

RAVIN, KATCHEN & GREENBERG

A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW

101 EISENHOWER PARKWAY
ROSELAND, NEW JERSEY 07068
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NATHAN RAVIN
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HOWARD S. GREENBERG *
JACK M. ZACKIN
ANDREW J. NIERENBERG
STEPHEN B. RAVIN **
ALLAN M. HARRIS

REGISTRATION NO. 13704
JUL 19 1982 - 11 15 AM
INTERSTATE COMMERCE COMMISSION
NEWARK OFFICE
50 COMMERCE STREET
NEWARK, NEW JERSEY 07102
(201) 642-1540

*MEMBER OF N. J. & N. Y. BAR
**MEMBER OF N. J. & FLA. BAR

July 13 , 1982

2-200A058

No. JUL 13 1982

Date.....

Fee \$ 50.00

JUL 19 11 05 AM '82
RECEIVED

Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Sir:

I have enclosed an original and one copy of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the United States Code.

This document is a lease, a primary document, dated February 13, 1981.

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

Lessor: Naporano Iron & Metal Company
Post Office Box 5304
Foot of Hawkins Street
Newark, New Jersey 07105

Lessee: Michigan Northern Railway Company, Inc.
Post Office Drawer 359
110 W. North Street
Cadillac, Michigan 49601

A description of the equipment covered by the lease follows:

Three GP7 locomotives, identification numbers NIMX1601, NIMX1602 and NIMX1604

A fee of \$50.00 is enclosed. Please return the original to the undersigned c/o Ravin, Katchen & Greenberg, P.A., 101 Eisenhower Parkway, Roseland, New Jersey 07068.

RAVIN, KATCHEN & GREENBERG
A PROFESSIONAL CORPORATION

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

Lease between Naporano Iron & Metal Company, Inc., Lessor, and Michigan Northern Railway Company, Inc., Lessee, dated February 13, 1981, and covering three GP7 locomotives, locomotive identification numbers NIMX1601, NIMX1602 and NIMX1604

Very truly yours,

RAVIN, KATCHEN & GREENBERG
Attorneys for Naporano Iron &
Metal Company, Inc.

By: 

Jack M. Zackin

JMZ/kcm

encl.

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Jack M. Zackin
Raven, Katchen & Greenberg
101 Eisenhower Parkway
Roseland, New Jersey 07068

July 19, 1982

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 7/19/82 at 11:15AM, and assigned re-
recording number(s). 13701

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

REGISTRATION NO. 13701
JUL 19 1982 - 11 15 AM
INTERSTATE COMMERCE COMMISSION

NAPORANO IRON & METAL CO.
LOCOMOTIVE LEASING AGREEMENT

This Agreement, made this 13th day of February , 1981, by and between Naporano Iron & Metal Co., Ft. of Hawkins Street, Newark, New Jersey 07105, a corporation organized and existing under the laws of the State of New Jersey (hereinafter, "NAP"), and Michigan Northern Railway Company, Inc. , a corporation organized and existing under the laws of the State of Michigan with its principal place of business at 110 W. North Street, Cadillac, MI 49601. (hereinafter, "Lessee").

1. Scope and Subject Matter of Agreement

NAP agrees to furnish and lease to the Lessee, and Lessee agrees to accept, use and lease upon the terms and conditions hereinafter set forth, the locomotives covered by the riders attached hereto and such additional riders as may be added hereto from time to time by agreement of the parties, and any and all other locomotives delivered to and accepted by Lessee (hereinafter, collectively, "The Locomotives"). Each such rider shall set forth the number of The Locomotives, the rental rate, term of use, locomotive identification numbers, deconstruct value and other pertinent information that may be reasonably desired by both parties.

2. Delivery and Use.

NAP agrees to deliver The Locomotives to Lessee within a time to be reasonably agreed to by the parties at

Newark, NJ

. NAP's obligation as to such delivery shall be subject to and excused in the event of any and all delays resulting from causes beyond its control. Lessee agrees to use The Locomotives exclusively in its own service, except as hereinafter provided, at all times complying with all governmental laws, regulations, and requirements, as well as any applicable rules of the Association of American Railroads, and none of The Locomotives shall be used or driven beyond the boundaries of the United States or Canada except with the prior written consent of NAP. Lessee agrees that if any of The Locomotives is used outside of the continental United States, Lessee shall reimburse NAP for any custom duties, taxes, investment tax credit reductions or other expenses resulting from such use. Such reimbursement shall be made forthwith upon written demand for payment by NAP to Lessee.

3. Acceptance.

Each of The Locomotives shall be subject to inspection by Lessee upon notification to Lessee of their availability by NAP. Subsequent to receipt of such notification of availability of The Locomotives, Lessee shall have a period of seven days thereafter in which to inspect The Locomotives and notify NAP of any defects, non-conformities or any other matters whatsoever which would impair or tend to impair the acceptability of The Locomotives. Failure so to notify NAP with respect to The Locomotives, and each of

them, shall constitute acceptance thereof by Lessee, and this shall be conclusive evidence of the fit and suitable condition of The Locomotives for the purposes intended and their conformity to the terms, provisions and representations of this Agreement. It is specifically understood, however, that The Locomotives are not warranted to be suitable for any particular or general purpose or use, and it shall be the duty of Lessee to ascertain the acceptability of The Locomotives upon inspection.

4. Payment of Rent.

Lessee agrees to pay the rental charges with respect to each of The Locomotives at the rate set forth in the applicable rider from the date of delivery of such locomotives until they are redelivered to and accepted by NAP. Such rental charges shall be paid to NAP at its principal place of business, Ft. of Hawkins Street, Newark, New Jersey 07105, in advance on the first day of each and every month, prorating, however, any period which is less than a full month. Periods of time of less than one day shall count as a full day for the purposes of accruing rental charges. Any late payments shall incur interest at the rate of 1-1/2% per month upon any unpaid balance, computed from the due date thereof, which interest shall be due, owing and payable to NAP on demand.

5. Maintenance and Repairs.

Lessee shall promptly notify NAP upon receipt by Lessee of any knowledge of any damage to any of The Locomo-

tives. Lessee agrees to pay for all maintenance and repairs of The Locomotives, of whatever kind or however caused, at all times keeping the same maintained in accordance with the requirements, standards and suggestions of the original equipment manufacturer as well as any federal, state or local regulatory agency. Lessee further agrees to keep and maintain and to make available to NAP such records of Lessee's use, operation, inspection, repairs and maintenance of each Locomotive while in its possession as shall be necessary to effectuate and document all conditions of this Agreement. NAP, by such agents and individuals as it may designate, shall have the right, at all reasonable time periods to go upon the property of Lessee or the property of anyone else where The Locomotives or records may be located to inspect said Locomotives and records. Lessee agrees to use its reasonable and best efforts to assist NAP in making any such inspection or examination while either The Locomotives or the records thereof are in the possession of any third party. No letterings or markings of any kind shall be placed upon any of The Locomotives by Lessee, except with the prior written consent of NAP.

