount, if any, by which (x) the Purchase of all units of the Equipment for which settlement has theretofore and is then being made, as stated in the invoice or invoices presented (including the supplemental invoice or invoices hereinafter provided for) in respect of such Closing Date (said invoiced prices being hereinafter called the "Invoiced Purchase Prices"), exceeds (y) the sum of the Maximum Purchase Price and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this subparagraph (a); and

(b) in ten (10) consecutive equal annual installments, as hereinafter provided, an amount equal to the aggregate of the Invoiced Purchase Prices for all the Equipment less the amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph (the aggregate of said installments being hereinafter called the "CSA Indebtedness").

In the event that on any Closing Date the final Purchase Price of any Group has not been finally determined, the invoice presented may be for an estimated Purchase Price, subject to adjustment upon determination of the final Purchase Price, and a supplemental invoice may be presented by each Builder at least 10 days prior to any subsequent Closing Date for settlement on such subsequent Closing Date for any

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increase in the Purchase Price; it being understood and agreed by such Builder that any prior preliminary invoice or invoices presented by such Builder shall be in an amount not in excess of the final Purchase Price of such Group. If a supplemental invoice is presented by the Builder after the last Closing Date, it shall be paid in cash by the Railroad to such Builder in accordance with its original purchase order.

The installments of the CSA Indebtedness payable pursuant to subparagraph (b) of the third paragraph of this Article 4 shall be payable annually, in immediately available funds, on January 15 in each year commencing on January 15, 1982 to and including January 15, 1991. The unpaid portion of the CSA Indebtedness shall bear interest from the respective Closing Dates on which such indebtedness was incurred at the rate of 12% per annum. Such interest shall be payable to the extent accrued, in immediately available funds, on January 15 and July 15 in each year, commencing July 15, 1981.

The term "Closing Date" with respect to any Group of the Equipment shall mean such date (on or after January 15, 1981, and prior to April 30, 1981, the "Cut-Off Date"), not more than ten business days following presentation by the Builder of Equipment in such Group to the Railroad of the invoice or a supplemental invoice and the Certificate or Certificates of Acceptance for such Group, as shall be fixed by the Railroad by written notice delivered to such Vendor at least five business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other days on which banking institutions in Baltimore, Maryland, or New York, New York, are authorized or obligated to be closed.

All interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months.

The Railroad will pay, to the extent legally enforceable, interest at the rate of 13% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 8 hereof, the Railroad shall not have the privilege of prepaying any installment of CSA Indebtedness hereunder prior to the date it becomes due.

In the event the Vendor, pursuant to Article 15 hereof, assigns the right to receive the payments herein provided to be made by the Railroad, the assignee thereof may request the Railroad to make and the Railroad shall make such payments to it at such address as shall be supplied to the Railroad by the assignee.

ARTICLE 5. Taxes. All payments to be made by the Railroad hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, federal or foreign taxes (other than net income, gross receipts (except gross receipts taxes in the nature of or in lieu of sales or use taxes), excess profits and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in

connection with or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called "Impositions"), all of which Impositions the Railroad assumes and agrees to pay on demand. The Railroad will also pay promptly all Impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom or upon the Vendor solely by reason of its interest therein and will keep at all times all and every part of the Equipment free and clear of all Impositions which might in any way affect the security title of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Railroad shall be under no obligation to pay any Impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such Impositions and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the interest or rights of the Vendor in as to the Equipment or otherwise under this Agreement. If any such Impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Railroad shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that the Railroad shall not be obligated to reimburse the Vendor for any Impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Railroad shall have approved the payment thereof.

ARTICLE 6. Security Title in the Equipment. The Vendor shall and hereby does retain its title and a security interest in the Equipment until the Railroad shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as provided in this Agreement. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 8 hereof, when and only when the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, shall have been paid, and all the Railroad's obligations herein contained shall have been performed by the Railroad, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Railroad at that time, will (a) execute a bill or bills of sale for the Equipment transferring and releasing its interest therein to the Railroad, or upon its order, free of all claims, liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address referred to in Article 21 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the release of the security title of the Vendor in the Equipment and (c) pay to the Railroad any money paid to the Vendor pursuant to Article 8 hereof and not theretofore applied as therein provided. The Railroad hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Railroad.

ARTICLE 7. Marking of the Equipment. The Railroad will cause each unit of the Equipment to be kept numbered with its identifying number as set forth in Schedule B hereto, or in the case of Equipment not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", or the name of the Vendor followed by the words "AGENT, OWNER", with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's interest in the Equipment and its rights under this Agreement. The Railroad will not place any such unit in operation or exercise any control or dominion over the same until such markings have been made thereon and will replace promptly any such markings which may be removed, defaced, obliterated or destroyed. The Railroad will not change the number of any unit of the Equipment except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor by the Railroad and filed, recorded and deposited by the Railroad in all public offices where this Agreement shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the Railroad will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia of the Railroad or its affiliates.

ARTICLE 8. Casualty Occurrences; Insurance. In the event that any unit of the Equipment shall be worn out, lost, stolen, destroyed, irreparably damaged or otherwise rendered permanently unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called "Casualty Occurrences"), the Railroad shall promptly and fully inform the Vendor in regard thereto (after it has knowledge of such Casualty Occurrence). When the aggregate Casualty Value (as defined herein) of all units having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Vendor pursuant to this Article 8) hereunder shall exceed \$200,000, the Railroad, within 30 days after it has knowledge of such event, shall promptly pay to the Vendor a sum equal to the aggregate Casualty Value of such units of the Equipment as of the date of such payment and shall file with the Vendor a certificate of an officer of the Railroad setting forth the Casualty Value of each unit of the Equipment suffering a Casualty Occurrence.

