CRAVATH, SWAINE & MOORE

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RECORDATION NO. 11231-B Filed 1425

DEC 28 1982 9 40 AM

INTERSTATE COMMERCE COMMISSION

25362A030

No. DEC 28 1982
Date
Fee $ 10.00
ICC Washington, D. C.

RECEIVED
DEC 28 9 32 AM '82
I. C. C.
FEE OPERATION BR.

December 16, 1982

Amended and Restated Finance Agreement
and Amendment Dated as of December 1, 1982
Amending Conditional Sale Agreement Filed Under
Recordation No. 11231

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Burlington Northern Railroad Company for filing and recordation counterparts of the following document:

Amended and Restated Finance Agreement and Amendment ("Amendment"), dated as of December 1, 1982, among Burlington Northern Railroad Company, as Lessee, The Chase Manhattan Bank (National Association), as Resigning Agent, Mercantile-Safe Deposit and Trust Company, as Agent, and the parties named in Schedules I and II thereto.

The Amendment amends a Conditional Sale Agreement dated as of October 1, 1979, previously filed and recorded with the Interstate Commerce Commission on December 26, 1979, at 10:40 a.m., Recordation Number 11231.

The amendments to the Conditional Sale Agreement are set forth on pages 18 through 22 of the Amendment. The enclosed counterparts are signed and acknowledged by each of the present parties in interest to the Conditional Sale

we think this one will be 11231-B, but please check

Counterparts — Siler Flanagan

Agreement. The other signature lines which appear in the enclosed counterparts are not relevant for this purpose since they apply only to the Restated Finance Agreement which is not a document on file with the Commission.

Please file and record the Amendment submitted with this letter and assign it Recordation Number 11231-A.

Enclosed is a check for $10.00 payable to the Interstate Commerce Commission for the recordation fee for the Amendment.

Please stamp all counterparts of the enclosed document with your official recording stamp. You will wish to retain one copy of the instrument and this transmittal letter for your files. It is requested that the remaining counterparts of the document be delivered to the bearer of this letter.

Very truly yours,

Laurance V. Goodrich

Laurance V. Goodrich
as Agent for Burlington
Northern Railroad Company

Agatha L. Mergenovich, Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423.

Encls.

RECORDATION NO. 11231-B Filed 1425

DEC 28 1982 9 40 AM

INTERSTATE COMMERCE COMMISSION

[CS&M Ref. 1629-042]

AMENDED AND RESTATED FINANCE AGREEMENT
AND AMENDMENT
dated as of December 1, 1982,
among
BURLINGTON NORTHERN RAILROAD COMPANY,
Railroad,
THE CHASE MANHATTAN BANK
(NATIONAL ASSOCIATION),
Resigning Agent,
MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
Agent,
THE PARTIES NAMED IN SCHEDULE I HERETO,
Investors,
and
THE PARTIES NAMED IN SCHEDULE II HERETO,
Permanent Investors,

[Covering 996 Covered Hopper Cars, 40 Locomotives, 10 Air Dump Cars and 2 Locomotive Cranes]

$42,394,491 11-3/4% Series A CSA Indebtedness due December 15, 1987

$20,300,000 11-3/4% Series B CSA Indebtedness due December 15, 1989

$12,000,000 11-3/4% Series C CSA Indebtedness due December 15, 1989

[Amending and restating the Finance Agreement and amending the Conditional Sale Agreements, each dated as of October 1, 1979.]

KEEP
FOR
ICC
FILE
COPY
11231-B

AMENDED AND RESTATED FINANCE AGREEMENT AND AMENDMENT, dated as of December 1, 1982, among BURLINGTON NORTHERN RAILROAD COMPANY, a Delaware Corporation (formerly Burlington Northern Inc. "Railroad"), THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION) ("Resigning Agent"), MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a Maryland Corporation ("Agent"), the PARTIES NAMED IN SCHEDULE 1 HERETO (severally "Investor" and collectively, together with their successors and assigns including the Permanent Investors, "Investors") and the PARTIES NAMED IN SCHEDULE II HERETO (severally "Permanent Investor" and collectively, together with their successors and assigns, "Permanent Investors").