6. Casualties to The Locomotives.

In the event that in NAP's sole and unrestricted opinion, any of The Locomotives is damaged beyond repair, destroyed, stolen, lost or otherwise rendered unusable, the rental charge with respect to each such Locomotive shall

terminate upon receipt by NAP of written notification thereof, and payment to NAP of the destruct value as set forth in the rider(s) attached hereto. In the event that any of The Locomotives, or the fittings, parts, appliances or appurtenances thereto, shall be damaged, ordinary wear and tear excepted, or destroyed either as a result of the acts of any of the Lessee's employees, agents or representatives or other causes beyond the direct control of NAP, Lessee agrees to assume financial responsibility for such damage or destruction and to pay NAP therefor upon demand. Lessee, at its own expense, shall either replace, or reimburse NAP for the cost of replacing, any appliance or removable part, if destroyed, damaged, lost, removed or stolen upon demand by NAP, unless such loss or damage results from the exclusive negligence or omission of NAP.

7. Indemnities.

Lessee will defend, indemnify and hold harmless NAP from and against: (1) any and all loss or damage of or to The Locomotives, usual wear and tear excepted, unless occurring through the exclusive fault of NAP while NAP has physical possession of The Locomotives, and (2) any claim, cause of action, damage, liability, cost or expense (including legal fees and costs) to which The Locomotives or NAP may be subject on account of damage to or destruction of any other property or for or on account of personal injuries (whether or not resulting in death or otherwise) or which may be

incurred in any manner by or for the account of any such Locomotive (unless occurring through the sole and exclusive fault of NAP) relating to the Locomotives or any part thereof, including but not by way of limitation, the construction, delivery of The Locomotives to Lessee's railroad line or siding, leasing or return of The Locomotives, or as a result of the use, maintenance, repair, replacement, operation or other condition thereof (whether defects, if any, are latent or are discoverable by NAP or Lessee).

8. Insurance.

Lessee will maintain, at its sole cost and expense, at all times during the lease term of any Locomotives, and until all Locomotives have been returned to NAP in accordance with the provisions of this Agreement, with reputable insurers acceptable to NAP:

A. Insurance in an amount not less than the value specified on the attached rider on each Locomotive arising out of all risks of physical loss or damage from any cause whatsoever and against such other risks as are customarily insured against by companies owning property of a similar character and engaged in a business similar to that engaged in by Lessee, and

B. Comprehensive public liability and property damage insurance insuring against liability resulting from ownership, maintenance, use or operation of The Locomotives in an amount of \$5,000,000 per occurrence insuring against

liability for death and bodily injury and \$500,000 property damage. All insurance policies shall (i) name NAP as an additional insured with losses under the loss and/or damage policies to be payable to NAP and Lessee as their respective interests may appear; (ii) provide that the policies will not be invalidated as against NAP or any of its successors because of any violation of a condition or warranty of the policy or application therefor by Lessee, and (iii) provide that the policies may only be altered or canceled by the Lessee with prior written consent of NAP or its successors, (iv) provide that there shall be no recourse against NAP for the payment of premiums and shall provide for at least ten (10) days prior written notice to be given to NAP by the underwriters in the event of cancellation.

Lessee shall deliver to NAP prior to the execution of this Agreement a policy of such insurance for NAP's approval.

If Lessee shall default in the payment of any premium in respect of any such insurance policies, NAP may, but shall not be obliged to, pay such premium and if NAP does so, Lessee shall repay the amount thereof to NAP on demand.

9. Assignment by Lessee.

Lessee shall make no transfer or assignment of its interest under this Agreement in and to The Locomotives without NAP's prior written consent. No right, title or

interest in any of The Locomotives shall vest in Lessee by reason of this Agreement or by reason of the delivery to or the use by Lessee of The Locomotives, except the right to use The Locomotives in accordance with the terms of this Agreement. Lessee shall not pledge, mortgage or otherwise encumber or dispose of The Locomotives, and shall not allow any lien or encumbrance to attach or remain thereon.

10. Remedies Upon Default.

If Lessee shall fail to perform any of its obligations hereunder, NAP at its sole and unrestrained election may either (a) terminate this Agreement immediately and repossess The Locomotives or any thereof, or (b) withdraw The Locomotives from the service of Lessee and deliver the same, or any thereof, to others upon such terms as NAP may see fit. Lessee agrees to take all reasonable steps to assist NAP in redelivering The Locomotives to NAP, and will pay on demand all costs incurred in redelivery. If NAP shall elect to proceed in accordance with clause (b) above and if NAP during the balance of the term of this Agreement shall fail to collect for the use of The Locomotives a sum at least equal to all unpaid rentals hereunder to the stated date of termination hereof plus an amount equal to all expenses of withdrawing the Locomotives from the service of Lessee and collecting the earnings thereof, Lessee agrees to pay from time to time upon demand by NAP the amount of any such deficiency. It is expressly understood that NAP at its

sole and unrestricted option may terminate this agreement in the event that a petition in bankruptcy or a petition for a trustee or receiver be filed by or against Lessee or in the event that Lessee shall make an assignment for the benefit of creditors, or if there occurs any other event which in NAP's opinion impairs the solvency of Lessee or its continuing ability to pay rent for The Locomotives.

11. Redelivery.

Upon the termination of each rider or part thereof, or upon the failure of Lessee to cure any breach of any condition or covenant herein contained within ten (10) days of written notice by NAP, Lessee agrees, subject to the provisions of paragraph 6 above, to return The Locomotives at Lessee's expense to NAP at Newark, NJ

or to any other point of NAP's choice with Lessee reimbursing NAP for an amount equal to the freight it would have paid to move The Locomotives to the first mentioned point should NAP's alternate redelivery point be a greater freight cost than the first mentioned point. Lessee shall also permit prior to redelivery a joint inspection of The Locomotives by both Lessee and NAP. Lessee will also immediately cause to be repaired any damage disclosed by such inspection. The Locomotives are to be redelivered in the same or as good condition as received, ordinary wear and tear excepted, in a condition suitable for interchange movement as defined by the Association of American Railroads,

free from all charges and liens which may result from any act or default of Lessee, and free from all accumulations or deposits resulting from commodities transported by or with The Locomotives while in the service of Lessee. If any Locomotive is not returned to NAP free from such accumulations or deposits or not suitable for interchange movement, Lessee shall reimburse NAP for any expense incurred in cleaning such Locomotive or making same suitable for interchange movement. If Lessee shall fail or refuse to deliver said Locomotives or permit or join in an inspection as aforesaid, NAP shall have the right without further notice or demand, and in addition to, and without constituting a waiver of, any other remedy, claim or right hereunder or at law, to terminate this Agreement and to take possession of said Locomotives wherever found and remove them at Lessee's expense, and for such purpose only, Lessee authorizes NAP or its duly authorized agent to enter any premises occupied by Lessee.

12. Taxes and Reports.

Lessee will prepare and file at its own expense, all schedules, reports or statements as required by any local, State, Federal or other governmental regulating authority with respect to The Locomotives. Lessee agrees to assume responsibility for and to pay any applicable Federal, State or local sales, use, personal property or similar taxes resulting from the lease or use of The Locomotives, as

well as all permits, licenses and the like. In the event that Lessee fails to take any action required by this paragraph, NAP, at its option may perform same, and Lessee will reimburse NAP on demand for the costs of same.

