

Comerica Bank-Detroit
Post Office Box 59
Detroit, Michigan 48226

Robert C. Robinson
Vice President

Comerica

Bank-Detroit

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FEE OPERATION BR.

RECORDATION NO. 13671-A
JUN 20 1983 9 02 AM
INTERSTATE COMMERCE COMMISSION
May 19, 1983

3-171-01D

Secretary
Interstate Commerce Commission
Constitution Avenue & 12th, N.W.
Washington, D.C. 20423

No. JUN 20 1983
Date.....
10.00

Dear Sir

This letter will serve to outline the transaction between Comerica Bank-Detroit (formerly The Detroit Bank and Trust Company and hereinafter referred to as "Bank") and Detroit & Mackinac Railway Company ("D&M"). This transaction is to amend the Bank's original filing on 214 boxcars, filing #13671, dated June 25, 1982.

Your records will show that a Finance Agreement and Conditional Sales Agreement was executed by and between the Bank and D&M. In it, D&M agreed to transfer and convey its entire right, title and interest in and to equipment (described in Exhibit A attached to the Finance Agreement) to the Bank. This transfer is subject to the Finance Agreement itself and to the Conditional Sales Agreement (attached as Exhibit B to the Finance Agreement).

A notarized original and a copy of the First Amendment to Conditional Sales Agreement are enclosed for your official recordation of the amendment to the Bank's original filing #13671. The amendment refers to Articles 4, 7 and 8 of the Conditional Sales Agreement. In it, D&M has agreed to allow the cross-collateralization of all loans with the Bank.

Also enclosed is the \$10 filing fee (payable to the ICC) for this amendment. Your acknowledgment of the official recordation of this amendment would be appreciated.

Thank you for your continued cooperation.

Sincerely



Enclosures

Counterpart - [Handwritten signature]

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Robert C. Robinson
Vice President
Comerica Bank-Detroit
Post Office Box 59
Detroit, Michigan 48226

June 20, 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 6/20/83 at 9:05AM, and assigned re-
recording number(s). 13671-A

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

RECORDATION NO. 13671-A
Filed 1425

JUN 20 1983 -9 05 AM

INTERSTATE COMMERCE COMMISSION

FIRST AMENDMENT TO
CONDITIONAL SALE AGREEMENT

THIS FIRST AMENDMENT TO CONDITIONAL SALE AGREEMENT ("Agreement"), dated as of May 13, 1983, between COMERICA BANK-DETROIT (formerly THE DETROIT BANK AND TRUST COMPANY), a Michigan banking corporation, as vendor (the "Vendor") and DETROIT AND MACKINAC RAILWAY COMPANY, a Michigan corporation, as vendee (the "Railroad").

WHEREAS, the Vendor and the Railroad have entered into a Conditional Sale Agreement, dated as of March 1, 1982 (the "CSA"), which was recorded with the Interstate Commerce Commission at 2:25, p.m., E.D.T., on the 25th day of June, 1982, bearing recordation number 13671; and

WHEREAS, the Vendor and the Railroad desire to amend the CSA as herein set forth;

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

1. Article 4 of the CSA shall be amended to read in its entirety as follows:

"ARTICLE 4. Purchase Price and Payment.

The Railroad hereby acknowledges itself to be indebted to the Vendor in the amount of Three Million Two Hundred Fifty Thousand Dollars (\$3,250,000), and hereby promises to pay to the Vendor, the following (herein called the "Purchase Price") for the Equipment:

(a) Ninety six consecutive equal monthly installments of Thirty Three Thousand Eight Hundred Fifty Five Dollars (\$33,855) (except for appropriate adjustments of the final installment in case the

amount payable shall not, when divided by 96, result in an amount ending in an integral cent) (the aggregate of the foregoing installments being hereinafter called the "Conditional Sale Indebtedness");

plus (b) interest, calculated on the basis of a 360-day year of twelve 30-day months and payable monthly with the installment of the Conditional Sale Indebtedness, on the principal amount of the unpaid Conditional Sale Indebtedness from time to time outstanding hereunder at the per annum rate equal to 1 1/4% plus the Prime Rate. As used herein, the "Prime Rate" shall mean that rate of interest announced from time to time by the Vendor as its "prime rate," whether or not such rate of interest is actually charged by the Vendor, but in no event shall mean a rate in excess of the maximum rate permitted by law. Changes in the Prime Rate shall be effective under this Agreement as and when made.

and plus (c) any and all other indebtedness and liabilities whatsoever of Railroad to Vendor, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and howsoever evidenced, including, without limitation, obligations arising from applications or agreements for the issuance of letters of credit or otherwise.