So long as no event of default shall have occurred and be continuing, any money paid to the Vendor pursuant to the preceding paragraph of this Article 8 shall, as the Railroad shall direct in a written instrument filed with the Vendor, be applied on or before the next installment date for the payment of CSA Indebtedness occurring more than 180 days following the date of such payment to the Vendor, in whole or in part, to prepay installments of CSA Indebtedness or, in whole or in part, toward the cost of a unit or units of standard gauge railroad equipment (other than passenger or work equipment) first put into service no earlier than the date of this Agreement, to replace units suffering a Casualty Occurrence; and in the event that no direction is so received by the Vendor, such moneys shall be applied by the Vendor to the prepayment of the CSA Indebtedness as aforesaid. Any unit of replacement equipment shall have a

remaining useful life (as evidenced by a certificate of an operating officer of the Railroad) at least as long as that which the Equipment being replaced would have had, but for the Casualty Occurrence. If such replacement equipment shall be equipment theretofore used in railroad service, the Railroad shall deliver to the Vendor a certificate of an officer of the Railroad that the cost of such equipment to the Vendor does not exceed the lesser of the fair value thereof or the original cost thereof less depreciation at a rate equal to 1/10 of such original cost for each year in service. In case any money is applied pursuant to this Article 8 to prepay CSA Indebtedness, it shall be so applied without premium but with interest accrued thereon to the aforesaid installment date, to reduce installments thereafter falling due pro rata.

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The Casualty Value of each unit of the Equipment (other than a replacement unit) shall be deemed to be that amount which bears the same ratio to the original Purchase Price thereof (less, in the event that the Railroad shall have made any payment or payments under the provisions of subparagraph (a) of the third paragraph of Article 4 hereof, an amount which bears the same ratio to the aggregate of all such payments as the original Purchase Price of such unit bears to the original aggregate Purchase Price of all the Equipment) as the unpaid CSA Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 8), as of the date payment is made with respect to such Casualty Occurrence bears, to the original CSA Indebtedness. The Casualty Value of each replacement unit shall be deemed to be that amount which bears the same ratio to the portion of the cost thereof paid by the Vendor as the unpaid CSA Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 8) as of the date payment is made with respect to such Casualty Occurrence bears to the unpaid CSA Indebtedness (without giving effect to any such prepayments) as of the date of acquisition by the Vendor of such replacement unit.

The Railroad will cause any replacement unit or units to be marked as provided in Article 7 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all appropriate terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and shall be included in the term "Equipment" as used in this Agreement; provided, however, that nothing herein shall result in the Builder having any liability or obligation with respect to any replacement unit or units not manufactured by it. Title to all such replacement units shall be free and clear of all liens and encumbrances except the liens permitted by the second paragraph of Article 12 hereof and shall be taken initially and shall remain in the name of the Vendor subject to the provisions hereof, and the Railroad shall execute, acknowledge, deliver, file, record or deposit all such documents and do any and all such acts as may be necessary to cause such replacement units to come under and be subject to this Agreement. All such replacement units shall be guaranteed and warranted in like manner as is customary at the time for similar equipment.

Whenever the Railroad shall file with the Vendor a written direction to apply amounts toward the cost of any replacement unit or units, the Railroad shall file therewith:

Amended

(1) a certificate of a Vice President or Treasurer or Chief Accounting Officer of the Railroad certifying that such replacement unit is standard gauge railroad equipment (other than passenger equipment or work equipment) first put into service no earlier than the date of this Agreement, and has been marked as required by the provisions of this Article 8 and certifying, in the event such replacement unit is new equipment, the cost of such replacement unit and, in the event such replacement unit shall be equipment theretofore used in railroad service, that the cost thereof to the Vendor does not exceed the lesser of the fair value thereof or the original cost thereof less depreciation at a rate equal to one tenth (1/10) of such original cost for each year in service, and that such replacement equipment has a remaining useful life at least as long as that which the Equipment being replaced would have had but for the Casualty Occurrence; and

(2) an opinion of counsel for the Railroad that the Vendor has a valid and perfected security interest in such replacement unit, free and clear from all claims, liens, security interests and other encumbrances except the rights of the Railroad under this Agreement, and that such unit has come under and become subject to this Agreement.

So long as no event of default shall have occurred and be continuing, any money paid to the Vendor pursuant to this Article 8 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in such of the following as may be specified in such written direction ~~(whether through outright purchase or repurchase agreements)~~: (i) direct obligations of the United States of America or obligations for which the full faith and credit of the United States is pledged to provide for the payment of principal and interest, (ii) open market commercial paper rated A-1 by Standard & Poor's Corporation or prime-1 by NCO/Moody's Commercial Paper Division of Moody's Investors Service, Inc., or the successor of either of them, or (iii) certificates of deposit of domestic commercial banks in the United States of America having total assets in excess of \$500,000,000, in each case maturing in not more than one year from the date of such investment (such investments being hereinafter called "Investments"). Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest received by the Vendor on any Investments shall be held by the Vendor and applied as hereinafter provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus any interest received by the Vendor thereon, up to the cost (including accrued interest) thereof, shall be held by the Vendor for application pursuant to this Article 8, and any excess shall be paid to the Railroad. If such proceeds (plus such interest) shall be less than such cost, the Railroad will promptly pay to the Vendor an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Vendor in connection with the purchase and sale of Investments.

If one or more events of default shall have occurred and be continuing, all money held by the Vendor pursuant to this Article 8 (including, for this purpose, Investments) shall be applied by the Vendor as if such money were money received upon the sale of Equipment pursuant to Article 17 hereof.