13. Assignment by Lessor.

It is understood that some of The Locomotives furnished Lessee under this Agreement and NAP's rights under this Agreement may, at the time of delivery to Lessee or at some future time during the term of this Agreement, be subject to the terms of a mortgage, deed of trust, equipment trust, pledge or assignment or similar security arrangement. Lessee agrees that The Locomotives may be stenciled or marked to set forth the ownership of any such Locomotives in the name of a mortgagee, trustee, pledgee, assignee or security holder and that this Agreement and the Lessee's rights hereunder are and shall at all times be subject and subordinated to any and all rights of any mortgagee, trustee, pledgee or security holder. As to The Locomotives subject hereto, this Agreement and the rentals hereunder may have been assigned and may in the future be assigned to the holder, if any, of the superior lien from time to time on each Locomotive as determined with reference to the filings under Section 20(c) of the Interstate Commerce Act; however, until notified to the contrary by NAP, Lessee is to pay all rentals to the order of NAP. Lessee hereby consents to and accepts such assignment. Lessee agrees that no claim or

defense which Lessee may have against NAP shall be asserted or enforced against any assignee of this Agreement.

14. Prohibition of Discrimination in State Contracts, Affirmative Action, and Record Keeping

See Appendix A, B and C attached hereto.

Q5. Miscellaneous

This Agreement shall be binding upon the parties hereto, their respective successors, assigns and legal representatives, and shall remain in full force and effect from the date hereof until the completion of the leasing arrangement shown on attached riders of the last Locomotive or Locomotives hereunder, and all such Locomotives are returned to NAP.

Any dispute between NAP and Lessee pertaining to, either directly or indirectly, The Locomotives or this Agreement shall be governed by the law of the State of New Jersey. The contract is stipulated by the parties to have been made in the State of New Jersey and venue and location for any proceeding, either by arbitration or court action, is also stipulated by the parties to be in the State of New Jersey. Additionally, any dispute between NAP and Lessee as to any of NAP's obligations under this Agreement of any nature whatsoever shall not excuse the payment of rent or other performance by Lessee pending resolution of such dispute whether by arbitration, court action or otherwise, and Lessee expressly waives its rights, if any, to counterclaim for, set-off or seek a recoupment in connection with any obligation to it of NAP. It shall be an absolute condition precedent to the maintenance or defending of any action

either in arbitration or court that such rental payments are continued during the pendency of such action. Said payments shall be binding upon any trustee, receiver or successor in interest of any nature whatsoever of Lessee. Failure to continue such payments shall entitle NAP to a dismissal of any action or defense of any such action with prejudice maintained by Lessee at any time default occurs.

This Agreement constitutes the whole agreement between NAP and Lessee, and no other promises, agreements or representations have been made. All notices required by this Agreement shall be sent certified mail, return receipt requested, to the principal addresses above noted.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement in two counterparts (each of which shall be deemed an original) the day and year first above written.

NAPORANO IRON & METAL CO.

ATTEST:

W. H. [Signature]
Secretary

By Joseph Naporano Pres.
President

MICHIGAN NORTHERN RAILWAY CO., INC.

By Elizabeth [Signature]
President

ATTEST:

Cynthia A. [Signature]

By Thomas [Signature]
Treasurer

10/7

, 1980

This rider is to a lease between Naparano Iron & Metal Co., and Michigan Northern Railway Company, Inc., dated Feb. 13, 1981 and is to define the number of locomotives, rental rate, term of use, locomotive identification numbers and destruct value of the locomotives subject to said lease.

NUMBER OF LOCOMOTIVES	LOCOMOTIVE IDENTIFICATION NUMBER(S)	TERM OF USE	DESCRIPTION	RENTAL RATE	DESTRUCT VALUE
(3)	NIMX 1601	30 months at end of which Michigan Northern will own.	GP 7	\$105/day	\$80,000
	NIMX 1602		GP 7	\$105/day	\$80,000
	NIMX 1604		GP 7	\$115/day	\$90,000

NAPORANO IRON & METAL CO.

ATTEST:

[Signature]
Secretary

By: *[Signature]* Pres.
President

ATTEST:

[Signature]
Secretary

MICHIGAN NORTHERN RAILWAY COMPANY, INC.

By: *[Signature]*
President

By: *[Signature]*
Treasurer

Appendix A

PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Breach of this covenant may be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontractors to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinbefore set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to insure that applicants are employed, and the employees are treated during employment, without regard to their race, color, religion, national origin, age, sex, height, weight or marital status. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight or marital status.
5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.
6. The contractor will comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.
7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission, and/or its agent, for: purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contract has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order cancellation of the contract found to have been violated, and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the



contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.

9. The contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

APPENDIX B

AFFIRMATIVE ACTION

Section 1. Definitions

As used in this Appendix:

- (a) "Act" means the Railroad Revitalization and Regulatory Reform Act of 1976 (P.L. 94-210)
- (b) "Administrator" means the Federal Railroad Administrator or his delegate.
- (c) "Affirmative action program" means the program described in Sections 265.9 through 265.15 of 49 CFR Part 265.
- (d) "Agency" means the Federal Railroad Administration.
- (e) "Contractor" means a prime contractor or a sub-contractor who will be paid in whole or in part directly or indirectly from financial assistance under the Rail Acts.
- (f) "Minority" means Women, Blacks, Hispanic Americans, American Indians, American Eskimos, American Orientals and American Aleuts.
- (g) "Rail Acts" means the Act and the provisions of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Rail Passenger Service Act (45 U.S.C. 501 et seq.) amended by the Act.
- (h) "Regulations" means the Regulations relative to non-discrimination in Federally-assisted programs of the DOT Title 49, CFR, Part 21, as they may be amended from time to time.
- (i) "Subsidizer" means Michigan State Transportation Commission through the Michigan Department of Transportation.

