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Vice President & General Counsel

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General Attorney

Dennis W. Krakow  
Senior Trial Attorney

Robert I. Schellig, Jr.  
Trial Attorney

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Trial Attorney

Mary P. Sclawy  
Attorney

Christopher A. Rodgers  
Attorney



**Grand Trunk Rail System**

Law Department

131 West Lafayette Blvd.  
Detroit, Michigan 48226  
(313) 962-2260

**2-214A026**

No. 1  
AUG 2 1982  
Date.....  
Fee \$50.00

Washington, D. C.

July 28, 1982  
File: 352-DTI

RECORDATION NO. 13715  
AUG -2 1982 -3 05 PM  
INTERSTATE COMMERCE COMMISSION

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

RE: ICC Recordation Number 4892-E

Dear Mrs. Mergenovich:

Enclosed for recordation with the Interstate Commerce Commission are counterparts of an Option Agreement dated as of June 30, 1982. The equipment which is subject to this Option Agreement has already been recorded with the ICC pursuant to various conditional sale and lease documents as noted under the above recordation number. Although this Agreement is submitted as a primary document regarding the two parties set forth below, I would appreciate your cross-indexing it to the above referenced Agreements as well. The parties to the Option Agreement herewith submitted for recordation are:

Optionor: Creeko Equipment Company  
c/o Salomon Brothers  
One New York Plaza  
New York, NY 10004

Optionee: Grand Trunk Western Railroad Company  
131 West Lafayette Boulevard  
Detroit, Michigan 48226

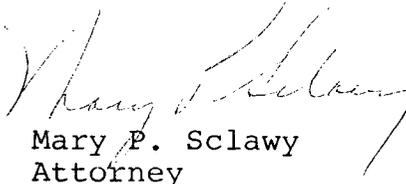
The equipment subject to the Option Agreement is as follows:

Mrs. Agatha L. Mergenovich  
July 28, 1982  
Page Two

- 6 - 3,000 horsepower GP 40 diesel locomotives bearing DTI road numbers 6400 through 6405, both inclusive, and
- 15 - 100 ton high-cube boxcars, bearing DTI road numbers 26635 through 26649, both inclusive.

Also enclosed is our check #655 in the amount of \$50.00 for filing this document as a primary document. Please accept one counterpart of the Option for filing, stamp the remaining with your recordation number and return them with your fee receipt to the undersigned.

Sincerely,



Mary P. Sclawy  
Attorney

MPS/cda  
Encls.

**Interstate Commerce Commission**  
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Mary P. Sclawy-Atty.  
Grand Trunk Rail System  
Law Department  
131 West Lafayette Blvd.  
Detroit, Michigan 48226

August 2, 1982

Dear Madam:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 8/2/82 at 3:05PM, and assigned re-  
recording number(s). 13715

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

RECORDATION NO. 13715

AUG - 2 1982 - 3 05 PM

INTERSTATE COMMERCE COMMISSION

OPTION AGREEMENT

AGREEMENT, dated as of June 30, 1982, by and between CREEKO EQUIPMENT COMPANY, a New York limited partnership ("Creeko"), and GRAND TRUNK WESTERN RAILROAD COMPANY, a Michigan corporation ("Grand Trunk").

WHEREAS, Creeko Equipment Corporation (the "Corporation"), acting as nominee for Creeko pursuant to a Nominee Agreement, dated as of June 1, 1968, has entered into Conditional Sale Agreements, dated as of June 1, 1968 (the "Conditional Sale Agreements"), with Greenville Steel Car Company and General Motors Corporation (Electro-Motive Division), respectively, and Detroit, Toledo and Ironton Railroad Company (a wholly-owned subsidiary of Grand Trunk hereinafter referred to as "DT&I"), providing for the sale to the Corporation of the diesel locomotives and box cars more particularly described in Annex A hereto (the "Equipment"); and

WHEREAS, the Equipment has been leased to DT&I for a term expiring on July 15, 1983 pursuant to a Lease of Railroad Equipment, dated as of June 1, 1968 (the "Lease"), between the Corporation and DT&I; and

WHEREAS, the interest of the Corporation in and to the Equipment, the Lease and the Conditional Sale Agreements has been assigned to Creeko, subject to the rights and remedies of the respective manufacturers and their assigns under the Conditional Sale Agreements and to the rights of D,T&I under the Lease; and

WHEREAS, Grand Trunk desires to acquire, and Creeko desires to grant, an option to purchase Creeko's interest in the Equipment at the expiration of the Lease on the terms and conditions hereinafter set forth,

NOW, THEREFORE, in consideration of the premises and the payment by Grand Trunk to Creeko of \$155,000 upon the execution and delivery hereof, receipt of which is hereby acknowledged by Creeko, the parties hereto hereby agree as follows:

1. Option. Subject to the terms and conditions hereinafter set forth, Grand Trunk shall have the right and option, exercisable as hereinafter set forth during the period commencing June 1, 1983 and expiring at the close of business on July 1, 1983, to purchase from Creeko Creeko's interest in all but not less than all the Equipment for a purchase price of \$520,000. Such right and option shall be exercisable by giving written notice of exercise to Creeko at its address hereinafter set forth during the period provided for such exercise.