In order to facilitate the sale or other disposition of any Equipment suffering a Casualty Occurrence, the Vendor shall, upon request of the Railroad, after payment by the Railroad of a sum equal to the Casualty Value of such Equipment, execute and deliver to the Railroad or the Railroad's vendee, assignee or nominee, a bill of sale (without warranties) for such Equipment, and such other documents as may be required to release such Equipment from the terms and scope of this Agreement, in such form as may be reasonably requested by the Railroad.

The Railroad will at all times prior to the payment of the full indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon and all other payments required hereby, at its own expense, cause to be carried and maintained insurance in respect of the Equipment at the time subject hereto and public liability insurance in amounts and against risks customarily insured against by railroad companies on similar equipment, and in any event in amounts and against risks comparable to those insured against by the Railroad on similar equipment owned by it, provided such insurance is consistent with prudent industry practice.

ARTICLE 9. Maintenance; Compliance with Laws and Rules. The Railroad will at all times maintain the Equipment or cause the Equipment to be maintained in good order and repair at its own expense.

During the term of this Agreement, the Railroad will at all times comply in all respects with all laws of the jurisdictions in which its operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of any part on any unit of the Equipment, the Railroad will conform therewith, at its own expense; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 10. Reports and Inspections. On or before November 30 in each year, commencing with the year 1981, the Railroad shall furnish to the Vendor an accurate statement signed by an officer of the Railroad (a) setting forth as at the preceding June 30 the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement in the case of the first such statement) or that have been withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 7 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Railroad's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 11. Possession and Use. The Railroad, so long as an event of default shall not have occurred under this Agreement and be continuing, shall be entitled to the possession of the Equipment and the use thereof upon the lines of railroad owned or operated by it either alone or jointly with others and whether under lease or otherwise, or upon the lines of railroad owned or operated by any railroad company controlled by, or under common control with, the Railroad, or over which it has trackage rights, or upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, from and after delivery of the Equipment by the Builder to the Railroad, but only upon and subject to all the terms and conditions of this Agreement. The Railroad will not assign any of the Equipment for use outside the United States of America.

ARTICLE 12. Prohibition Against Liens. The Railroad will pay or discharge any and all sums claimed by any party from, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or in the Equipment, or any unit thereof; provided, however, that the Railroad shall be under no obligation to pay or discharge any such claim so long as it is contesting in good faith and by appropriate legal proceedings such claim and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

ARTICLE 13. Railroad's Indemnities. The Railroad agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of retention by the Vendor of a security title in the Equipment, the use and operation thereof by the Railroad during the period when said security title remains in the Vendor or the transfer of said security title in the Equipment by the Vendor pursuant to any of the provisions of this Agreement. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

ARTICLE 14. Patent Indemnities; Builder's Warranty of Material and Workmanship. Except in cases of articles or materials specified by the Railroad and not manufactured by such Builder and in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by such Builder, each Builder agrees to indemnify, protect and hold harmless the Railroad from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Railroad, its assigns or the users of the Equipment manufactured by such Builder because of the use in or about the construction or operation of any of such Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The

Railroad likewise will indemnify, protect and hold harmless the Vendor from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Railroad and not manufactured by the Builder of such Equipment or of any design, system, process, formula or combination specified by the Railroad and not developed or purported to be developed by such Builder which infringes or is claimed to infringe on any patent or other right. The Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Railroad every claim, right and cause of action which such Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Railroad and purchased or otherwise acquired by such Builder for use in or about the construction or operation of any of the Equipment on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. The Builder further agrees to execute and deliver to the Railroad or the users of the Equipment all and every such further assurance as may be reasonably requested by the Railroad more fully to effectuate the assignment and delivery of every such claim, right and cause of action. The Builder will give notice to the Railroad of any claim known to such Builder from which liability may be charged against the Railroad hereunder and the Railroad will give notice to such Builder of any claim known to the Railroad from which liability may be charged against such Builder hereunder. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

The Builder's warranty of material and workmanship is set forth in Item 2 of Schedule A hereto.

ARTICLE 15. Assignments. The Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or, except as provided in Article 11 hereof, transfer the right to possession of any unit of the Equipment without first obtaining the written consent of the Vendor. A sale, assignment, transfer or disposition to a railroad company organized under the laws of the United States of America or any of the states thereof which shall acquire all or substantially all the lines of railroad of the Railroad, and which, by execution of an appropriate instrument satisfactory to the Vendor, shall assume and agree to perform each of, and all, the obligations and covenants of the Railroad under this Agreement, shall not be deemed a breach of this covenant, provided such railroad company shall have capital and surplus aggregating at least that of the Railroad immediately after such acquisition.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance with this Agreement or to respond to its warranties and indemnities contained or referred to in Article 14 hereof, and Schedule A hereto or relieve the Railroad of any of its obligations to the Builder under Articles 2, 3, 4, 5, 13 and 14 hereof, Schedule A hereto and this Article 15 or of any other obligation which, according to its terms or context, is intended to survive an assignment.

Upon any such assignment either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating the identity of the assignee, and such assignee shall by virtue of such assignment acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad of the notification of any such assignment, all payments thereafter to be made by the Railroad under this Agreement to the Vendor shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Railroad recognizes that it is the custom of railroad equipment manufacturers to assign conditional sale agreements and understands that the assignment of this Agreement, or of some of or all the rights of the Vendor hereunder, is contemplated. The Railroad expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder and for the purposes of inducing such acquisition, that in the event of such assignment by the Vendor as hereinbefore provided, the rights of such assignee to the entire unpaid indebtedness in respect of the Purchase Price or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of a Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by such Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Railroad against and only against the Builders.

The Railroad will (a) in connection with each settlement for the Equipment subsequent to such assignment, deliver to the assignee, at least five business days prior to the Closing Date for the Group fixed in the notice by the Railroad, all documents required by the terms of such assignment to be delivered to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, and (b) furnish to such assignee such number of counterparts of any other certificate or document required by the Vendor as may reasonably be requested.