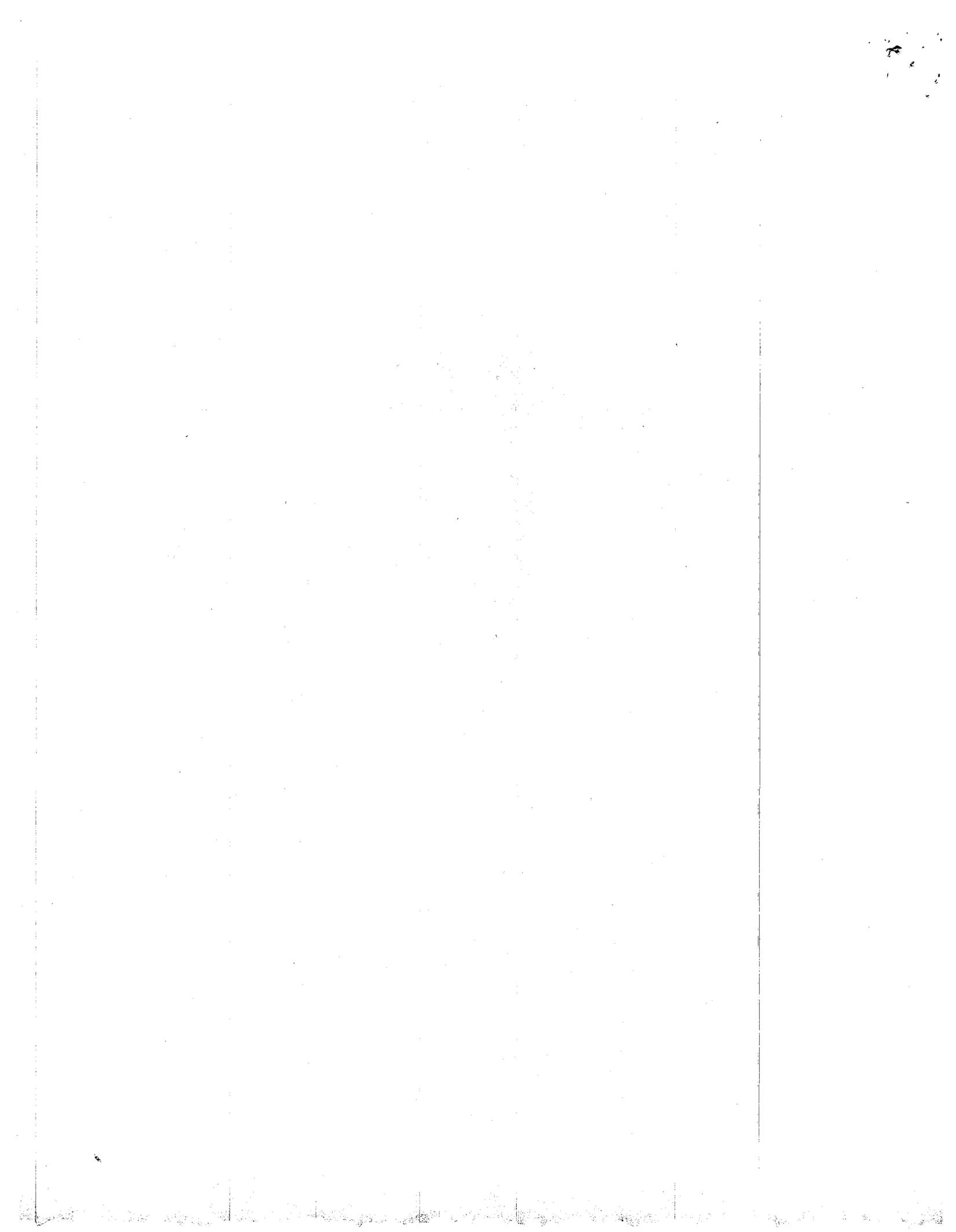
Section 2. Affirmative Action Requirements

In connection with the performance of rail freight services under this Agreement, the Contractor agrees as follows:

(a) The Contractor shall comply with the Regulations, which are herein incorporated by reference and made a part of this Agreement.

(b) The Contractor, with regard to the work performed by it under this Agreement, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(c) In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of its obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.



(d) The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Subsidizer or the Agency to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Contractor is in the Exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Subsidizer or to the Agency, whichever is appropriate, and shall set forth what efforts it has made to obtain the information.

(e) In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Agreement, the Subsidizer shall impose such contract sanctions as it or the Agency may determine to be appropriate, including but not limited to:

- (1) Withholding of payments to the Contractor under this Agreement until it complies; and/or
- (2) Cancellation, termination or suspension of this Agreement in whole or in part.

(f) The Contractor shall include the provisions of paragraphs (a) through (e) in every subcontract, including procurement of materials and lease of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the Subsidizer or the Agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the Subsidizer to enter into such litigation to protect the interests of the Subsidizer and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

(g) The Contractor shall comply with all applicable provisions of the Rail Acts, Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49 (u), Public Law No. 94-210 (90 Stat. 31), and Section 905 of the Act.

(h) As a condition to receiving Federal financial assistance under the Act or the provisions of the Rail Acts, the Contractor hereby agrees to observe and comply with the following:

(1) No person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, or denied the benefits of, or be subjected to discrimination under, any project, program or activity funded in whole or in part through such assistance.

(i) The following specific discriminatory actions are prohibited:

- (1) The Contractor under any projects, program or activity to which these clauses apply shall not, directly or through contractual or other arrangements, on the grounds of race, color, national origin, or sex:
 - (A) Deny a person any service, financial aid, or other benefit provided under such project, program or activity;
 - (B) Provide any service, financial aid, or other benefit to a person which is different, or is provided in a different manner, from that provided to others under such project, program or activity;

- (C) Subject a person to segregation or separate treatment in any matter related to their receipt of any service, financial aid or other benefit under such project, program or activity;
- (D) Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid or other benefit under such project, program or activity; or
- (E) Deny a person an opportunity to participate in such project, program or activity through the provision of services or otherwise or afford them an opportunity to do so which is different from that afforded others under such project, program or activity.

(2) The Contractor in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such project, program or activity or the class of persons to whom, or the situations in which such services, financial aid, other benefits, or facilities will be provided under any such project, program or activity, or the class of persons to be afforded an opportunity to participate in any such project, program, or activity shall not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the project, program or activity with respect to individuals of a particular race, color, national origin or sex.

(3) In determining the site or location of facilities, the Contractor shall not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any project, program, or activity to which these clauses apply on the grounds of race, color, national origin or sex, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of these clauses.

(4) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, national origin or sex. Except as otherwise required by the regulations or orders of the Administrator, the Contractor shall take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, national origin or sex. Such action shall include, but not be limited to the following: employment, promotion, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates or pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment notices to be provided by the agency's representative setting forth the provisions of these non-discrimination clauses. The Contractor understands and agrees that it shall not be an excuse for failure to provide affirmative action that the labor organizations with which the Contractor has a collective bargaining agreement failed or refused to admit or qualify minorities for admission to the union, or that the provisions of such agreements otherwise prevent the Contractor from implementing its affirmative action program.

(5) The Contractor shall not discriminate against any business organization in the award of any contract because of race, color, national origin or sex of its employees, managers or owners. Except as otherwise required by the regulations or orders of the Administrator, the Contractor shall take affirmative action to insure that business organizations are permitted to compete and are considered for awards of contracts without regard to race, color, national origin or sex.

(j) As used in these clauses, the services, financial aid, or other benefits provided under a project, program or activity receiving financial assistance under the Rail Acts include any service, financial aid, or other benefit provided in or through a facility funded through financial assistance provided under the Rail Acts.

(k) The enumeration of specific forms of prohibited discrimination does not limit the generality of prohibition in paragraph (h) (1) of this Section.

(l) These clauses do not prohibit the considerations of race, color, national origin or sex if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the Contractor's operations or activities on the grounds of race, color, national origin or sex. Where prior discriminatory or other practice or usage tends on the grounds of race, color, national origin or sex, to exclude individuals or businesses from participation in, to deny them the benefits of, or subject them to discrimination under any project, program or activity to which these clauses apply, the Contractor must take affirmative action to remove or overcome the effects of the prior discriminatory practice or usage. Even in the absence of prior discriminatory practice or usage to which this part applies, the Contractor is expected to take affirmative action to insure that no person is excluded from participation in or denied the benefits of the project, program or activity on the grounds of race, color, national origin or sex, and that minorities and minority businesses are afforded a reasonable opportunity to participate in employment and procurement opportunities that will result from financial assistance provided under the Rail Acts.

(m) The Contractor agrees to take such actions as are necessary to monitor its activities and those of its contractors who will be paid in whole or in part with funds provided by the Rail Acts, or from obligations guaranteed by the administrator pursuant to the Rail Acts, except obligations guaranteed under section 602 of the Rail Passenger Service Act, in order to carry out affirmatively the purposes of paragraph (h) above, and to implement the affirmative action program developed and implemented pursuant to 49 CFR 265.

