

RECORDATION NO. 13953-A
FFB 14 1983 - 11 40 AM

CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N. Y. 10005

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Filed 1425

FFB 14 1983 - 11 40 AM

INTERSTATE COMMERCE COMMISSION

3-0451080

No. FEB 14 1983
Date.....
Fee \$ 5.00

February 11, 1983

ICC Washington, D. C.

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Missouri-Kansas-Texas Railroad Company
Conditional Sale Financing Dated as of January 15, 1983
12.875% Conditional Sale Indebtedness Due 1993
CS&M Ref.: 2044-349

Dear Ms. Mergonovich:

Pursuant to 49 U.S.C. § 11303(a), I enclose here-
with on behalf of Missouri-Kansas-Texas Railroad Company,
for filing and recordation, counterparts of the following:

(a) Conditional Sale Agreement dated as of
January 15, 1983, between Southwestern States
Management Co., and The Missouri-Kansas-Texas Railroad
Company; and

(b) Agreement and Assignment dated as of
January 15, 1983, between Southwestern States
Management Co., and Mercantile-Safe Deposit and Trust
Company.

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

(1) Agent:

Mercantile-Safe Deposit and Trust Company
P. O. Box 2258
Baltimore, Maryland 21203

Counterpart John Mergonovich

RECEIVED
FEB 14 11 25 AM '83
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EXHIBIT A

SCHEDULE A
to the
Conditional Sale Agreement

Equipment

<u>Quantity</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>Railroad Road Numbers</u>	<u>Unit Purchase Price</u>	<u>Aggregate Purchase Price</u>
283	LO	100-ton 4750 cu. ft. triple hopper cars	MKT 4317- 4599, both inclusive	\$32,388.69	\$9,166,000

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

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

February 14, 1983

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 2/14/83 at 11:40AM, and assigned re-
recording number(s). 13963, & 13963-A

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

~~RECEIVED NO. 13963~~
FEB 14 1983 - 11 44 AM
INTERSTATE COMMERCE COMMISSION

[CS&M Ref. 2044-349]

CONDITIONAL SALE AGREEMENT

Dated as of January 15, 1983

Between

SOUTHWESTERN STATES MANAGEMENT CO.

and

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY.

12.875% Conditional Sale Indebtedness Due February 10, 1993

CONDITIONAL SALE AGREEMENT

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* This Table of Contents has been provided for convenience only and shall not affect any interpretation of this document.

CONDITIONAL SALE AGREEMENT dated as of January 15, 1983, between SOUTHWESTERN STATES MANAGEMENT CO., a Missouri corporation (the "Seller"), and MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a Delaware corporation (the "Railroad").

The Seller has acquired the equipment described in Schedule A hereto (the "Equipment") pursuant to Conditional Sale Agreements dated as of September 24, 1980 (the "September Agreement"), October 30, 1980 (the "October Agreement"), and December 22, 1980 (the "December Agreement"), between Trinity Industries, Inc. (the "Manufacturer") and the Seller (collectively the "Prior Sale Agreements"). The security interest of the Manufacturer in the Equipment and the right of the Manufacturer to receive payments due or to become due with respect to the purchase price of the Equipment under the September Agreement, the October Agreement and the December Agreement have been assigned, respectively, to First City Bank of Dallas, Texas Commerce Bank National Association and Mercantile National Bank at Dallas (collectively the "Banks"). The Equipment has been leased to the Railroad pursuant to Car Lease Agreements dated as of October 16, November 14 and December 22, 1980, as amended, between the Seller and the Railroad (collectively the "Lease Agreements"). The Seller has agreed with the Railroad to conditionally sell the Equipment to the Railroad pursuant to this Agreement and in connection therewith, the Lease Agreements will be subsumed under this Agreement and canceled, and the Prior Sale Agreements will be satisfied in full.

The term "Vendor", whenever used in this Agreement, means, before any assignment of any of their rights hereunder, the Seller and any successor or successors for the time being to its property and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment.