If this Agreement shall have been assigned by the Builders and if the assignee shall not make payment to a Builder with respect to units of its Equipment as provided in the instrument making such assignment, such Builder will promptly notify the Railroad of such event and, if such amount shall not have been previously paid by such assignee, the Railroad will, not later than 90 days after the date such payment was due, pay or cause to be paid to the Builder the aggregate unpaid Purchase Price of such units of its Equipment, together with interest from the day such payment was due to the date of payment by the Railroad at the highest prime rate of interest charged by any of the four New York City banks having the largest total assets on the date such payment was due.

ARTICLE 16. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Railroad shall fail to pay in full any indebtedness in respect of the Purchase Price of the Equipment or any other sum payable by the Railroad as provided in this Agreement within five days after payment thereof shall be due hereunder; or

(b) the Railroad shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement or of any agreement entered into concurrently herewith relating to the financing of the Equipment on its part to be kept or performed or to make provision satisfactory to the Vendor for such compliance; or

(c) a petition for reorganization under Title 11 of the United States Code, as now constituted or as may be hereafter amended, shall be filed by or against the Railroad and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad under this Agreement shall not have been (and shall not continue to have been) duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 60 days after such petition shall have been filed; or

(d) any other proceedings shall be commenced by or against the Railroad for any relief under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad under this Agreement shall not have been (and shall not continue to have been) duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Railroad or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced; or

(e) the Railroad shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Railroad and upon compliance with any mandatory legal requirements then in force and applicable to such action by the Vendor, declare (hereinafter called a "Declaration of Default") the entire indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. The Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated. The Railroad shall promptly notify the Vendor of any event which has come to attention which constitutes, or which with the lapse of time and/or demand or failure to take action could constitute, an event of default under this Agreement.

The Vendor may at its election waive any such event of default and its consequences and rescind and annul any Declaration of Default by notice to the Railroad in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 17. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, subject to compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from possession and use of the Railroad or any other person and for such purpose may enter upon the Railroad's premises or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad; provided, however, that the Equipment shall at all times be kept in good repair.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall reasonably designate a point or points upon the premises of the Railroad for the delivery of the Equipment to the Vendor, the Railroad shall, at its own expense, forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any part of the Equipment has been

interchanged to return the Equipment so interchanged), cause (a) the Equipment to be moved to such point or points on its lines as shall be designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor and (b) the Equipment to be moved to such interchange point or points of the Railroad as shall be designated by the Vendor upon any sale, lease or other disposal of all or any part of the Equipment by the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Railroad until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient to the Railroad and, at the Railroad's risk, to permit inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers, lessees and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonably manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 17 provided) may at its election and upon such notice as is hereinafter set forth retain the Equipment in satisfaction of the entire unpaid indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Railroad by telegram or registered mail, addressed as provided in Article 21 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Railroad's rights in the Equipment shall thereupon terminate and all payments made by the Railroad may be retained by the Vendor as compensation for the use of the Equipment by the Railroad; provided, however, that if the Railroad, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing and storing the Equipment and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad; provided, further, that if the Railroad or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall have given no notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 17.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Railroad and to any other persons to whom the law may require notice of the time and place, may sell the Equipment, or any unit thereof, free from any and all claims of the Railroad or any other party claiming from, through or under the Railroad, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Railroad should tender full payment of the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad. The proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine. The Vendor or the Railroad may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Railroad shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed to the Railroad as provided in Article 21 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the right of the Railroad to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Railroad (except to the extent of surplus money received as hereinafter provided in this Article 17), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of the sums due to the Vendor from the Railroad hereunder. From and after the date of any such sale, the Railroad shall pay to the Vendor the per centum interchange for each unit of Equipment which shall not have been assembled, as hereinabove provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser at such sale.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder

shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Vendor's rights or the Railroad's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Railroad's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Railroad shall pay the amount of such deficiency to the Vendor upon demand, together with interest from the date of such demand to the date of payment by the Railroad at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable. If the Railroad shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Railroad.

The Railroad will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 17 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 18. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Railroad, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment or any unit thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 19. Recording. The Railroad will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. Sec. 11303, the Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper

New sentence added.

protection, to the satisfaction of counsel for the Vendor, of its interest in the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 20. Payment of Expenses. The Railroad will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Builder) incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related hereto or thereto, including any fees and expenses of counsel for the first assignee of this Agreement and for any party acquiring interests in such first assignment, and all reasonable costs and expenses in connection with the transfer by any party of interests acquired in such first assignment.

ARTICLE 21. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

(a) to the Railroad, at Room 1800, 100 North Charles Street, Baltimore, Maryland 21201, Attention of Treasurer,

(b) to the Builder, at its address specified in Item 1 of Schedule A hereto, and

(c) to any assignee of the Vendor or of the Railroad, at such address as may have been furnished in writing to each of the other parties hereto by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 22. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement.

This Agreement, including the Schedules hereto, exclusively states the rights of the Vendor and the Railroad with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment except in so far as specific reference may be made in this Agreement to the purchase order or orders between the Railroad and the Builder. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Vendor and the Railroad.

ARTICLE 23. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Maryland; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. Sec. 11303 and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 24. Execution. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, as of the date first set forth above, 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, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by their officers or other persons, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first above written.