(n) The Contractor shall, in all advertisements for employees, or solicitations for services or materials from business organizations placed by or on behalf of the recipient, in connection with any project, program or activity funded in whole or in part with financial assistance under the Rail Acts, state that all applicants for employment will receive consideration for employment, and all business organizations will receive consideration for an award of a contract without regard to race, color, national origin or sex.

(o) The Contractor shall send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by the agency's representative, advising the labor organization or worker's representative of the Contractor's commitments under Section 903 of the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(p) The Contractor shall comply with all provisions of Section 905 of the Act, the Civil Rights Act of 1964, any other Federal civil rights act and with the rules, regulations, and orders issued under such acts.

(q) The Contractor shall furnish all information and reports required by the rules, regulations, and orders of the Administrator, and will permit access to its books, records, and accounts by the Administrator for purposes of investigation to ascertain compliance with rules, regulations, and orders referred to in paragraph (p) hereof.

(r) The Contractor shall furnish such relevant procurement information not included in its affirmative action program, as may be requested by the Minority Business Resource Center. Upon the request of the Contractor, the Minority Business Resource Center shall keep such information confidential to the extent necessary to protect commercial or financial information or trade secrets to the extent permitted by law.

(s) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement, or with the provisions of Section 905 of the Act, the Civil Rights Act of 1964, or with any other Federal civil rights act, or with any rules, regulations, or orders issued under such acts, this Agreement will, after notice of such noncompliance, and after affording a reasonable opportunity for compliance, be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Federal financial assistance in accordance with procedures authorized in Section 906 of the Act, or as otherwise provided by law.

(t) The Contractor shall not enter into any contract or contract modification whether for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, or for construction, in connection with a project, program or activity which receives financial assistance under the Rail Acts with a contractor debarred from or who has not demonstrated eligibility for Federal or federally assisted contracts, and will carry out such sanctions and penalties for violation of this part as may be imposed upon contractors and subcontractors by the Administrator or any other authorized Federal official. The Contractor shall insure that the clauses required by Section 4 of this Appendix implementing Executive Order No. 11246 will be placed in each non-exempt federally assisted construction contract.

(u) The Contractor agrees to comply with and implement the written affirmative action program as approved by the Administrator pursuant to Section 265.17 of Title 49 CFR.

(v) The Contractor agrees to notify the Administrator promptly of any law suit or complaint filed against the recipient alleging discrimination on the basis of race, color, national origin or sex.

(w) The Contractor shall include the preceding provisions of paragraphs (h) through (v) in every contract or purchase order, whether for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, or for construction relating to project, programs or activities financed in whole or in part under the Rail Acts. The Contractor shall cause each such contractor or vendor to include the provisions in paragraphs (h) through (v) in every subcontract. The Contractor will take such action with respect to any such contract or purchase order as the Administrator may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Administrator, the Contractor may request the United States to enter into such litigation.

Section 3. Affirmative Action Programs

(a) General A prerequisite to the development of a satisfactory affirmative action program is the identification and analysis of problem areas inherent in minority employment and utilization of minority employment and utilization of minority businesses, and an evaluation of opportunities for utilization of minority group personnel and minority businesses. Therefore, an affirmative action program

to guarantee employment and contractual opportunities shall provide for specific actions keyed to the problems and needs of minority persons and minority businesses including, where there are deficiencies based on past practices, and with respect to future plans for hiring and promoting employees or awarding contracts, the development of specific goals and timetables for the prompt achievement and maintenance of full opportunities for minority persons and minority businesses with respect to programs, projects and activities subject to this part.

(b) Employment practices

(1) The affirmative action program for employment showing the level of utilization of minority employees, and establishing a plan to insure representative opportunities for employment for minority persons shall be developed in accordance with the regulations of the Department of Labor at 41 CFR 60-2.

(2) Railroad applicants or recipients shall develop their program for each establishment in their organization and by job categories in accordance with the requirements of the Joint Reporting Committee of the Equal Employment Opportunity Commission and the Department of Labor. Other applicants recipients or contractors may use any program format or organization which has been approved for use by other Federal agencies enforcing equal opportunity laws.

(3) The affirmative action program shall show the source of statistical data used.

(4) The affirmative action program shall include a listing by job category of all jobs which may be established or filled by the applicant, recipient or contractor as a result of the project, program or activity funded by federal financial assistance under the Rail Acts for the first five (5) years of such project, program or activity or the period during which such project, program, or activity will be undertaken whichever is the lesser ("program period").

(5) The affirmative action program shall set forth in detail a plan to insure that with respect to the project, program, or activity financed in whole or in part through financial assistance under the Rail Acts, minority persons have an opportunity to participate in employment in proportion to the percentage of the minority work force in the area where the applicant's, recipient's or contractor's operations are located as compared to the total work force, and that such minority persons have an equal opportunity for promotion or upgrading. Where appropriate because of prior underutilization of minority employees, the program shall establish specific goals and timetables to utilize minority employees in such projects, programs or activities in the above-mentioned proportion.

(c) Contracts

(1) The affirmative action program shall include details of proposed contracts in excess of Ten Thousand Dollars (\$10,000.00) to be awarded in connection with projects, programs, and activities funded in whole or in part through financial assistance under the Rail Acts, including contracts for professional and financial services, for the program period. The details shall include a description of the services or products which will be sought including estimated quantities, the location where the services are to be provided, the manner in which proposals will be solicited (e.g., cost plus fixed fee, fixed price), the manner in which contracts will be awarded (e.g., competitive or sole source). The plan shall also give details as to bidding procedures and information as to other qualifications for doing business with the applicant, recipient or contractor. Upon request by the applicant, recipient or contractor, any information submitted to the Administrator shall be kept confidential to the extent permitted by law.

(2) The affirmative action program shall review the procurement practices of the applicant, recipient or contractor for the full year preceeding the date of the submission of the affirmative action program and evaluate the utilization of minority business in its procurement activities. Such evaluation of utilization of minority business shall include the following:

(i) An analysis of awards of contracts to minority businesses during such year describing the nature of goods and services purchased and the dollar amount involved; and

(ii) A comparison of the percentage of awards of contracts to minority businesses (by number of contracts and by total dollar amount involved) to the total procurement activity of the applicant, recipient, or contractor for said year.

(3) The affirmative action program shall set forth in detail the applicant's, recipient's or contractor's plan to insure that minority businesses are afforded a fair and representative opportunity to do business with the applicant, recipient or contractor (both in terms of number of contracts and dollar amount involved) for the program period. Such plan shall identify specific actions to be taken to:

(i) Designate a liaison officer who will administer the minority business program;

(ii) Provide for adequate and timely consideration of the availability and potential of minority businesses in all procurement decisions;

(iii) Assure that minority businesses will have an equitable opportunity to compete for contracts, by arranging solicitation time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of minority businesses who are potential contractors in preparing bid materials and in obtaining and maintaining suitable bonding coverage in those instances where bonds are required;

(iv) Maintain records showing that the policies set forth in this part are being complied with;

(v) Submit quarterly reports of the records referred to in subparagraph (iv) above in such form and manner as the Administrator may prescribe; and

(vi) Where appropriate because of prior underutilization of minority businesses, establish specific goals and timetables to utilize minority businesses in the performance of contracts awarded.