The installments of the Conditional Sale Indebtedness plus accrued interest payable under this Agreement shall be due and payable on the 31st day of each month (or, if such day shall not be a business day, then on the next business day thereafter) beginning June 30, 1983, and continuing on the like day of each month thereafter until the entire Conditional Sale Indebtedness and accrued interest thereon is paid to the Vendor.

All sums payable by the Railroad to the Vendor shall be paid directly to the Vendor at its principal office in immediately available funds in such coin or currency of the United States of America as shall at the time of payment be legal tender for the payment of public and private debts and all such payments shall be made to the Vendor without offset, deduction or counterclaim.

The Railroad may prepay the Conditional Sale Indebtedness, without penalty, in multiples of Fifty Thousand Dollars (\$50,000) and any such payments shall be applied to reduce installments thereafter falling due in the inverse order of maturity thereof.

Any payments hereunder not made when due shall bear interest at the rate of 3% per annum above the rate otherwise prevailing hereunder, but in no event at a rate in excess of the maximum rate permitted by law.

The terms and conditions of the repayment of any portion of the Purchase Price other than the Conditional Sale Indebtedness shall be as set forth in the agreement, instrument or other paper evidencing the same."

2. Article 7 of the CSA shall be amended to read in its entirety as follows:

"ARTICLE 7. Marking of Equipment.

Article 7 of the Model CSA Provisions is amended by (i) changing the words 'the name of the Vendor followed by the words "Agent, Owner"' in the ninth and tenth lines of the first paragraph thereof to 'the words "Owned by Comerica Bank-Detroit, Detroit, Michigan, under Security Agreement filed under the Interstate Commerce Act"'; (ii) deleting the words 'name and' in the seventeenth and nineteenth lines of the first paragraph thereof; and (iii) adding a new paragraph at the end thereof reading as follows:

'Notwithstanding the foregoing, but only as to the ninety-seven (97) Berwick boxcars described on Schedule A, the Railroad agrees to use its best efforts to label such boxcars as herein required as soon as possible, but in no event later than 18 months after the Closing Date. Except as above provided, the Railroad will not allow the name of any person, association or corporation to be placed on 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 'Detroit and Mackinac Railway Company' or in some other appropriate manner for convenience of identification of the interest of the Railroad, or of any lessee of the Railroad, therein.'

Article 7 of the Model CSA Provisions, as so amended, is herein incorporated as Article 7 hereof."

3. Article 8 of the CSA shall be amended to read in its entirety as follows:

"ARTICLE 8. Lost or Destroyed Equipment.

In the event that any unit of the Equipment shall be worn out, lost, stolen, destroyed, irreparably damaged, seized, taken or requisitioned by condemnation or otherwise by the government or otherwise rendered permanently unfit for use from any cause whatsoever (such occurrences being hereinafter called 'Casualty Occurrences') prior to the payment in full of the Conditional Sale Indebtedness, together with interest thereon and all other payments, of the Purchase Price or otherwise, required hereby, the Railroad shall promptly and fully inform the Vendor in regard thereto. When the aggregate Casualty Value (as hereinafter defined) of all units of the Equipment 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 \$50,000 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 as of the date of such payment and shall file with the Vendor a certificate of a Vice President or the Treasurer of the Company setting forth the Casualty Value of each unit of the Equipment suffering a Casualty Occurrence.

Any money paid to the Vendor pursuant to the preceding paragraph of this Article 8 shall, so long as none of the events of default specified in Article 18 hereof shall have occurred and be continuing, be applied, in whole or in part, as the Railroad may direct in a written instrument filed with the Vendor within thirty (30) days but not less than ten (10) days prior to the due date of the next installment of the Conditional Sale Indebtedness, in whole or in part, (i) to prepay installments of the Conditional Sale Indebtedness, together with interest thereon and all other payments, of the Purchase Price or otherwise, required or secured hereby, or (ii) toward the cost of a unit or units of standard gauge railroad equipment similar in type to the Equipment first put into service hereunder, to replace such unit suffering a Casualty Occurrence. Any unit of replacement equipment shall have a remaining useful life (as evidenced by a certificate of a Vice President or the Treasurer 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 a

Vice President or the Treasurer of the Railroad that the cost of such equipment does not exceed the fair value thereof. In case any money is applied pursuant to this Article 8 to prepay indebtedness hereunder, it shall be so applied, on the installment date for the payment of the Conditional Sale Indebtedness, together with interest thereon and all other payments required hereby, next following receipt by the Vendor of such written direction, at the Vendor's election either to reduce installments of the Conditional Sale Indebtedness thereafter falling due in the inverse order of maturity thereof, without penalty or premium, or to repay any unpaid portion of the Purchase Price (whether the same shall be principal or interest, matured or unmatured, contingent or liquidated).