THE BALTIMORE AND OHIO RAILROAD
COMPANY

(Corporate Seal)

by /s/ L. C. Roig, Jr.
Assistant Vice President
and Treasurer

Attest:

/s/ Patricia J. Hunady
Corporate Secretary

WHITEHEAD & KALES COMPANY

(Corporate Seal)

by /s/ C. E. Wieser
Vice President - Finance

Attest:

/s/ G. Konchal
Treasurer

STATE OF OHIO)
) ss.:
COUNTY OF CUYAHOGA)

On this 26th day of January, 1981, before me personally appeared L. C. Roig, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of THE BALTIMORE AND OHIO RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

/s/ Clara Masuga
CLARA MASUGA - Notary Public
State of Ohio-Cuyahoga County
My Commission Expires April 21, 1984

(NOTARIAL SEAL)

STATE OF MICHIGAN)
) ss.:
COUNTY OF WAYNE)

On this 27th day of January, 1981, before me personally appeared C. E. Wieser Senior, to me personally known, who, being by me duly sworn, says that he is Vice President - Finance of WHITEHEAD & KALES COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

/s/ Ardis W. Hall
Notary Public

(NOTARIAL SEAL)

ARDIS W. HALL
Notary Public, Wayne County, Mich.
My Commission Expires July 22, 1981

SCHEDULE A TO CSA

Item 1: Whitehead & Kales Company
58 Haltiner Street
River Rouge, Michigan 48218

Item 2: The Builder warrants that the Equipment will be built in accordance with the Specifications and the standards and requirements set forth in Article 2 of this Agreement and warrants the Equipment will be free from defects in material and workmanship under normal use and service. The Builder's obligation under this Item 2 is limited to making good at its plant any part or parts of any unit of the Equipment which shall be returned to the Builder with transportation charges prepaid within one year after the delivery of such unit to the Railroad and which the Builder's examination shall disclose to its satisfaction to have been thus defective. The Builder shall not be liable for any indirect, incidental, consequential, special or commercial damages of whatever nature.

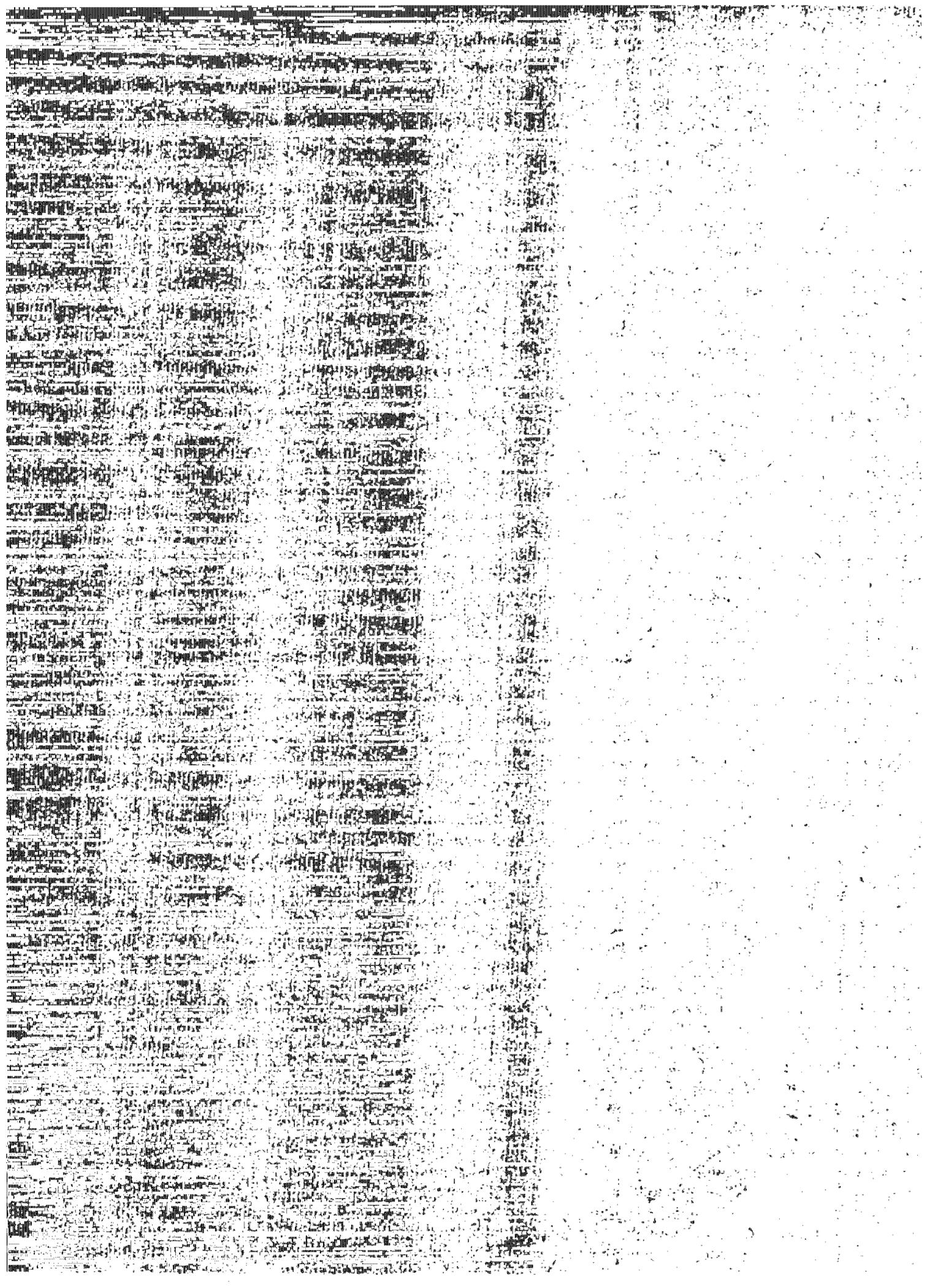
THE FOREGOING WARRANTY OF THE BUILDER IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE BUILDER, EXCEPT FOR ITS OBLIGATIONS UNDER ARTICLES 2, 3, 4 AND 14 OF THIS AGREEMENT AND THE BUILDER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF ITS EQUIPMENT, EXCEPT AS AFORESAID.