(d) Successor organizations Where applicant, recipient or contractor is a successor organization, its affirmative action program shall review the hiring and procurement practices of its predecessor organizations.

Section 4. Equal Opportunity Clause

During the performance of this Agreement the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or

100



other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under Section 2020 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Subsidizer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Governmental contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (a) through (f) of this Section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Subsidizer may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Subsidizer, the Contractor may request the United States to enter into such litigation to protect the interest of the United States

RECORD KEEPING

Appendix C

The Lessee and the Lessor shall make available to the auditors of the State of Michigan or of any governmental agency having jurisdiction over the Lessee, the records of revenues and costs related to this Lease Agreement. All such records for each year will be kept for a period of at least four (4) years after the end of that particular year, and any such records that are the subject of an auditing dispute shall be kept for the term of that dispute. The parties hereto shall allow inspection of the above-described records by the authorized agents of the State of Michigan and the Federal Railroad Administration during regular business hours upon reasonable notice.

ME-1459
EFFECTIVE TIME ENDORSEMENT

This endorsement, effective 10/1/80 , forms a part of
policy No. IM8 37 61 76 or supplemental endorsement No. #2 attached to
policy No. IM8 37 61 76 issued to Michigan Northern Railway Company Inc.
by National Ben Franklin Insurance Co. at its Agency

located Lake City, Michigan
CITY AND STATE

Date of endorsement 10/1/80

Scott L. Mayer Agent

(When this endorsement forms a part of a supplemental endorsement the word "policy" wherever appearing in the following provisions is to be construed to mean "supplemental endorsement".)

The time of inception and the time of expiration or termination of this policy and of any schedule or endorsement attached shall be 12:01 a.m. standard time.

To the extent that coverage in this policy replaces coverage in other policies terminating noon standard time on the inception date of this policy, coverage under this policy shall not become effective until such other coverage has terminated.





ENDORSEMENT NO. #1

Date of Issuance 10/1/80

THIS ENDORSEMENT, EFFECTIVE 10/1/80
OF THE National Ben Franklin Insurance Co.
ISSUED TO Michigan Northern Railway Company, Inc.

FORMS A PART OF POLICY NO. IM8 37 61 76
INSURANCE COMPANY

DEDUCTIBLE ENDORSEMENT

Each claim for loss or damage shall be adjusted separately and from the amount of each adjusted claim, or the applicable limit of liability, whichever is less, the following deductible amounts shall apply:-

\$10,000.00 deductible shall apply on all locomotives
valued at \$150,000.00 and over;

\$ 5,000.00 deductible shall apply on all locomotives
valued at less than \$150,000.00;

\$ 1,000.00 deductible shall apply on all other equipment.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED

AGENT OR BROKER NAME AND ADDRESS

Redman Agency Inc.
Lake City, Michigan 49651

Scott L. Maxwell

**CONTRACTORS EQUIPMENT,
(All Risk Form)**

Attached to and forming part of Policy No. IMB 37 61 76

issued to **Michigan Northern Railway Company Inc.**

by **National Ben Franklin Insurance Co.**

at its Agency

located (City and State) **Lake City, Michigan 49651**

Date **10/1/80**

SUBJECT TO ALL OF THE STIPULATIONS, LIMITATIONS, CONDITIONS AND EXCLUSIONS IN THE POLICY OF WHICH THIS FORM CONSTITUTES A PART AND SUBJECT ALSO TO THE PROVISIONS OF THIS FORM, THIS POLICY COVERS:

- The following described property of the Insured or property of others, but only to the extent of the Insured's own actual interest therein (because of money actually advanced thereon), or legal liability for loss of or damage thereto, to not exceeding the amount specified in respect of each of the items described, but this Company shall not be liable for more than **SAME AS AMOUNT OF INSURANCE** Dollars (\$) in any one casualty, either in case of partial or total loss or salvage charges and expenses or all combined:

**SCHEDULE OF PROPERTY
Description of Property**

AMOUNT OF INSURANCE

\$ \$1,411,756.00, as per schedule attached.

\$ _____

\$ _____

\$ _____

2. THIS POLICY INSURES AGAINST:

All risks of direct physical loss of or damage to the above described property, except as provided elsewhere in this policy.

3. THIS POLICY DOES NOT INSURE:

- Property while loaned, leased or rented to others;
- Automobiles, motor trucks, motorcycles, aircraft or watercraft;
- Against loss or damage occasioned by the weight of a load exceeding the manufacturers rated capacity;
- Against loss or damage to dynamos, exciters, lamps, switches, motors or other electrical appliances or devices caused by electrical injury or disturbance from artificial causes unless fire or explosion ensues and then for the loss or damage by such ensuing fire or explosion;
- Against loss, damage or expense caused by or resulting from wear and tear, mechanical or electrical breakdown or failure, inherent vice, latent defect, gradual deterioration, corrosion, rust, dampness of atmosphere, freezing or extremes of temperature;
- Against loss or damage to any property while waterborne unless by regular ferry; nor loss or damage to any property while airborne;
- Against loss or damage to crane or derrick boom(s) while being operated, unless such loss is directly caused by fire, lightning, hail, windstorm, explosion, riot, riot attending a strike, civil commotion, aircraft, other vehicles, landslide or overturning of the unit of which it is a part;
- Against unexplained loss, mysterious disappearance, nor loss or shortage disclosed upon taking inventory;
- Against loss, damage or expense caused by or resulting from infidelity or any dishonest act on the part of the Insured or other party of interest, his or their employees or agents or any person or persons to whom the property may be entrusted (carriers for hire excepted);
- Against loss or damage caused by any repairing, adjusting, servicing or maintenance operation unless fire or explosion ensues and then only for loss or damage by such ensuing fire or explosion;
- Against loss or damage to tires or tubes unless the loss or damage is caused by fire, windstorm or theft or is coincident with other loss or damage insured by this policy;
- Against loss or damage caused by or resulting from explosion, rupture or bursting of steam boilers, steam pipes, steam turbines, steam engines, rotating parts of machinery caused by centrifugal force, if any of the foregoing are owned by, rented to, leased by or actually operated under the control of the Insured;
- Against loss or damage caused by or resulting from: (1) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces; or (b) by military, naval or air forces; or (c) by an agent of any such government, power, authority or forces; (2) any weapon of war employing atomic fission or radioactive force whether in time of peace or war; (3) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence, seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade;
- Against loss by nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, and whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril(s) insured against in this policy; however, subject to the foregoing and all provisions of this policy, direct loss by fire resulting from nuclear reaction or nuclear radiation or radioactive contamination is insured against by this policy.

4. DEDUCTIBLE. Each claim for loss or damage shall be adjusted separately and from the amount of each adjusted claim, or the applicable limit of liability, whichever is less, the sum of AS PER ENDORSEMENT ATTACHED Dollars shall be deducted.

5. COINSURANCE. This Company shall be liable in event of loss for no greater proportion thereof than the amount hereby Insured bears to the actual cash value (as determined by the valuation clause contained in this policy) of the property insured hereunder at the time such loss shall happen. If this policy covers two or more items, this condition applies to each item separately.