W I T N E S S E T H:

WHEREAS, the Railroad has entered into a Conditional Sale Agreement (a conformed copy of which is attached hereto as Exhibit A,"Conditional Sale Agreement No. 1") dated as of October 1, 1979, with FMC CORPORATION, a Delaware corporation, GENERAL ELECTRIC COMPANY, a New York corporation and DIFCO, INC., an Ohio corporation, covering the construction, sale and delivery on the conditions therein set forth by said manufacturers and the purchase by the Railroad of the railroad equipment described in Schedules A, B and C thereto; and

WHEREAS, the Railroad has entered into a Conditional Sale Agreement (a conformed copy of which is attached hereto as Exhibit A-1, "Conditional Sale Agreement No. 2") dated as of October 1, 1979, with TRANSPORTATION PRODUCTS COMPANY, an Illinois corporation, covering the sale and delivery on the conditions therein set forth by said corporation and the purchase by the Railroad of the railroad equipment described in Schedules A and B thereto; and

WHEREAS, said railroad equipment is hereinafter sometimes called the "Equipment", said manufacturers and corporation are hereinafter sometimes together called the "Manufacturers" and individually a "Manufacturer", and said Conditional Sale Agreements with the Manufacturers are hereinafter sometimes collectively called the "Conditional Sale Agreements"; and

WHEREAS, as more fully set forth therein, the Conditional Sale Agreements provide, among other things, for the payment by the Railroad to the Manufacturers of the purchase price of the Equipment (hereinafter called the

"Conditional Sale Indebtedness") plus interest on the unpaid balance thereof in installments; and

WHEREAS, the Resigning Agent has acquired the right, security title and interest of the Manufacturers in and to the Conditional Sale Agreements and the right, security title and interest in and to the Equipment covered thereby for a consideration equal to the Conditional Sale Indebtedness thereunder and upon other terms and conditions as set forth in the separate Agreement and Assignments, dated as of October 1, 1979 (conformed copies of which are attached hereto as Exhibits B and B-1,"Assignments"), between the Resigning Agent and each Manufacturer; and

WHEREAS, Conditional Sale Agreement No. 1 and its Assignment were filed with the Interstate Commerce Commission pursuant to 49 U.S.C. §11303 on November 21, 1979 at 10:45 a.m., Recordation No. 11075, and were deposited in the office of the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada on November 23, 1979; and

WHEREAS, Conditional Sale Agreement No. 2 and its Assignment were filed with the Interstate Commerce Commission pursuant to 49.U.S.C. §11303 on December 26, 1979 at 10:40 a.m., Recordation No. 11231, and were deposited in the office of the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada on December 31, 1979; and

WHEREAS, all the Equipment has heretofore been purchased under the Conditional Sale Agreements, the Manufacturers have been paid in full for their Equipment and the Railroad and the Resigning Agent, through the Assignments, are now the only parties in interest to the Conditional Sale Agreements; and

WHEREAS, on the Take Out Date hereinafter defined, the Investors will hold an aggregate of $74,694,491.35 of Conditional Sale Indebtedness (after receiving from the Railroad on the Take Out Date a pro rata prepayment of $168,701.48 in respect of four Casualty Occurrences) which they intend to sell to the Permanent Investors and which the Permanent Investors intend to purchase from the Investors on the Take-Out Date; and

WHEREAS, the Parties hereto desire to amend and restate the Finance Agreement and to amend the Conditional Sale Agreements, as herein set forth;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter contained, the parties hereto do hereby agree as follows:

1. The Resigning Agent has acquired from the Manufacturers their respective rights, security titles and interests in and to the Conditional Sale Agreements pursuant to the Assignments. From and after the Take Out Date the Agent shall succeed to all the rights and duties of the Resigning Agent in respect of the Equipment and under this Agreement, the Conditicnal Sale Agreements and the Assignments.

2. Subject to the terms and conditions hereof, (a) each Permanent Investor will pay to the Agent, in immediately available funds, not later than 11:00 a.m., Baltimore time, on December 20, 1982 ("Take Out Date"), an amount equal to the amount of the commitment set forth opposite such Permanent Investor's name in Schedule II hereto and (b) the Railroad will pay to the Agent, in immediately available funds, not later than 11:00 a.m. Baltimore time, on the Take Out Date an amount equal to the unpaid interest on the outstanding Conditional Sale Indebtedness accrued to the Take Out Date plus $168,701.48, representing the aggregate Depreciated Value (as defined in Section 6 of the Conditional Sale Agreements) of four Items of Equipment which have heretofore suffered Casualty Occurrences (as defined in Section 6 of the Conditional Sale Agreements).