In consideration of the agreements hereinafter set forth, the parties hereto hereby agree as follows:

ARTICLE 1. SALE

The Seller hereby agrees to conditionally sell, and the Railroad agrees to purchase from the Seller, the

Equipment on February 14, 1983, or such other date not more than 30 days thereafter as the Railroad may specify in writing to the Vendor, at least five business days prior to February 15, 1983 (the "Closing Date"). The Seller represents and warrants that the design, quality and component parts of each unit of Equipment shall conform on the Closing Date to all United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to equipment of the character of such units of Equipment.

ARTICLE 2. INSPECTION AND DELIVERY

2.01. Delivery of Units. The Seller will deliver the units of Equipment to the Railroad at the place or places specified by the Railroad, freight charges, if any, prepaid, on or before the Closing Date and the Railroad shall execute and deliver to the Seller a certificate of acceptance stating that such units of Equipment have been inspected and accepted on behalf of the Railroad.

2.02. Risk of Loss. The Railroad assumes the responsibility and risk of any damage to or the destruction or loss of each unit of Equipment, and shall not be released from its obligations hereunder in any such event.

ARTICLE 3. PURCHASE PRICE AND PAYMENT

3.01. Purchase Price. The purchase price of the Equipment is set forth in Schedule A hereto (the "Purchase Price"). If any unit of the Equipment shall suffer a Casualty Occurrence (as defined in Article 7 hereof) prior to the Closing Date, the Purchase Price shall be reduced by the Purchase Price of such unit of the Equipment as set forth in Schedule A hereto.

3.02. Payment of Purchase Price on Closing Date. The Railroad hereby acknowledges itself to be indebted to the Seller in the amount of the aggregate Purchase Price of the Equipment and hereby promises to pay the same in 20 consecutive semiannual installments, as hereinafter provided (the "CSA Indebtedness").

3.03. CSA Indebtedness. The installments of the CSA Indebtedness shall be payable in 20 semiannual

installments payable on February 10 and August 10 in each year, commencing on August 10, 1983. The installments of principal payable on each such date shall be calculated as set forth in Schedule I hereto and the aggregate of such installments of principal will completely amortize the CSA Indebtedness. The unpaid portion of the CSA Indebtedness shall bear interest from the Closing Date at the rate of 12.875% per annum, payable to the extent accrued on August 10, 1983, and on each February 10 and August 10 thereafter, until the CSA Indebtedness has been paid in full.

3.04. Calculation of Interest. All interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months, except that interest payable on August 10, 1983, shall be calculated on an elapsed day, 365-day year, basis.

3.05. Penalty Interest. The Railroad will pay interest at the rate of 13.875% per annum (the "Overdue Rate") on all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

3.06. Manner of Payment. All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. If any of the dates for payment of principal or interest is not a business day, such payment shall be payable on the next succeeding business day (which shall be any calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Dallas, Texas, or Baltimore, Maryland, are authorized or obligated to remain closed).

3.07. Payment After Assignment. In the event the Seller, pursuant to Article 13 hereof, assigns the right to receive the payments herein provided to be made by the Railroad, the assignee thereof may request the Railroad to make and the Railroad shall make such payments to it at such address as shall be supplied to the Railroad by the assignee.

3.08. Prepayment. The Railroad may, without penalty, prepay installments of CSA Indebtedness as provided in Article 7 hereof, but shall not otherwise have the right to prepay the CSA Indebtedness.

ARTICLE 4. TAXES

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

ARTICLE 5. SECURITY INTEREST IN EQUIPMENT

5.01. Vendor To Retain Title. The Vendor hereby retains a security interest in the Equipment until the Railroad shall have made all its payments under this Agreement and shall have kept and performed all its agree-

ments herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as provided in this Agreement. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and shall be included in the term "Equipment" as used in this Agreement.

5.02. Transfer to Railroad. Except as otherwise specifically provided in Article 7 hereof, when and only when the full CSA Indebtedness, together with interest thereon and all other payments as herein provided, shall have been paid, and all the Railroad's obligations herein contained shall have been performed by the Railroad, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Vendor, except that the Vendor, if so requested by the Railroad at that time, will (a) execute a bill or bills of sale for the Equipment transferring and releasing its interest therein to the Railroad, or upon its order, free of all claims, liens, security interests and other encumbrances created or retained hereby, and deliver such bill or bills of sale to the Railroad, (b) execute and deliver for filing in all necessary public offices such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records such transfer and release of the security interest of the Vendor in the Equipment and (c) pay to the Railroad any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Railroad hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Railroad.