2. Closing. If the option set forth in Paragraph 1 hereof has been duly and timely exercised, the closing of the purchase and sale of the Equipment shall take place at 10:00 a.m. on July 15, 1983 at the offices of Salomon Brothers Inc, One New York Plaza, New York, N.Y., or such other time and place as the parties shall agree upon. At the closing, subject to the terms and conditions herein

set forth, Grand Trunk shall deliver to Creeko a certified or official bank check in New York Clearing House funds payable to the order of Creeko in the full amount of the purchase price against delivery by Creeko to Grand Trunk of an Assignment in the form of Annex B hereto and an opinion of counsel for Creeko in the form of Annex C hereto. All rights, title and interest of Creeko in and to the Equipment, and risk of loss and other risks of ownership thereof, shall pass to Grand Trunk upon delivery of the foregoing documents whether or not the Equipment has theretofore been delivered to Grand Trunk.

3. Condition. The obligations of Creeko to complete the closing hereunder shall be subject to the condition that DT&I shall have performed all of its obligations under the Lease to be performed on or prior to the date of such closing, that the purchase price of the Equipment under the Conditional Sale Agreements shall have been paid in full and that Creeko shall have received that portion of the final rental payment due under the Lease which is not required for the payment of such purchase price.

4. Representations and Warranties of Creeko;  
Disclaimer of Other Warranties.

(a) Creeko represents and warrants to Grand Trunk as follows:

(1) Creeko is a limited partnership  
duly formed and validly existing under

the laws of the State of New York, with the power to enter into and perform this Agreement;

(2) This Agreement has been duly authorized, executed and delivered by Creeko and constitutes a legal, valid and binding Agreement of Creeko; and

(3) Creeko has not previously assigned or transferred, nor except as contemplated hereby will Creeko assign or transfer, any of its interest in any of the Lease, the Conditional Sale Agreements or the Equipment, and Creeko has not taken, nor except as contemplated hereby will Creeko take, any action to create any lien, claim or encumbrance on the Equipment except those which exist under or by virtue of the Lease and the Conditional Sale Agreements.

(b) Creeko makes no representation or warranty, express or implied, as to the design or condition of, or as to the quality of material, equipment or workmanship in, the Equipment, and Creeko makes no warranty of merchantability or fitness of the Equipment for any particular purpose or as to title to the Equipment or any components thereof, it

being agreed that all such risks as between Creeko and Grand Trunk shall be borne by Grand Trunk.

5. Casualty Occurances. In the event that any unit of the Equipment suffers a Casualty Occurance (as defined in the Lease), such unit shall be excluded from the Equipment covered by the Option set forth in Paragraph 1 hereof, reference thereto shall be deleted from the Assignment to be delivered pursuant to Paragraph 2 hereof, and the purchase price shall be reduced by an amount equal to \$79,900 if such unit is a locomotive or \$2,700 if such unit is a box car.

6. Expenses. Each party shall pay its own expenses in connection with the transactions contemplated hereby, provided, however, that the fees and expenses of counsel for Creeko shall be borne and paid by Grand Trunk.

7. Further Assurances. Creeko agrees that after the closing provided for in Paragraph 2 hereof Creeko will execute and deliver to Grand Trunk such further instruments of transfer or other documents, and do such other things, as Grand Trunk shall reasonably request in order to carry out or confirm the transactions contemplated hereby, all at the cost and expense of Grand Trunk.

8. Notices. Any notice or other communication required or permitted hereunder shall be sufficiently given if delivered personally or sent by Certified Mail, return receipt requested, as follows:

if to Creeko:

Creeko Equipment Company  
c/o Salomon Brothers Inc  
One New York Plaza  
New York, New York 10004

Attn: Robert A. Hansen,  
Vice President

if to Grand Trunk:

Grand Trunk Western Railroad Company  
131 West Lafayette Boulevard  
Detroit, Michigan 48226

Attn: P. E. Tatro,  
Vice President Finance

9. Integrated Agreement; Amendments. This Agreement constitutes the entire agreement between the parties on the subject matter hereof, and supersedes all other prior agreements and understandings between the parties relating thereto. This Agreement may be amended only by a written instrument signed by both of the parties hereto.

10. Successors and Assigns; Governing Law. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto and shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, this Agreement has been executed  
by the parties hereto on the date first above written.