In the event that the Agent does not in fact receive all the funds to be paid to it as provided in the preceding paragraph in a timely fashion on December 20, 1982, the Take Out Date may be postponed by the Agent for up to three Business days, in which case the Agent may invest all funds actually received in the Federal Funds Market or similar securities designated by the Railroad (any income therefrom and any loss therefrom to be for the account of the Railroad), but funds received from any Permanent Investor in a timely fashion on December 20, 1982, will bear interest from the date so received.

All payments to be made hereunder by the Permanent Investors and the Railroad to the Agent shall be wired to Mercantile-Safe Deposit and Trust Company, Baltimore, Maryland, for credit to its Corporate Trust Department Account No. 08246-5 with advice that the deposit is "Re: BN 12/1/82".

Subject to the terms and conditions hereof, upon payment to the Agent on the Take Out Date of the amount to

be paid by each Permanent Investor and by the Railroad pursuant to this Paragraph 2, on the Take Out Date the Agent will pay to each Investor an amount equal to the unpaid Conditional Sale Indebtedness held by such Investor (as shown on Schedule I hereto) plus accrued and unpaid interest thereon; and such Investor, simultaneously with the payment to it of such amount, will, without recourse, representation or warranty, surrender such certificates to the Agent for cancellation.

Upon payment to the Agent of the amount required to be paid by a Permanent Investor pursuant to this Paragraph 2 on the Take Out Date, the Agent will execute and deliver to such Permanent Investor (or, upon the written request of such Permanent Investor, to the nominee or nominees of such Permanent Investor), a certificate or certificates of interest with respect to such payment, substantially in the appropriate form annexed hereto as Schedule III, containing the appropriate information and dated the Take Out Date.

The parties hereto agree that, subject to the payment by the Permanent Investors and by the Railroad of the amounts to be paid pursuant to this Paragraph 2 and the receipt by each Investor of the amount due it pursuant to this Paragraph 2, from and after the Take Out Date (a) each Investor hereby transfers and assigns to the Permanent Investors all its right, title and interest in and to its Conditional Sale Indebtedness (but each Investor will retain any indemnification to which it is entitled under the Conditional Sale Agreements), (b) the Finance Agreement shall be amended and restated and each Conditional Sale Agreement shall be amended as set forth herein, (c) the Agent shall succeed to all the rights and duties of the Resigning Agent in respect of the Equipment and under this Agreement, the Conditional Sale Agreements and the Assignments, and the Resigning Agent shall be relieved of all such rights and duties (other than to provide such information to the Agent as the Agent shall reasonably require to succeed the Resigning Agent) and (d) unless the context otherwise requires, the terms "Conditional Sale Agreements" and "Assignments", as used in this Agreement, the Conditional Sale Agreements and the Assignments (collectively, "Finance Documents"), shall mean, respectively, the Conditional Sale Agreements and the Assignments, each as amended hereby, and the term "Finance Agreement" as used in any of the Finance Documents, other than this Agreement, shall mean this Agreement.

All transactions pursuant hereto which shall occur on the Take Out Date shall be deemed for purposes of this Agreement, the Conditional Sale Agreements and the Assignments to have occurred simultaneously.

3. The Agent will hold the rights under the Conditional Sale Agreements acquired under the Assignments and security title to the Equipment for the benefit of the Investors in accordance with their respective interests therein as such interests from time to time shall appear. Such respective interests of the Investors shall be in proportion to their respective unpaid investments hereunder, plus accrued and unpaid interest thereon, from time to time outstanding but without priority of one over the other. It is expressly understood and agreed that the obligations of the Agent hereunder, as holder of such rights and title and with respect to the payments to the Investors to be made by the Agent as provided herein are only those expressly set forth herein.

4. The Railroad represents and warrants to the Resigning Agent, the Agent, each Investor and each Permanent Investor as follows:

(a) The Railroad is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and is duly qualified to do business and is in good standing in such other jurisdictions in which the business and activities of the Railroad require such qualification.