ARTICLE 6. MARKING OF EQUIPMENT

6.01. Ownership Subject to Security Agreement. The Railroad will cause each unit of Equipment to be kept numbered with its identifying number as set forth in

Schedule A hereto and will, prior to the Closing Date or as soon thereafter as practicable, but not later than 180 days after the Closing Date, cause each unit of the Equipment to be marked in letters not less than one inch in height with the words "Ownership subject to a Security Agreement Filed with the Interstate Commerce Commission" or other appropriate markings approved by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's interest in the Equipment and its rights under this Agreement, and the Railroad will replace promptly any such markings which may be obliterated or destroyed. The Railroad will not change the number of any unit of Equipment except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor by the Railroad and filed by the Railroad in all public offices where this Agreement shall have been filed.

6.02. Insignia of Railroad. Except as provided in Section 6.01 hereof, the Railroad will not allow the name of any person, association or corporation to be placed on any unit of Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia of the Railroad or its affiliates.

ARTICLE 7. CASUALTY OCCURRENCES; INSURANCE

7.01. Casualty Occurrences. In the event that any unit of Equipment shall be worn out, lost, stolen, destroyed, damaged beyond economic repair or otherwise rendered permanently unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (each such occurrence called a "Casualty Occurrence"), the Railroad shall promptly upon obtaining knowledge thereof fully inform the Vendor in regard thereto. When the aggregate Casualty Value (as defined herein) of all units having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Vendor pursuant to this Article 7) hereunder shall exceed \$50,000, the Railroad shall on the next succeeding date for payment of an installment of interest on the CSA Indebtedness pay to the Vendor a sum equal to the aggregate Casualty Value of such units of Equipment as of the date of such payment and shall file with the Vendor a certificate of an officer of the Railroad setting forth the Casualty Value of each such unit.

The Casualty Value of each unit of Equipment (other than a replacement unit) shall be deemed to be that amount which bears the same ratio to the portion of the Purchase Price attributable to such unit as the unpaid CSA Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 7 in respect of Casualty Occurrences) as of the date payment is made with respect to such Casualty Occurrence bears to the original CSA Indebtedness. The Casualty Value of each replacement unit shall be deemed to be that amount which bears the same ratio to the portion of the cost thereof paid by the Vendor as the unpaid CSA Indebtedness (without giving effect to any prepayments then or theretofore made pursuant to this Article 7 in respect of Casualty Occurrences) as of the date payment is made with respect to such Casualty Occurrence bears to the unpaid CSA Indebtedness (without giving effect to any such prepayments) as of the date of acquisition by the Vendor of such replacement unit.

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

7.02. Disposition of Deposited Funds Payment.
Funds deposited by the Railroad with the Agent pursuant to Section 7.01 hereof are herein called "Deposited Funds". So long as no event of default shall have occurred and be continuing, Deposited Funds shall be used, as the Railroad shall direct in a written instrument filed with the Vendor, in whole or in part, (a) to prepay the CSA Indebtedness, without penalty or premium, ratably in accordance with the unpaid balance of each installment, together with all interest accrued on the portion of the CSA Indebtedness being prepaid, or (b) if to the actual knowledge of the Vendor no event of default under this Agreement or event which with notice or lapse of time or both could constitute an event of default hereunder shall have occurred and be continuing (any such event being hereinafter called a "Default") to purchase a unit or units of new standard-gauge railroad rolling stock (other than work or passenger equipment). Any unit of equipment so purchased shall have a remaining useful life extending beyond February 10, 1993. Any difference between the purchase price of any such unit or units so purchased and the portion thereof paid

out of Deposited Funds shall be paid in cash by the Railroad. Promptly upon any such prepayment of any of the CSA Indebtedness, the Railroad will promptly furnish to the Vendor a revised schedule of payments of principal and interest thereafter to be made in respect of the remaining units in such number of counterparts as the Vendor may request.