The Builder further agrees with the Railroad that neither the inspection as provided in Article 3 of this Agreement nor any examination nor the acceptance of any units of Equipment as provided in said Article 3 shall be deemed a waiver or a modification by the Railroad of any of its rights under this Item 2.

SCHEDULE B
to the
Conditional Sale Agreement

Units of Equipment

<u>Equipment Type</u>	<u>Builder's Specifications</u>	<u>Builder's Plant and Place of Delivery</u>	<u>Delivery Date</u>	<u>Number of Units</u>	<u>Estimated Unit Base Price</u>	<u>Total Base Price</u>	<u>Lessee's Numbers (Inclusive)</u>
Fully Enclosed Tri-Level Auto Racks	ASK 7127 ASK 7215	River Rouge, Michigan	January 1981	73	\$43,149	\$3,149,877	RP522-RP594



AGREEMENT AND ASSIGNMENT

Dated as of January 15, 1981

between each of

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY

and

WHITEHEAD & KALES COMPANY

AGREEMENT AND ASSIGNMENT, dated as of January 15, 1981, between MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, acting as Agent under a Finance Agreement dated as of the date hereof (the "Finance Agreement") (said Agent, so acting, being hereinafter called the "Assignee"), and WHITEHEAD & KALES COMPANY (the "Builder").

The Builder and The Baltimore and Ohio Railroad Company (the "Railroad") have entered into Conditional Sale Agreement dated as of the date hereof (hereinafter referred to as the "CSA"), covering the construction, sale and delivery, on the conditions therein set forth, by the Builders, severally, and the purchase by the Railroad of the railroad equipment described in Schedule B to the CSA (said equipment being hereinafter called the "Equipment" and the Equipment constructed, sold, and delivered by the Builder being hereinafter sometimes called "such Builder's Equipment" or "its Equipment").

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (the "Assignment") WITNESSETH: That, in consideration of the sum of One Dollar and other good and valuable consideration paid by the Assignee to the Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. The Builder hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) all the right, title and interest of such Builder in and to each unit of Equipment when and as severally delivered to and accepted by the Railroad, subject to payment by the Assignee to the Builder of the amount required to be paid under Section 4 hereof (it being expressly understood and agreed that any obligation to make any payment to the Builder pursuant to any supplemental invoice shall not constitute indebtedness secured by a lien on any unit of Equipment);

(b) all the right, title and interest of such Builder in and to the CSA (except the right to construct and deliver such Builder's Equipment and the right to receive the payments specified in the third paragraph of Article 3 thereof, in subparagraph (a) of the third paragraph of Article 4 thereof, in the last sentence of the third paragraph of Article 4 thereof and in the last paragraph of Article 15 thereof and reimbursements for taxes paid or incurred by such Builder as provided in Article 5 thereof), and in and to any and all amounts which may be or become due or owing by the Railroad to such Builder under the CSA in respect of the Purchase Price (as defined in the CSA) of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under the CSA, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) hereof, all of such Builder's rights, powers, privileges and remedies under the CSA;

without any recourse against the Builder for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the CSA; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the liability of the Builder to construct and deliver the Equipment in accordance with the CSA or with respect to its obligations contained or referred to in Article 14 of the CSA, or relieve the Railroad from its obligations to the Builder contained or referred to in Articles 2, 3, 4, 5, 13, 14 and 15 of the CSA, it being agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 15 of the CSA, all obligations of the Builder to the Railroad with respect to the Equipment shall be and remain enforceable by the Railroad, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee, in the Assignee's own name or in the name of the Assignee's nominee, or in the name of and as attorney hereby irrevocably constituted for the Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and to ask, demand, sue for and enforce compliance by the Railroad with the terms and agreements on its part to be performed under the CSA, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. The Builder agrees that it shall construct the Equipment in full accordance with the CSA and will deliver the same upon completion to the Railroad in accordance with the provisions of the CSA; and that, notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the CSA set forth to be performed and complied with by the Builder. The Builder further agrees that it will warrant to the Assignee and the Railroad that at the time of delivery of each unit of its Equipment under the CSA it had legal title to such unit and good and lawful right to sell such unit and that title to such unit was free of all claims, liens, security interests and other encumbrances (other than those created by the CSA); and the Builder further agrees that it will defend the title to each unit of its Equipment against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder under the CSA; all subject, however, to the provisions of the CSA and the rights of the Railroad thereunder. The Builder will not deliver any of its Equipment to the Railroad under the CSA until the filings referred to in Article 19 of the CSA have been effected (the Builder and its counsel being entitled to rely on advice from special counsel for the Assignee that such filings and recordations have been effected).

SECTION 3. The Builder agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the CSA for any installment of, or interest on, indebtedness in respect of the Purchase Price of the Equipment or to enforce any provision of the CSA, the Builder will indemnify, protect and hold harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Railroad arising out of a breach by the Builder of any obligation with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Builder.

The Builder's obligation so to indemnify, protect and hold harmless is conditional upon (a) the Assignee's timely motion or other appropriate action (on the basis of the fourth paragraph of Article 15 of the CSA) to strike any claim asserted by the Railroad in any such action and (b) if the court or other body having jurisdiction in such action denies such motion or other action and accepts such claim as a triable issue in such action, the Assignee's prompt notification to the Builder of the asserted claim and the Assignee's giving the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim.

Except in cases of articles or materials specified by the Railroad and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by the Builder, the Builder agrees, except as otherwise specifically provided in the CSA, to indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of any of its Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Assignee will give prompt notice to the Builder of any the liability or claim actually known to the Assignee and will give the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim. The Builder agrees that any amounts payable to it by the Railroad with respect to its Equipment, with the exception of amounts payable pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA (other than amounts owing under supplemental invoices as therein provided), whether pursuant to the CSA or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment of the Builder or any unit thereof.