(b) The Railroad has corporate power and authority and legal right to carry on its business as now conducted, and is duly authorized and empowered to execute and deliver this Agreement and to fulfill and comply with the terms, conditions and provisions of this Agreement and the Conditional Sale Agreements ("Railroad Documents"); the Railroad Documents have been duly authorized, and have been, or will be on or before the Take Out Date, duly executed and delivered by the Railroad, and, assuming due authorization, execution and delivery thereof by the other parties thereto, constitute or will then constitute legal, valid and binding agreements, enforceable against the Railroad in accordance with their terms.

(c) There are no actions, suits or proceedings, whether or not purportedly on behalf of the Railroad pending or (to the knowledge of the Railroad)

threatened against or affecting the Railroad or any property rights of the Railroad at law or in equity, or before any commission or other administrative agency, which, if determined adversely to the Railroad, would materially and adversely affect the condition, financial or otherwise, of the Railroad or its ability to perform its obligations under the Railroad Documents; and the Railroad is not in default with respect to any order or decree, of which it has knowledge, of any court or governmental commission, agency or instrumentality which would materially and adversely affect the condition, financial or otherwise, of the Railroad.

(d) Neither the execution and delivery of the Railroad Documents nor the consummation of the transactions therein contemplated nor the fulfillment of, nor compliance with, the terms and provisions thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of the charter or the by-laws of the Railroad or of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Railroad is a party or by which it or its property may be bound, or constitute (with or without the giving of notice or the passage of time or both) a default thereunder, or result in the creation or imposition of any lien, charge, security interest or other encumbrance of any nature whatsoever upon any property of the Railroad or upon the Equipment pursuant to the terms of any such agreement or instrument. The Railroad is not in default, and no event has occurred which, with the giving of notice or lapse of time or both, would be a default under any of the terms, conditions or provisions of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Railroad is a party or by which it or its property may be bound which would materially and adversely affect the Railroad's ability to perform its obligations under the Railroad Documents.

(e) Neither the execution and delivery by the Railroad of the Railroad Documents nor the consummation of the transactions therein contemplated nor the fulfillment of, nor compliance with, the terms and provisions thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of any law, or any regulation, order, injunction or decree of any court or governmental instrumentality.

(f) On or before the Take Out Date, this Agreement will have been duly filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 and deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and provision will have been made for publication of notice of such deposit in The Canada Gazette in accordance with said Section 86 and a Uniform Commercial Code financing statement will have been filed in the State of Minnesota and such filings and deposit will protect the Agent's interest in and to the Equipment and no other filing, recording or deposit (or giving of notice) with any other Federal, state or local government is necessary in order to protect the interests of the Agent under the Conditional Sale Agreements in and to the Equipment in the United States of America or in Canada.

(g) The Railroad is not entering into this Agreement or any other transaction contemplated hereby, directly or indirectly in connection with any arrangement or understanding by it in any way involving any employee benefit plan (other than a governmental plan) with respect to which it, any Permanent Investor or the Agent in its individual capacity is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974 ("ERISA").

(h) No authorization or approval from any governmental or public body or authority of the United States of America, or of any of the states thereof or the District of Columbia, or of Canada or any Province thereof is necessary in connection with the execution, delivery and performance of the Railroad Documents.

(i) The Railroad has not directly or indirectly offered or sold any of the Conditional Sale Indebtedness to, solicited offers to buy any of the Conditional Sale Indebtedness from, or otherwise approached or negotiated in respect of the purchase or sale or other disposition of any the Conditional Sale Indebtedness with, any person so as to require registration of the sale of the Conditional Sale Indebtedness in accordance with the provisions of the Securities Act of 1933, as amended, or to require the qualification of the Conditional Sale Agreements or any other instrument or agreement contemplated hereby or thereby under the Trust Indenture Act of 1939. The Railroad will not offer any Conditional Sale Indebtedness to, or solicit

any offer to buy any thereof from, any other person or approach or negotiate with any other person in respect thereof, so as to require registration of the sale of Conditional Sale Indebtedness in accordance with the provisions of sa d Securities Act.

(j) The Railroad has filed all Federal tax returns and all foreign, state and local tax returns which (to its knowledge) are required to be filed, and has paid or made provision for the payment of, all taxes which have or may become due pursuant to said returns or pursuant to any assessment received by it, other than taxes which are being contested in good faith as to which the Railroad has established adequate reserves.

