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RECORDATION NO. Filed 1425

December 21, 1987

DEC 22 1987-2 4 PM

Secretary
Interstate Commerce Commission
Washington, D.C. 20423

RECORDATION NO. 15426-A
FILED 1425
INTERSTATE COMMERCE COMMISSION
OFFICE OF THE SECRETARY
FOR OPERATIONS
DEC 22 2 51 PM '87

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INTERSTATE COMMERCE COMMISSION

Dear Secretary:

I have enclosed three originals of the documents described below, to be recorded pursuant to Section 11303 of Title 49 of the United States Code and 49 C.F.R. Part 1177.

These documents are a conditional sale agreement (a primary document) and an assignment (a secondary document), both dated as of December 1, 1987. I request that the assignment be cross-indexed.

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

Vendor and Assignor:

General Motors Corporation
Electro-Motive Division
9301 West 55th Street
La Grange, Illinois 60525

7-356A018

Vendee: National Railroad Passenger Corporation

400 North Capitol Street, N. W.
Washington, D. C. 20001

No.

DEC 22 1987

Date.....

Fee \$10.00.....

ICC Washington, D. C.

Assignee: General Motors Acceptance Corporation

3044 West Grand Boulevard
Detroit, Michigan 48202

A description of the equipment covered by the documents follows:

Nine Amtrak diesel-electric locomotives designated as model F40PH and bearing road numbers 401 through 409, inclusive.

*Comptroller -
James P. [Signature]*

AGREEMENT AND ASSIGNMENT

1 5426-A
REGISTRATION NO. Filed 1425

DEC 22 1987-2 PM

AGREEMENT AND ASSIGNMENT dated as of December 1, 1987, between GENERAL INTERSTATE COMMERCE COMMISSION MOTORS CORPORATION (Electro-Motive Division) (hereinafter called the Builder), and GENERAL MOTORS ACCEPTANCE CORPORATION (hereinafter called the Assignee).

WHEREAS the Builder and NATIONAL RAILROAD PASSENGER CORPORATION (hereinafter called the Railroad) have entered into a Conditional Sale Agreement dated as of December 1, 1987 (hereinafter called the Conditional Sale Agreement), covering the construction, sale and delivery by the Builder and the purchase by the Railroad of the railroad equipment (hereinafter called the Equipment) referred to in the Conditional Sale Agreement;

NOW, THEREFORE, this Agreement and Assignment (hereinafter called this 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 the Builder in and to each unit of the Equipment when and as severally delivered to and accepted by the Railroad under the Conditional Sale Agreement, subject to payment by the Assignee to the Builder of the amount required to be paid under Section 4 hereof with respect thereto;

(b) all the right, title and interest of the Builder in and to the Conditional Sale Agreement (except the right to construct and deliver the Equipment and the right to receive the payments specified in the third paragraph of Article 2 thereof and in the first paragraph and in subparagraph (a) of the third paragraph of Article 3 thereof and the last paragraph of Article 14 thereof and reimbursement for taxes paid or incurred by the Builder as provided in Article 4 thereof) and in and to any and all amounts which may be or become due or owing to the Builder under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) hereof, all the Builder's rights, powers, privileges and remedies under the Conditional Sale Agreement;

without any recourse, however, 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 Conditional Sale Agreement; provided, however, that this Assignment shall not subject the Assignee to, or

transfer, or pass, or in any way affect or modify, the obligations of the Builder to construct and deliver the Equipment in accordance with the Conditional Sale Agreement or with respect to its warranties and agreements contained or referred to in Article 13 of the Conditional Sale Agreement, or relieve the Railroad from its obligations to the Builder contained or referred in Articles 1, 2, 3, 4, 12, 13 and 14 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 14 of the Conditional Sale Agreement, 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 compliance by the Railroad with the terms and agreements on its part to be performed under the Conditional Sale Agreement, 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 Conditional Sale Agreement and will deliver the same upon completion to the Railroad in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the Conditional Sale Agreement 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 the Equipment under the Conditional Sale Agreement 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 of any nature except only the rights of the Railroad under the Conditional Sale Agreement; and the Builder further agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder under the Conditional Sale Agreement; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Railroad thereunder. The Builder will not deliver any of the Equipment to the Railroad under the Conditional Sale Agreement until the filings and recordations referred to in Article 18 of the Conditional Sale Agreement have been effected (the Builder and its counsel being entitled to rely on advice from the Railroad or 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 Conditional Sale Agreement for any installment of, or interest on, indebtedness in respect of the Purchase Price of the Equipment or to enforce any provision of the Conditional Sale Agreement, 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 the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 14 of the Conditional Sale Agreement, to strike any defense, setoff, counterclaim or recoupment asserted by the Railroad in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee's prompt notification to the Builder of the asserted defense, setoff, counterclaim, or recoupment and the Assignee's giving the Builder the right, at the Builder's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment.

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 Schedule B to the Conditional Sale Agreement, 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 the 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 such 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 the Equipment, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof.