7.03. Conditions of Replacement. The Railroad will cause any unit or units acquired pursuant to Section 7.02 hereof to be marked as provided in Article 6 hereof. Any and all units of Equipment so acquired shall constitute accessions to the Equipment and shall be subject to all appropriate terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and shall be included in the term "Equipment" as used in this Agreement. Title to all such units shall be free and clear of all liens and encumbrances (except the liens permitted by Section 11.02 hereof) and shall be transferred to and shall remain in the name of the Vendor subject to the provisions hereof, and the Railroad shall execute, deliver and file all such documents and do any and all such acts as may be necessary to cause such units to be subject to this Agreement. All such replacement units shall be guaranteed and warranted in like manner as is customary at the time for similar equipment.

Whenever the Railroad shall file with the Vendor a written direction to apply Deposited Funds toward the cost of any additional unit or units of Equipment, the Railroad shall file therewith:

(1) a certificate of an officer of the Railroad certifying that the Railroad is not in Default hereunder and that such unit is new standard-gauge railroad rolling stock (other than work or passenger equipment), and has been marked as required by the provisions of this Article 7, and certifying the cost of such additional unit and that such additional unit has a remaining useful life extending beyond February 10, 1993;

(2) a bill of sale to the Vendor for such unit transferring title to the Vendor hereunder free and clear from all claims, liens, security interests and other encumbrances, except the rights of the Railroad under this Agreement; and

(3) an opinion of counsel for the Railroad that the Vendor has a valid and perfected first security

title to and interest in such replacement unit, free and clear from all claims, liens, security interests and other encumbrances except the rights of the Railroad under this Agreement, and that such unit has come under and become subject to this Agreement and all necessary filings have been made to perfect the title and interests of the Vendor therein.

7.04. Insurance. The Railroad will at all times prior to the payment in full of the CSA Indebtedness, together with interest thereon and all other payments required hereby, at its own expense, keep the Equipment insured (with loss payable to the Vendor or the Railroad as their interests may appear) against loss, damage, or destruction thereof due to fire, lightning, wreck, derailment, collision, flood, tornado, cyclone, sabotage, riot or civil commotion in sums and by policies adequate at all times to protect the interests of the Vendor and the Railroad; provided that the contract for such insurance may provide insurance with loss deductible in an amount not exceeding \$150,000 net loss per occurrence, or in the event such a deductible becomes unobtainable, in such amount as may be reasonably obtainable.

ARTICLE 8. MAINTENANCE; COMPLIANCE WITH APPLICABLE LAWS

8.01. Maintenance. The Railroad at its own expense will at all times cause the Equipment to be maintained in good order and repair and eligible for railroad interchange.

8.02. Applicable Laws. During the term of this Agreement, the Railroad will at all times comply in all respects with all laws of the jurisdictions in which its operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment (the "Applicable Laws"), and in the event that any Applicable Law requires any alteration, replacement or addition of any part on any unit of the Equipment, the Railroad will conform therewith, at its own expense; provided, however, that the Railroad

may, in good faith, contest the validity or application of any Applicable Law in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 9. REPORTS AND INSPECTIONS

9.01. Reports. On or before March 31 in each year, commencing with the calendar year 1984, the Railroad shall furnish to the Vendor an accurate statement signed by an officer of the Railroad (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of Equipment that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement) or that have been withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that all the Equipment is numbered and marked as required by Article 6 hereof have been preserved or replaced.

9.02. Inspections. The Vendor shall have the right, by its agents, to inspect the Equipment and the Railroad's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 10. POSSESSION AND USE

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

ARTICLE 11. PROHIBITION AGAINST LIENS

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

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

ARTICLE 12. WARRANTIES; LEASE AGREEMENTS
CANCELED; INDEMNITIES AND TITLE

12.01. Warranties. The Seller hereby transfers and assigns to the Railroad all the right, title and interest of the Seller in and to the Manufacturer's warranties under the Prior Sale Agreements.

12.02. Lease Agreements Canceled. The Seller and the Railroad hereby agree that, upon delivery of the Equipment to the Railroad as provided in Section 2.01 hereof and payment by Mercantile-Safe Deposit and Trust Company (the "Agent") to the Banks as provided in the Agreement and Assignment dated as of December 15, 1982, between the Seller and the Agent, the Lease Agreements shall be subsumed under this Agreement and canceled.