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, upon receipt of the necessary funds therefore shall pay to the Builder an amount equal to the portion of its Equipment as shown on the invoice therefor then being settled for which, under the terms of said Article 4, is payable in installments, provided that there shall have been delivered to the Assignee, at least five business days (as defined in said Article 4) prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel hereinafter mentioned, in such number of counterparts as may be reasonably requested by said special counsel:

(a) a bill of sale from the Builder to the Assignee transferring to the Assignee all right, security title and interest of the Builder in the units of its Equipment in such Group, warranting to the Assignee and to the Railroad that at the time of delivery of such units under the CSA the Builder had legal title to such units and good and lawful right to sell such units and that such units were free of all claims, liens, security interests and other encumbrances (other than those created by the CSA), and covenanting to defend the title to such units against the demands of all persons whomsoever based on claims originating prior to the delivery of such units by the Builder under the CSA;

(d) an opinion of counsel for the Assignee and the Investors named in the Finance Agreement, dated as of such Closing Date, to the effect that (i) the Finance Agreement, assuming due authorization, execution and delivery by such Investors and Assignee, has been duly authorized, executed and delivered and is a legal, valid and binding instrument, (ii) the CSA has been duly authorized, executed and delivered by the Railroad and such Builder and is a legal, valid and binding instrument, enforceable in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by such Builder and the Assignee and is a legal, valid and binding instrument enforceable against such Builder in accordance with its terms, (iv) the Assignee is vested with all the rights, title, interests, powers and privileges purported to be assigned to it by this Assignment, (v) the Assignee has a valid and perfected security interest in the units of the Equipment in such Group, and such units, at the time of delivery thereof to the Railroad under the CSA, were free from all claims, liens, security interests and other encumbrances (other than those created by the CSA), (vi) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the valid execution and delivery of the Finance Agreement, the CSA or this Assignment, or if any such authority is necessary, it has been obtained, (vii) the CSA and this Assignment have been duly filed with the Interstate Commerce Commission pursuant to 49 U.S.C. Sec. 11303, and no other filing or recordation is necessary for the protection of the rights of the Assignee in any state of the United States of America or in the District of Columbia and (viii) registration of the CSA, this Assignment or any certificates of interest delivered pursuant to the Finance Agreement is not required under the Securities Act of 1933, as amended, and qualification of an indenture with respect thereto is not required under the Trust Indenture Act of 1939, as amended; such opinion shall also state that counsel have examined the opinions being delivered on such Closing Date pursuant to subparagraphs (e) and (f) of this Section 4, that such opinions are satisfactory in form and scope to said counsel and that said counsel believe that the Assignee and Investors are justified in relying thereon; and such opinion shall also cover such other matters as may reasonably be requested by the Assignee or any such Investors;

(e) an opinion of counsel for the Railroad, dated as of such Closing Date, to the effect set forth in clauses (i), (ii), (v), (vi) and (vii) of subparagraph (d) above (said counsel, in rendering such opinion, being permitted to assume due authorization, execution and delivery of the Finance Agreement and this Assignment by parties thereto other than the Railroad) and stating that the Railroad is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and to carry on its business as now conducted;

(f) an opinion of counsel for the Builder dated as of such Closing Date, to the effect set forth in clauses (iv) and (v) of subparagraph (d) above and stating that (i) the Builder is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the CSA has been duly authorized, executed and delivered by the Builder and is a legal, valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Builder and is a legal and valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms and (iv) no approval of any governmental authority is necessary for the valid execution and delivery by the Builder of the CSA or this Assignment;

(g) a certificate of an officer of the Railroad, dated as of such Closing Date, to the effect that (i) no event of default, or event which with the lapse of time and/or demand or failure to take action provided for in the CSA could constitute an event of default, shall have occurred and is then continuing, (ii) no tax liens (including tax liens filed pursuant to Section 6323 of the Internal Revenue Code of 1954, as amended) have been filed and are currently in effect which would adversely affect the security interest of the Assignee in the Equipment and (iii) no taxes, assessments or governmental charges or levies are delinquent;

(h) a release or releases in recordable form discharging and terminating all claims, liens, security interests and other encumbrances, if any, in the units of the Equipment in such Group and in any of the materials used in the construction thereof which originated prior to the filing of the CSA pursuant to Article 19 thereof; and

(i) a receipt from the Builder for any payment (other than the payment being made by the Assignee pursuant to the first paragraph of this Section 4) required to be made on such Closing Date to the Builder with respect to the Equipment, unless such payment is made by the Assignee with funds furnished to it for that purpose by the Railroad.

In giving the opinions specified in subparagraphs (d), (e) and (f) of the first paragraph of this Section 4, counsel may qualify any opinion to the effect that any agreement is a legal, valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. In giving the opinion specified in said subparagraphs (d) and (e), counsel may rely on the opinion of counsel for the Builder as

to authorization, execution and delivery by the Builder of the documents executed by such Builder and as to title to the Equipment at the time of delivery thereof under the CSA; in giving the opinion specified in said subparagraph (d), counsel may rely as to any matter governed by the law of any jurisdiction other than Ohio or the United States of America, on the opinion of counsel for the Builder or the opinion of counsel for the Railroad as to such matter; in giving the opinion specified in said subparagraph (e), counsel may rely on the bill of sale and opinion of counsel for the Builder as to claims, liens, security interests and other encumbrances arising from, through or under the Builder, except as to claims, liens, security interests and other encumbrances held by or running to the Railroad; in giving the opinion specified in said subparagraph (f), counsel may assume that the CSA and this Assignment have been duly filed pursuant to 49 U.S.C. Sec. 11303 and may rely as to any matter governed by the law of any jurisdiction other than Ohio or the United States of America, on the opinion of counsel for the Railroad as to such matter.