6. OTHER INSURANCE. If at the time of loss or damage there is available to a named or unnamed Insured or any other interested party any other insurance which would apply in the absence of this policy, the insurance under this policy shall apply only as excess insurance over such other insurance.

7. TERRITORIAL LIMITS. This insurance covers in respect of the aforementioned property wherever same may be within and between the states of the United States, the District of Columbia and Canada, excluding Alaska and Hawaii.



Scott L. Maxwell

NEW ACQUISITIONS. This policy is extended to cover additional items of a nature similar to those scheduled herein or usually covered under a Contractor's Equipment policy which items have been acquired subsequent to the attachment date and during the term of this policy, in consideration of the agreement by the Insured to report such additions within thirty days from the date acquired and to pay full premium thereon from the date acquired at pro rata of the policy rate. It is specifically understood and agreed, however, that this policy shall cease to cover such additional items if they are not reported to the Company within the said thirty day period and that in any event this Company shall not be liable under the provisions of this clause for more than the actual cash value of such property nor for more than 25% of the total amount of the policy (exclusive of the provisions of this clause) or \$50,000.00 whichever is less, in respect to any one loss, disaster or casualty.

SPECIAL CONDITIONS

1. **Reinstatement.** (a) **Scheduled Property**—The amount of insurance and the applicable limit of liability, upon the occurrence of any loss covered hereunder, is reduced by the amount of such loss. (b) **Unscheduled Property**—Each claim paid hereunder reduces the amount of insurance by the sum paid, but the amount of such loss shall be reinstated automatically and a pro rata additional premium shall be payable from the date of the occurrence when the amount of such loss is determined.
2. **Machinery.** In the event of loss of or damage to machinery consisting, when complete for sale or use; of several parts, the Company shall only be liable for the value of the part(s) lost or damaged, including the cost of installation.
3. **Labels.** In the event of loss of or damage to labels, capsules or wrappers, the loss shall be adjusted on the basis of an amount sufficient to pay the cost of new labels, capsules or wrappers.
4. **Impairment of Recovery Rights.** Any act or agreement by the Insured before or after loss or damage whereby any right of the Insured to recover in whole or in part for loss or damage to property covered hereunder against any carrier, bailee or other party liable therefor, is released, impaired or lost, shall render this policy null and void, but the Insurer's right to retain or recover the premium shall not be affected. The Company is not liable for any loss or damage which, without its written consent, has been settled or compromised by the Insured. It shall, however, be permissible for the Insured without prejudice to this insurance, to accept the ordinary Bills of Lading or Shipping Receipts issued by carriers limiting their liability to less than the actual value.
5. **Sue and Labor.** In case of actual or imminent loss or damage, it shall be lawful and necessary for the Insured, his or their factors, servants and assigns, to sue, labor and travel for, in and about the defense, safeguard and recovery of the property insured hereunder, or any part thereof without prejudice to this insurance, nor shall the acts of the Insured or the Company in recovering, saving and preserving the property insured in case of loss or damage be considered a waiver or an acceptance of abandonment. The expenses so incurred shall be borne by the Insured and the Company proportionately to the extent of their respective interests.
6. **Company's Options.** It shall be optional with the Company to take all, or any part, of the property at the agreed or appraised value, or to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within sixty (60) days after the receipt of the proof of loss herein required.
7. **Abandonment.** There can be no abandonment to the Company of any property.
8. **Assignment of Policy.** This policy shall be void if assigned or transferred without the written consent of this Company.
9. **Cancellation by Non-payment of Premium.** It is a condition of this policy that if the premium be not paid within sixty days from the date of attaching, this policy shall be null and void during the time the premium is past due and unpaid.
10. **CHANGES.** Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or estop the Company from asserting any right under the terms of this policy, nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy.

Clause 8. Loss Clause and Clause 10. Protection of Property contained in the General Conditions of this policy are hereby deemed waived.

SCHEDULE OF EQUIPMENT

1. \$25,000.-1953 Alco Diesel Locomotive-Unit #2037 (Plate # 79837)
2. \$33,000. - 1949 Alco Type RS-2 Diesel-Electric Locomotive bearing line number 1501
3. \$43,500.- VTJW Vibratoll, Serial 4370826
4. \$ 9,750. - 1976 Model SGRH Section Gang Machine Tamper, Serial 25715176
5. \$15,000. - 1926 Jordan Spreader Snow Plow
6. \$20,900. - Jackson Tie Inserter- Model 125, Serial 126257, year 1977
7. \$20,900. - Jackson Tie Insertor, Model 125, Serial 126258, year 1977
8. \$75,000. - 1977 Jackson Tamper, Model 2800, Serial 124867
9. \$ 4,000. - 1976 Fairmont Spiker, 223592
10. \$ 4,650. - 1977 Saftran Bolt Wrench, 7200-7, Model C
11. \$ 4,750. - 1977 Saftran Bolt Wrench, 7388-7, Model C
12. \$ 3,250. - GE Portable Tach
13. 175,000. - EMD-GP-7, PNC172 Locomotive
14. \$ 5,000. - 1947 Rotary Snowplow, 4WD forward mount 4058, Serial,763 engine 4711683
15. \$92,556. - Kershaw Balust Regulator, serial 1300 and Kershaw attachment
16. 175,000. - GP Locomotive, PNC176
17. 175,000. - GP Locomotive, PNC539
18. 175,000. - GP Locomotive, PNC4204
19. 175,000. - GP Locomotive, PNC1506
20. \$36,000. - Jackson Tie Inserter, 134736
21. \$ 6,000. - 2 - Sullair Compressors, serials 6706 & 6892, \$3,000. each
22. \$ 1,500. - CP-1240 Air Hammer
23. \$ 1,000. - 9580-RS Impact Wrench

- 24. \$ 1,000. - CP12405 Spike Driver, F449425
 - 25. \$ 800. - Sand Blaster
 - 26. \$ 1,200. - Radar K-15
 - 27. \$ 6,000. - Sand Tower
 - 28. \$36,000. - Jackson Tie Inserter, Model 925, serial 135505
 - 29. \$10,000. - Aircom Radio repeater with transmission lines and antenna located at Morley and Elmira, \$15,000. each location
 - 30. \$ 3,000. - Aircom remote control base transmitter with transmission lines and antenna located at Cadillac
 - 31. \$47,000. - 1976 Case articulated Loader, Model W24B, with quick coupler
 - 32. \$30,000. - 2 - Freight cars, serial MIGN 100,001 and MIGN 100,002, \$15,000. each car
- \$1,411,756. Total

*Notified Scott
on 11-18-80 that
this is slack
- tie inserter 36,000
5/10/135506
- Jordan Aprons 27,500
from bond*

Policy No. IM 8 37 61 76

Renewal of NEW

MOAC
INLAND MARINE POLICY

THE NATIONAL BEN FRANKLIN INSURANCE COMPANY OF MICHIGAN Herein called the Company

Michigan Northern Railway Company, Inc.
110 W. North Street
P. O. Box 869
Cadillac, MI 49601

AMOUNT	RATE	PREMIUM
\$ 1,411,756.00	.55	\$ 7,765.00

Period 10-1-80 10-1-81
Inception (Mo. Day Yr.) Expiration (Mo. Day Yr.)