Section 4. The Assignee, on each Closing Date fixed as provided in Article 3 of the Conditional Sale Agreement with respect to a Group (as defined in said Article 3) of the Equipment, shall pay to the Builder an amount equal to the portion of the Purchase Price thereof which, under the terms of said Article 3, is payable in the installments, provided that there shall have been delivered to the Assignee, as provided in Article 14 of the Conditional Sale Agreement, at least five business days (as defined in said Article 3) prior to such Closing Date, the following documents, in form and substance satisfactory to it, in such number of counterparts as may be reasonably requested by said counsel:

(a) A bill of sale from the Builder to the Assignee and to the Railroad transferring to the Assignee a security interest, and to the Railroad legal title (subject to the security title of the Assignee), to the units of the Equipment in such Group, warranting to the Assignee and to the Railroad that at the time of delivery of such units under the Conditional Sale Agreement the Builder had legal title to such units and good and lawful right to sell such units and that title to such units was free of all claims, liens, security interests and other encumbrances of any nature

except only the rights of the Railroad under the Conditional Sale Agreement, 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 Conditional Sale Agreement;

(b) A Certificate or Certificates of Acceptance with respect to the units of the Equipment in such Group as contemplated by Article 2 of the Conditional Sale Agreement;

(c) An invoice of the Builder for the units of the Equipment in such Group accompanied by or having endorsed thereon a certification by the Railroad as to the correctness of the prices of such units;

(d) A favorable opinion of counsel for the Railroad, dated as of such Closing Date, as to the due authorization, execution and delivery of the Conditional Sale Agreement by the Railroad and as to the enforceability thereof under the laws of the District of Columbia, to the effect that no approval of the Interstate Commerce Commission is necessary for the valid execution and delivery by the Railroad of the Conditional Sale Agreement or this Assignment, or if any such approval is necessary, it has been obtained, and the Conditional Sale Agreement and this Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. 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 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 corporate power and authority to own its properties and to carry on its business as now conducted;

(h) 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.

The Assignee shall not be obligated to make payment at any time after the commencement of any proceedings specified in clause (d) or (e) of Article 15 of the Conditional Sale Agreement or if an event of default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement could constitute an event of default, shall have occurred and be continuing under the Conditional Sale Agreement. In the event that the Assignee shall not make any such payment, 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 Conditional Sale Agreement, 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 Conditional Sale Agreement 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 Conditional Sale Agreement 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, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and 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 which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Builder therein or in the Equipment.

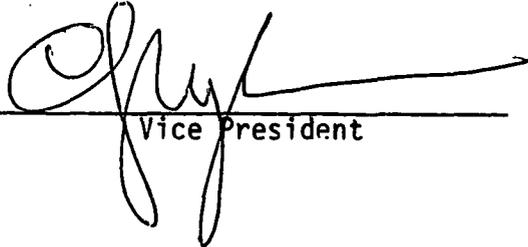
Section 7. The terms of the Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred as provided in Article 21 of the Conditional Sale Agreement. The terms, rights and obligations of the parties hereunder may not be changed orally, but may be changed only by an agreement in writing signed by the party against whom enforcement of such change is sought.

Section 8. This Assignment may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument. 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 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.

IN WITNESS WHEREOF, the Builder and the Assignee have caused this instrument to be executed in their respective corporate names by their respective officers thereunto duly authorized, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

(Corporate Seal)

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

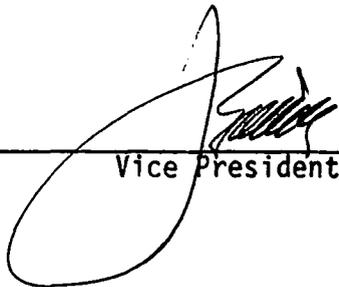
By: 
Vice President

Attest:


Assistant Secretary

(Corporate Seal)

GENERAL MOTORS ACCEPTANCE CORPORATION

By: 
Vice President

Attest:


Assistant Secretary

State of Illinois)
County of Cook) ss:

On this 17th day of December, before me personally appeared Clifford J. Vaughan, to me personally known, who, being by me duly sworn, says that he is a Vice President of GENERAL MOTORS CORPORATION (Electro-Motive Division), 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 the 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.

(Notarial Seal)

Juanita Acosta
Notary Public

My Commission Expires: 4/17/88

State of Illinois)
County of Cook) ss:

On this 18th day of December, before me personally appeared J. M. Durrie, to me personally known, who, being by me duly sworn, says that he is a Vice President of GENERAL MOTORS ACCEPTANCE CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said association, that said instrument was signed and sealed on behalf of the 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.

(Notarial Seal)

Joni V. Walsh
Notary Public

My Commission Expires: 11-4-89

ACKNOWLEDGEMENT OF NOTICE OF ASSIGNMENT

NATIONAL RAILROAD PASSENGER CORPORATION hereby acknowledges due notice of and consents to the assignment made by the foregoing Agreement and Assignment dated as of December 1, 1987.

NATIONAL RAILROAD PASSENGER CORPORATION

By: *Char W Hayward*
Vice President

EXECE.418/ss