The obligation of the Assignee hereunder to make any payment provided for in this Section 4 is hereby expressly conditioned upon the Assignee's having on deposit, pursuant to the terms of the Finance Agreement, sufficient funds available thereunder to make such payment. The Assignee shall not be obligated to make payment at any time after the commencement of any proceedings specified in clause (c) or (d) of Article 16 of the CSA or if an event of default, or any event which with the lapse of time and/or demand or failure to take action provided for in the CSA could constitute an event of default, shall have occurred and be continuing under the CSA. In the event that the Assignee shall not make payment for any Group of the Equipment, the Assignee shall reassign to the Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee.

SECTION 5. The Assignee may assign all or any of its rights under the CSA, including the right to receive any payments due or to become due to it from the Railroad thereunder. 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 Assignee hereunder.

SECTION 6. The Builder hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the CSA was duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the Railroad, the CSA is, insofar as the Builder is concerned, a valid and existing agreement binding upon it and the Railroad in accordance with its terms and that it is now in force without amendment thereto;

(b) agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, execute and deliver all such further instruments of assignment, transfer and assurance as are presented to it and do such further acts and things as may be necessary or appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be; and

(c) agrees that, upon request of the Assignee, its successors and assigns, it will execute any and all instruments presented to it which may be necessary or proper in order to discharge of record the CSA or any other instrument evidencing any interest of the Builder therein or in the Equipment of the Builder; and

(d) at the time of delivery of each unit of Equipment by the Builder to the Railroad under the CSA, each unit of Equipment was free and clear from all claims, liens, security interests and other encumbrances of any nature (other than those created by the CSA and other than the rights of the Assignee under this Assignment) arising from, through, or under the Builder.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Ohio; provided, however, that the parties shall be entitled to all the rights conferred as provided in Article 23 of the CSA.

SECTION 8. The Assignee agrees to deliver an executed counterpart of this Assignment to the Railroad, which delivery shall constitute due notice of the assignment hereby made. Although this Assignment is dated for convenience as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

SECTION 9. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument but the counterpart delivered to the Assignee shall be deemed to be the original and all other counterparts shall be deemed to be duplicates thereof.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officers, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

(Corporate Seal)

WHITEHEAD & KALES COMPANY,

Attest:

by: /s/ C. E. Wieser
Senior Vice President - Finance

 /s/ G. Konchal
Treasurer

ACKNOWLEDGEMENT OF NOTICE OF ASSIGNMENT

THE BALTIMORE AND OHIO RAILROAD COMPANY hereby acknowledges due notice of and consents to the assignment made by the foregoing Agreement and Assignment as of January 15, 1981.

THE BALTIMORE AND OHIO RAILROAD COMPANY

By /s/ L. C. Roig, Jr.
Assistant Vice President
and Treasurer

STATE OF MICHIGAN)
) ss.:
COUNTY OF WAYNE)

On this 27th day of January, 1981, before me personally appeared C. E. Wieser Senior, to me personally known, who, being by me duly sworn, says that he is Vice President - Finance of WHITEHEAD & KALES COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

/s/ Ardis W. Hall

Notary Public

ARDIS W. HALL

Notary Public, Wayne County, Mich.
My Commission Expires July 22, 1981

(NOTARIAL SEAL)

STATE OF MARYLAND)
) ss.:
CITY OF BALTIMORE)

On this 28th day of January, 1981, before me personally appeared R. E. Schreiber, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

/s/ Patricia A. Shilow

Notary Public

(NOTARIAL SEAL)

My commission expires July 1, 1982

CERTIFICATE OF INTEREST

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY (the "Agent")
hereby acknowledges receipt from

("Investor") of

Dollars (\$) such sum having been paid by the Investor under and pursuant to the terms and conditions of a Finance Agreement dated as of January 15, 1981 (the "Finance Agreement"), among the Agent, THE BALTIMORE AND OHIO RAILROAD COMPANY (the "Railroad"), the Investor, or the party for which the Investor is acting as nominee, as the case may be, and the other parties named in Schedule A to the Finance Agreement. By reason of such payment the Investor has an interest in a principal amount equal to such sum (i) in the Conditional Sale Agreement dated as of January 15, 1981 (the "CSA"), between WHITEHEAD & KALES COMPANY ("the Builder") and the Railroad, (ii) in the right, title and interest of the Agent in and to the railroad Equipment covered by the CSA and (iv) in and to all cash and other property from time to time held by the Agent under the Finance Agreement, except to the extent that installments of such principal amount shall have been paid.

Under the terms of the CSA and the Finance Agreement, subject to the rights of prepayment contained therein in the event of a Casualty Occurrence (as defined therein), (i) such principal amount is repayable in 10 consecutive equal annual installments on January 15 in each year commencing January 15, 1982, to and including January 15, 1991 (ii) such principal amount bears interest, payable semi-annually on January 15 and July 15 in each year, commencing July 15, 1981 on the unpaid portion thereof from time to time outstanding from the date of this certificate until the same shall have become due and payable, at the rate of 12% per annum and (iii) all such principal and interest remaining unpaid after the same shall have become due and payable bears interest, to the extent legally enforceable, at the rate of 13% per annum. All payments received by the Agent in accordance with the terms of the Finance Agreement and the CSA shall be disbursed by the Agent in accordance with the terms and conditions of the Finance Agreement.

Dated:

MERCANTILE-SAFE DEPOSIT AND TRUST
COMPANY, as Agent under the Finance
Agreement,

By _____
Authorized Officer

INQUIRY SHOULD BE MADE OF THE AGENT
IF CERTIFICATION AS TO BALANCE DUE
HEREUNDER IS REQUIRED