Countersigned at Lake City, Michigan

ALL KINDS OF INSURANCE

REDMAN
AND REAL ESTATE
Phone 839-7272 103 Main St.
LAKE CITY, MICHIGAN 49651

this 1st day of October 1980

Agent Scott L. May Jr.

Rev. 7-78

(Attached Form(s), Endorsement(s) and Cover Riders Here)

GENERAL CONDITIONS

- Misrepresentation and Fraud.** This entire policy shall be void if, whether before or after a loss, the Insured has concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the Insured therein, or in case of any fraud or false swearing by the Insured relating thereto.
- Notice of Loss.** The Insured shall as soon as practicable report in writing to the Company or its agent every loss, damage or occurrence which may give rise to a claim under this policy and shall also file with the Company or its agent within ninety (90) days from date of discovery of such loss, damage or occurrence, a detailed sworn proof of loss.
- Examination Under Oath.** The Insured, as often as may be reasonably required, shall exhibit to any person designated by the Company all that remains of any property herein described, and shall submit, and in so far as is within his or their power cause his or their employees, members of the household and others to submit to examinations under oath by any person named by the Company and subscribe the same; and, as often as may be reasonably required, shall produce for examination all writings, books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by the Company or its representative, and shall permit extracts and copies thereof to be made. No such examination under oath or examination of books or documents, nor any other act of the Company or any of its employees or representatives in connection with the investigation of any loss or claim hereunder, shall be deemed a waiver of any defense which the Company might otherwise have with respect to any loss or claim, but all such examinations and acts shall be deemed to have been made or done without prejudice to the Company's liability.
- Valuation.** The Company shall not be liable beyond the actual cash value of the property at the time any loss or damage occurs and the loss or damage shall be ascertained or estimated according to such actual cash value with proper deduction for depreciation, however caused, and shall in no event exceed what it would then cost to repair or replace the same with material of like kind and quality.
- Settlement of Loss.** All adjusted claims shall be paid or made good to the Insured within sixty (60) days after presentation and acceptance of satisfactory proof of interest and loss at the office of the Company. No loss shall be paid or made good if the Insured has collected the same from others.
- No Benefit to Bailee.** This insurance shall in nowise inure directly or indirectly to the benefit of any carrier or other bailee.
- Subrogation or Loan.** If in the event of loss or damage the Insured shall acquire any right of action against any individual, firm or corporation for loss of, or damage to, property covered hereunder, the Insured will, if requested by the Company, assign and transfer such claim or right of action to the Company or, at the Company's option, execute and deliver to the Company the customary form of loan receipt upon receiving an advance of funds in respect of the loss or damage; and will subrogate the Company to, or will hold in trust for the Company, all such rights of action to the extent of the amount paid or advanced, and will permit suit to be brought in the Insured's name under the direction of and at the expense of the Company.
- Loss Clause.** Any loss hereunder shall not reduce the amount of this policy, except in the event of payment of claim for total loss of an item specifically scheduled hereon. If claim is paid for total loss of one or more scheduled items, the unearned premium applicable to such items will be refunded to the Insured or applied to the premium due on item(s) replacing those on which the claim was paid.
- Pair, Set or Parts.** In the event of loss of or damage to:
 - any article or articles which are a part of a pair or set, the measure of loss of or damage to such article or articles shall

- be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article or articles, but in no event shall such loss or damage be construed to mean total loss of the pair or set; or
 - any part of property covered consisting, when complete for use, of several parts, the Company shall only be liable for the value of the part lost or damaged.
- Protection of Property.** In case of loss, it shall be lawful and necessary for the Insured, his or their factors, servants and assigns, to sue, labor, and travel for, in and about the defense, safeguard and recovery of the property insured hereunder, or any part thereof, without prejudice to this insurance, nor shall the acts of the Insured or the Company, in recovering, saving and preserving the property insured in case of loss be considered a waiver or an acceptance of abandonment. The expenses so incurred shall be borne by the Insured and the Company proportionately to the extent of their respective interests.
 - Suit.** No suit, action or proceeding for the recovery of any claim under this policy shall be sustainable in any court of law or equity unless the same be commenced within twelve (12) months next after discovery by the Insured of the occurrence which gives rise to the claim, provided however, that if by the laws of the State within which this policy is issued such limitation is invalid, then any such claims shall be void unless such action, suit or proceeding be commenced within the shortest limit of time permitted by the laws of such State.
 - Appraisal.** If the Insured and the Company fail to agree as to the amount of loss, each shall, on the written demand of either, made within sixty (60) days after receipt of proof of loss by the Company, select a competent and disinterested appraiser, and the appraisal shall be made at a reasonable time and place. The appraisers shall first select a competent and disinterested umpire, and failing for fifteen (15) days to agree upon such umpire, then, on the request of the Insured or the Company, such umpire shall be selected by a judge of a court of record in the State in which such appraisal is pending. The appraisers shall then appraise the loss, stating separately the actual cash value at the time of loss and the amount of loss, and failing to agree shall submit their differences to the umpire. An award in writing of any two shall determine the amount of loss. The Insured and the Company shall each pay his or its chosen appraiser and shall bear equally the other expenses of the appraisal and umpire. The Company shall not be held to have waived any of its rights by any act relating to appraisal.
 - Cancellation.** This policy may be canceled by the Insured by surrender thereof to the Company or any of its authorized agents or by mailing to the Company written notice stating when thereafter such cancellation shall be effective. This policy may be canceled by the Company by mailing to the Insured at the address shown in this policy or last known address written notice stating when, not less than five (5) days thereafter, such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date of the cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the Insured or by the Company shall be equivalent to mailing.
If the Insured cancels, earned premiums shall be computed in accordance with the customary short rate table and procedure. If the Company cancels, earned premium shall be computed pro rata. Premium adjustment may be made at the time cancellation is effected and, if not then made, shall be made as soon as practicable after cancellation becomes effective. The Company's check or the check of its representative mailed or delivered as aforesaid shall be a sufficient tender of any refund of premium due to the Insured.

ALL KINDS OF INSURANCE



REDMAN

AND REAL ESTATE
Phone 839-7272 103 Main St.
LAKE CITY, MICHIGAN 49651



THE ABOVE COMPANY, A STOCK COMPANY, IS A MEMBER OF

The Continental Insurance Companies

In consideration of the stipulations herein named and of the premium above specified the Company does insure the Insured named above, hereinafter called the Insured, whose address is shown above, from the inception date shown above, at noon, to the expiration date shown above, at noon, Standard Time at place of issuance, to an amount not exceeding the amount(s) above specified, on the property described in the attached rider(s).

THIS POLICY IS MADE AND ACCEPTED SUBJECT TO THE FOREGOING STIPULATIONS AND CONDITIONS, AND TO THE CONDITIONS PRINTED ON THE BACK HEREOF AND FORM ATTACHED HERETO, WHICH ARE HEREBY SPECIALLY REFERRED TO AND MADE A PART OF THIS POLICY, together with such other provisions, agreements or conditions as may be endorsed hereon or added hereto. Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or estop the Company from asserting any right under the terms of this policy, nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy.

Terms of this policy which are in conflict with the statutes of the State wherein this policy is issued are hereby amended to conform to such statutes.

In Witness Whereof, the Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized Agent of the Company at the agency hereinbefore mentioned.

Secretary

Chairman and President

MOAC 1A REV. 4-76

INLAND MARINE POLICY

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