The Casualty Value of each unit of the Equipment (other than a replacement unit) shall be deemed to be the greater of (i) the full insurable value of each such unit or (ii) that amount which bears the same ratio to the original Conditional Sale Indebtedness thereof (calculated by dividing the aggregate Conditional Sale Indebtedness by the number of units sold hereunder) as the unpaid Conditional Sale Indebtedness (without giving effect to any prepayments then or theretofore made) as of the date payment is made with respect to such Casualty Occurrence bears to the original Conditional Sale Indebtedness.

The Casualty Value of each replacement unit shall be deemed to be the greater of (i) the full insurable value of each such unit or (ii) that amount which bears the same ratio to the portion of the cost thereof paid by the Vendor as the unpaid Conditional Sale Indebtedness (without giving effect to any prepayments then or theretofore made) as of the date payment is made with respect to such Casualty Occurrence bears to the unpaid Conditional Sale 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. 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 14 hereof and shall be put (or 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 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:

(1) a certificate of a Vice President or the Treasurer of the Railroad certifying that such replacement unit is equipment of the same type as the Equipment or is standard-gauge railroad rolling-stock (other than work or passenger equipment of types other than locomotives), in each case first put into service no earlier than the date the unit of the Equipment it replaces was first put into service, 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 fair value thereof, 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 first security title to and 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 and all necessary filings and recordings have been made to perfect the title and interests of the Vendor therein.

So long as none of the events of default specified in Article 18 hereof shall have happened 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: (i) direct obligations of the United States of America or any political subdivision thereof or obligations for which the faith of the United States is pledged to provide for the payment of principal and interest, (ii) open market commercial paper rated at least 'A-1' or its equivalent by Moody's, or (iii) certificates of deposit of commercial banks of the United States of America having capital and surplus aggregating at least

\$40,000,000, in each case maturing in not more than one year from the date of such investment (hereinafter called 'Investments'), as may be specified in such written direction. 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 herein 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 of the events of default specified in Article 18 hereof shall have happened and be continuing, then so long as such event of default shall continue all money then 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 19 hereof.

In order to facilitate the sale or other disposition of 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 recourse or 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 (including without limitation the Conditional Sale Indebtedness), together with interest thereon and all other payments required hereby, at its own expense, cause to be carried and maintained, with independent insurance carriers, insurance in respect of the Equipment at the time subject hereto 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."

4. In all other respects, the CSA is hereby ratified and confirmed.

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, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested, all as of the date first written.

COMERICA BANK-DETROIT

By [Signature]
Its Vice President

(Corporate Seal)

Attest:

[Signature]
Its Michael L. Kenny
Assistant Vice President

DETROIT AND MACKINAC RAILWAY COMPANY

By [Signature]
Its President

By [Signature]
Its Secretary

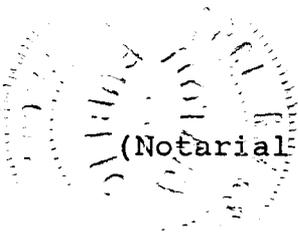
(Corporate Seal)

Attest:

[Signature]
Its Asst. Sec. - Treas.

State of Michigan)
) ss.
County of Wayne)

On this 19th day of May, 1982, before me personally appeared Robert Robinson and _____, to me personally known, who being by me duly sworn, say that they are the Vice-President and _____, respectively, of Comerica Bank-Detroit, 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 they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

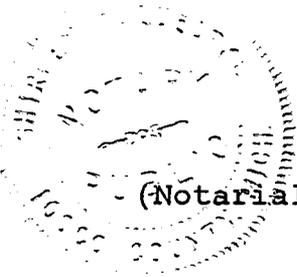


(Notarial Seal)

George H. Lastra
Notary Public, Wayne County, Michigan
My commission expires: NOVEMBER 29, 1986
JORGE H. LASTRA
Notary Public, Wayne County, Mich.
~~Acting in Macomb County, Mich.~~
My Commission Expires November 29, 1986

State of Michigan)
) ss.
County of Iosco)

On this 13th day of May, 1982, before me personally appeared Charles A. Binkerton and M. B. Mendrygal, to me personally known, who being by me duly sworn, say that they are the President and Secretary-Treasurer, respectively, of Detroit and Mackinac Railway 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 they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



(Notarial Seal)

Shirley R. Luedtke
Notary Public, Iosco County, Michigan
My commission expires: Mar. 18, 1985
SHIRLEY R. LUEDTKE
Notary Public, Iosco County, Michigan
My Commission Expires March 18, 1985