12.03. Indemnities and Title. The Railroad agrees to indemnify, protect and hold harmless the Vendor from and against all losses, patent liabilities, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection

therewith, including counsel fees arising out of retention by the Vendor of a security interest in the Equipment, the use and operation thereof by the Railroad during the period when said security interest remains in the Vendor or the transfer of said security interest in the Equipment by the Vendor pursuant to any of the provisions of this Agreement. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement or the satisfaction, discharge or termination of this Agreement in any manner whatsoever.

ARTICLE 13. ASSIGNMENTS

13.01. No Assignment by Railroad. The Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or, except as provided in Article 10 hereof, transfer the right to possession of any unit of the Equipment without first obtaining the written consent of the Vendor (which shall be given if approved by the holders of at least a majority in principal amount of the CSA Indebtedness then outstanding). A sale, assignment, transfer or disposition to a railroad company organized under the laws of the United States of America or any of the states thereof which shall acquire all or substantially all the railroad lines of, and the railroad equipment owned or leased by, the Railroad and which, by execution of an appropriate instrument satisfactory to the Vendor, shall assume and agree to perform each of the obligations and covenants of the Railroad under this Agreement, shall not be deemed a breach of this covenant.

13.02. Assignment by Vendor. All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time.

13.03. Notice to Railroad. Upon any such assignment pursuant to Section 13.02 hereof either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall by virtue of such

assignment acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad of the notification of any such assignment, all payments thereafter to be made by the Railroad under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

13.04. Representations of Railroad. The Railroad expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder and for the purposes of inducing such acquisition, that in the event of such assignment by the Vendor as hereinbefore provided, the rights of such assignee to the entire unpaid CSA Indebtedness or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation with respect to the Equipment, or, with respect to any indemnity herein contained, any other indebtedness or liability at any time owing to the Railroad.

ARTICLE 14. DEFAULTS

14.01. Events of Default. In the event that any one or more of the following events of default shall occur and be continuing:

(a) the Railroad shall fail to pay in full any installment of CSA Indebtedness or any other sum payable by the Railroad as provided in this Agreement within 10 days after payment thereof shall be due hereunder, provided that any payment made after its due date shall include additional interest on the overdue amount (to the extent permitted by applicable law) at the Overdue Rate; or

(b) the Railroad shall, for more than 30 days after it first becomes known to an officer of the Railroad, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement or of any agreement entered into concurrently herewith relating to the financing of the Equipment on its part

to be kept or performed or to make provision satisfactory to the Vendor for such compliance; or

(c) a petition for reorganization under Title 11 of the United States Code (as now or hereafter constituted) shall be filed by or against the Railroad and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad under this Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees, within 60 days after such petition shall have been filed, and otherwise in accordance with the provisions of 11 U.S.C. § 1168, and any successor provision, as the same may be hereafter amended; or

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

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

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Railroad and upon compliance with any mandatory legal requirements then in force and applicable to such action by the Vendor, declare (a "Declaration of Default") the entire CSA Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of the CSA Indebtedness and interest shall bear interest from the date of such Declaration of Default at the Overdue Rate. The Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the CSA Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated. The Railroad shall promptly notify the Vendor of any event which has come to its attention which constitutes or which with notice or lapse of time or both could constitute an event of default under this Agreement.

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

ARTICLE 15. REMEDIES

15.01. Vendor May Take Possession of Equipment. At any time during the continuance of a Declaration of Default, the Vendor may, subject to compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate possession of one or more of the units of Equipment without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as expressly provided in Section 15.06 hereof, and may remove the same from possession and

use of the Railroad or any other person and for such purpose may enter upon any premises where the Equipment may be located and may reasonably use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad.