CREEKO EQUIPMENT COMPANY

By SB&H Leasing Corporation,  
General Partner

By   
President

GRAND TRUNK WESTERN  
RAILROAD COMPANY

By   
Vice President

APPROVED AS TO FORM:  
  
DATE: 7-26-82

State of New York )  
                          ) ss.  
County of New York)

On this 23rd day of July, 1982, before me, personally appeared Robert A. Hansen, to me known to be the person described in and who executed the foregoing instrument on behalf of Creeko Equipment Company, a limited partnership, and he executed the same as his free act and deed.

*Stephanie T. Pesce*



STEPHANIE T. PESCE  
Notary Public, State of New York  
No. 01 PE 4689218  
Qualified in Kings County  
Commission Expires March 30, 1983



<u>Manufacturer</u>	<u>Type</u>	<u>Quantity</u>	<u>Road Numbers</u>	AAR <u>Mechanical Designation</u>	<u>Identifying Marks</u>
General Motors Corporation (Electro-Motive Division)	3000 h.p. GP-40 diesel locomotives	6	6400 to 6405, both inclusive	XML	THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, AGENT, OWNER
Greenville Steel Car Company	100-ton 86'6" high cube box cars	15	26635 to 26649, both inclusive		(Same as above)

ASSIGNMENT OF LEASE OF RAILROAD EQUIPMENT  
AND CONDITIONAL SALE AGREEMENTS

ASSIGNMENT made July 15, 1983 by CREEKO EQUIPMENT COMPANY, a New York limited partnership ("Assignor"), to GRAND TRUNK WESTERN RAILROAD COMPANY, a Michigan corporation ("Assignee").

ASSIGNOR, for valuable consideration, receipt of which is hereby acknowledged, hereby sells, grants, assigns, transfers and sets over to the ASSIGNEE, all of Assignor's right, title and interest in that certain (1) Lease of Railroad Equipment, dated as of June 1, 1968 (the "Lease"), between Creeko Equipment Corporation (the "Corporation"), as lessor, and Detroit, Toledo and Ironton Railroad Company, as lessee (the "Lessee"), (2) Conditional Sale Agreement, dated as of June 1, 1968, among General Motors Corporation (Electro-Motive Division), the Corporation and the Lessee and (3) Conditional Sale Agreement, dated as of June 1, 1968, among Greenville Steel Car Company, the Corporation and the Lessee, in each case, together with and including, without limitation, all of Assignor's rights, title, interest and benefits in all covenants, warranties, indemnities and other agreements therein or relating to said Lease and Conditional Sale Agreements and all rights in and to the

equipment subject to said Lease and Conditional Sale Agreements more particularly described in Annex A hereto (the "Equipment"); provided, however, that the within assignment is made expressly subject in all respects (1) to the rights and remedies of the respective manufacturers and their assigns under said Conditional Sale Agreements and to the rights of DT&I under said Lease, and (2) to the reservation by Assignor of all of its rights under said Lease and Conditional Sale Agreements in respect to events or omissions occurring prior to the delivery hereof, none of which rights of the Assignor is hereby waived, released, sold, granted, assigned, transferred or set over.

Assignor represents and warrants that Assignor has not previously assigned or transferred any of its interest in any of the said Lease, Conditional Sale Agreements or Equipment and Assignor has not taken any action to create any lien, claim or encumbrance on the Equipment except those which exist under or by virtue of the said Lease and Conditional Sale Agreements.

ASSIGNOR MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT, AND ASSIGNOR MAKES NO WARRANTY OR MERCHANTABILITY OR FITNESS OF THE EQUIPMENT FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE EQUIPMENT OR ANY COMPONENTS THEREOF.

IN WITNESS WHEREOF, ASSIGNOR has caused this instrument to be duly executed on the day and year first above written.

CREEKO EQUIPMENT COMPANY

By: SB&H Leasing Corporation,  
General Partner

[Corporate Seal]

Attest:

\_\_\_\_\_  
Secretary

By \_\_\_\_\_  
President



FORM OF OPINION OF COUNSEL

Grand Trunk Western  
Railroad Company  
131 West Lafayette Boulevard  
Detroit, Michigan 48226

Gentlemen:

As counsel for Creeko Equipment Company, a New York limited partnership ("Creeko"), in connection with the Option Agreement, dated as of June 30, 1982 (the "Agreement"), between Creeko and you, we have examined such records and documents and such questions of law as we have deemed necessary or desirable for the purposes of this opinion. On the basis of such examination we advise you that in our opinion:

1. Creeko is a limited partnership duly formed and validly existing under the laws of the State of New York, with the power to enter into and perform the Agreement;
2. The Agreement has been duly authorized, executed and delivered by Creeko and constitutes a legal, valid and binding agreement of Creeko; and
3. The Assignment of Lease of Railroad Equipment and Conditional Sale Agreements delivered to you today has been duly authorized, executed and delivered by Creeko and constitutes a legal, valid and binding obligation of Creeko in accordance with its terms.