15.02. Delivery of Equipment. In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall reasonably designate a point or points upon the premises of the Railroad for the delivery of the Equipment to the Vendor, the Railroad shall, at its own expense, forthwith and in the usual manner (including without limitation giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any part of the Equipment has been interchanged to return the Equipment so interchanged), cause (a) the Equipment to be moved to such point or points on its lines as shall be designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor and (b) the Equipment to be moved to such interchange point or points of the Railroad as shall be designated by the Vendor upon any sale, lease or other disposal of all or any part of the Equipment by the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Railroad until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient to the Railroad and, at the Railroad's risk, to permit inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having competent jurisdiction, the Vendor shall be entitled to a decree against the Railroad requiring specific performance thereof. The Railroad hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

15.03. Disposition of Equipment. At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 15 provided) may at its election and upon such notice as is hereinafter set forth

retain the Equipment in satisfaction of the entire unpaid CSA Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Railroad by telegram or registered mail, addressed as provided in Article 19 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Railroad's rights in the Equipment shall thereupon terminate and all payments made by the Railroad may be retained by the Vendor as compensation for the use of the Equipment by the Railroad; provided, however, that if the Railroad, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing and storing the Equipment and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad; provided further that if the Railroad or any other persons notified under the terms of this Section object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall have given no notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of Section 15.04 hereof.

15.04. Sale of Equipment. At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Railroad and to any other persons to whom the law may require notice of the time and place, may sell any unit of Equipment, free from any and all claims of the Railroad or any other party claiming from, through or under the Railroad, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such

sale, the Railroad should tender full payment of the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for and otherwise arranging for the sale and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad. The proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine. The Vendor or the Railroad may bid for and become the purchaser of any unit of Equipment so offered for sale. The Railroad shall be given written notice of such sale not less than 10 days prior thereto, by telegram or registered mail addressed to the Railroad as provided in Article 19 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the right of the Railroad to purchase or provide a purchaser within 10 days after notice of the proposed sale price at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Railroad (except to the extent of surplus money received as provided in Section 15.06 hereof), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of the sums due to the Vendor from the Railroad hereunder. From and after the date of any such sale, the Railroad shall pay to the Vendor the per diem earnings received by the Railroad for each unit of Equipment which shall not have been assembled, as hereinabove provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser at such sale.

15.05. Remedies Not Exclusive. Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Vendor's rights or the Railroad's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Railroad's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

15.06. Deficiency or Surplus. If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Railroad shall pay the amount of such deficiency to the Vendor upon demand, together with interest from the date of such demand to the date of payment by the Railroad at the Overdue Rate. If the Railroad shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Railroad.

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

The foregoing provisions of this Article 15 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 16. APPLICABLE STATE LAWS

Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable Federal law) shall be ineffective as to such jurisdiction without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

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

ARTICLE 17. FILING

The Railroad will cause this Agreement, any assignment hereof and any amendments or supplements hereto or thereto to be filed with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303; and the Railroad will from time to time perform any other act and will execute, deliver and file (and will refile when necessary) any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection (to the satisfaction of counsel for the Vendor) of its interest in the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Vendor certificates or other evidence of such filing satisfactory to the Vendor.

ARTICLE 18. PAYMENT OF EXPENSES

The Railroad will pay all reasonable costs and expenses incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related hereto or thereto,

including all fees and expenses of counsel for the first assignee of this Agreement and for any party acquiring interests in such first assignment, and all reasonable costs and expenses in connection with the transfer by any party of interests acquired in such first assignment.

ARTICLE 19. NOTICES

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

(a) to the Railroad, at 701 Commerce Street, Dallas, Texas 75202, attention of Karl R. Ziebarth, Executive Vice President-Financial;

(b) to the Seller, at Suite 700, 701 Commerce Street, Dallas, Texas 75202, attention of H. O. Brandt Vice President and General Manager; and

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

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

ARTICLE 20. HEADINGS; EFFECT AND MODIFICATION OF AGREEMENT

20.01. Headings. All Article and Section headings have been provided for convenience only and shall not affect any interpretation of this Agreement.

20.02. Effect and Modification of Agreement. This Agreement, including the Schedules hereto, exclusively states the rights of the Vendor and the Railroad with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Vendor and the Railroad.

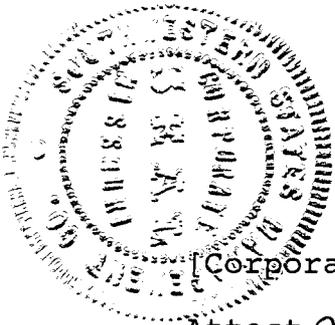
ARTICLE 21. GOVERNING LAW

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Texas; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303 and such additional rights arising out of any filing of this Agreement and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof may be filed.

ARTICLE 22. EXECUTION

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute a single instrument. Although for convenience this Agreement is dated as of the date first set forth above, the actual dates of execution hereof by the parties hereto are the dates stated in the acknowledgments hereto.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by duly authorized officers as of the date first set forth above.



SOUTHWESTERN STATES MANAGEMENT CO.,

by *[Signature]*

[Corporate Seal]

Attest:

[Signature]
ASST. Secretary



MISSOURI-KANSAS-TEXAS RAILROAD
COMPANY,

by

Janet R. ...

[Corporate Seal]

Attest:

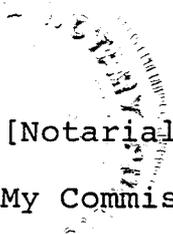
[Signature]
Secretary



STATE OF TEXAS,)
) ss.:
COUNTY OF DALLAS,)



On this 10th day of February 1983, before me personally appeared H. O. BRANDT, to me personally known, who, being by me duly sworn, says that he is the VICE PRESIDENT of SOUTHWESTERN STATES MANAGEMENT CO., a Missouri corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.



Virginia C. Schoenberger
Notary Public

[Notarial Seal]

My Commission expires March 24, 1986

STATE OF TEXAS,)
) ss.:
COUNTY OF DALLAS,)

On this 10th day of February 1983, before me personally appeared KARL R. ZIEBARTH, to me personally known, who, being by me duly sworn, says that he is the VICE PRESIDENT of MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a Delaware corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.



Virginia C. Schoenberger
Notary Public

[Notarial Seal]

My Commission expires March 24, 1986

SCHEDULE I

Allocation Schedule of Each \$1,000,000
of CSA Indebtedness Payable In
20 Semiannual Installments of Principal
and Interest Commencing August 10, 1983

<u>Payment Number</u>	<u>Total Payment</u>	<u>Interest</u>	<u>Principal</u>	<u>Unpaid Principal</u>
				1,000,000.00
8/10/83	*	**	25,931.34	974,068.66
2/10/84	90,306.34	62,705.67	27,600.67	946,467.99
8/10/84	90,306.34	29,377.46	29,377.46	917,090.53
2/10/85	90,306.34	59,037.70	31,268.64	885,821.89
8/10/85	90,306.34	57,024.78	33,281.56	852,540.33
2/10/86	90,306.34	54,882.28	35,424.06	817,116.27
8/10/86	90,306.34	52,601.86	37,704.48	779,411.79
2/10/87	90,306.34	50,174.63	40,131.71	739,280.08
8/10/87	90,306.34	47,591.16	42,715.18	696,564.90
2/10/88	90,306.34	44,841.37	45,464.97	651,099.93
8/10/88	90,306.34	41,914.56	48,391.78	602,708.15
2/10/89	90,306.34	38,799.34	51,507.00	551,201.15
8/10/89	90,306.34	35,483.57	54,822.77	496,378.38
2/10/90	90,306.34	31,954.36	58,351.98	438,026.40
8/10/90	90,306.34	28,197.95	62,108.39	375,918.01
2/10/91	90,306.34	24,199.72	66,106.62	309,811.39
8/10/91	90,306.34	19,944.11	70,362.23	239,449.16
2/10/92	90,306.34	15,414.54	74,891.80	164,557.36
8/10/92	90,306.34	10,593.38	79,712.96	84,844.40
2/10/93	<u>90,306.26</u>	<u>5,461.86</u>	<u>84,844.40</u>	.00
			<u>1,000,000.00</u>	

* Principal plus interest on the CSA Indebtedness to the extent accrued.

** Interest on the CSA Indebtedness to the extent accrued.

SCHEDULE A
to the
Conditional Sale Agreement

Equipment

<u>Quantity</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>Railroad Road Numbers</u>	<u>Unit Purchase Price</u>	<u>Aggregate Purchase Price</u>
283	LO	100-ton 4750 cu. ft. triple hopper cars	MKT 4317- 4599, both inclusive	\$32,388.69	\$9,166,000