(k) The Railroad has furnished to the Agent and each Permanent Investor audited consolidated balance sheets of the Railroad as of December 31, 1980, and December 31, 1981, and related statements of consolidated income, stockholders' equity and changes in financial position for the years then ended. Such financial statements are in accordance with the books and records of the Railroad and have been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods covered by the financial statements. The financial statements present fairly the financial condition of the Railroad at such dates and the results of its operations and changes in its financial position for such periods; and from the date of the last balance sheet there has not been any material adverse change in the business or financial condition of the Railroad, except to the extent, if any, disclosed in the Railroad's Quarterly Reports on Form 10-Q for the quarters ended March 31, 1982, June 30, 1982, and September 30, 1982, copies of which have been furnished to the Agent and each Permanent Investor. Neither this Agreement, nor any financial statement or other written material furnished to the Permanent Investors or the Agent by the Railroad concerning the Railroad in connection with the negotiation of the sale of the Conditional Sale Indebtedness contains any untrue statement of a material fact or omits a material fact necessary to make the information contained therein not misleading.

(l) Except for the four Items of Equipment which have heretofore suffered Casualty Occurrences as noted in the first paragraph of Paragraph 2 hereof, all the

Equipment is in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange and has been maintained as required by Section 9.2 of the Conditional Sale Agreements.

(m) The Equipment is rolling stock under 11 U.S.C. § 1168 and the Agent is entitled to the rights of a secured party with a purchase-money equipment security interest in the Equipment thereunder, except that this representation does not apply to the air dump cars or the locomotive cranes.

(n) The Equipment consists of railroad cars, locomotives or other rolling stock used or intended for use in connection with interstate commerce within the meaning of 49 U.S.C. § 11303, except that this representation does not apply to the air dump cars or the locomotive cranes.

5. Each Permanent Investor represents to the Railroad, the Agent, each Investor and each other Permanent Investor as follows:

(a) Such Permanent Investor is acquiring its interest in the aggregate Conditional Sale Indebtedness for its own account for investment or for one or more separate accounts maintained by it and not with a view to, or for sale in connection with, the distribution of the same, nor with any present intention of distributing or selling the same; provided, however, that the disposition of its property shall at all times be within its control.

(b) Either such Permanent Investor is acquiring its interest in the Conditional Sale Indebtedness with assets of a "governmental plan" or such Permanent Investor is not acquiring such interest directly or indirectly with assets drawn from any "separate account", all as defined in ERISA, unless such separate account is exempt from the prohibited transactions rules of ERISA.

(c) Such Permanent Investor represents that it has full power and authority to execute and deliver this Agreement and to carry out its terms.

Each Permanent Investor hereby agrees that any transfer or assignment of all or any part of such Investor's respective interest in the Conditional Sale Indebtedness

shall be to an institutional investor which has no interlocking directorates with the Railroad.

Each Permanent Investor hereby agrees that any transfer of all or any part of its interest in the Conditional Sale Indebtedness shall be upon the express condition that the transferee thereof shall be bound by the terms of this Agreement. Prior to any such transfer, such Permanent Investor shall notify the Agent in writing thereof; and the Agent shall cause to be promptly prepared and delivered to such Permanent Investor an appropriate agreement, to be entered into among such Permanent Investor, such transferee and the Agent, evidencing such transfer upon the terms hereof.

6. The obligation of each Permanent Investor to make payment to the Agent pursuant to Paragraph 2 hereof and the obligation of the Agent to make payment to each Investor on the Take Out Date pursuant to Paragraph 2 hereof shall be subject to the receipt by the Agent on or prior to the Take Out Date of the funds to be paid to it by the Railroad pursuant to Paragraph 2 hereof and of the following documents, dated on or not more than 10 days prior to the Take Out Date:

(a) A certificate of an officer of the Resigning Agent to the effect that there is attached thereto a complete and accurate set of all the closing documents (which may be photocopies) delivered at each Equipment closing pursuant to Section 6 of the Assignments.

(b) An opinion of Messrs. Cravath, Swaine & Moore, special counsel for the Permanent Investors and the Agent, to the effect that:

(i) this Agreement, assuming due authorization, execution and delivery by each Permanent Investor, has been duly authorized, executed and delivered and is a legal, valid and binding instrument;

(ii) the Conditional Sale Agreements have been duly authorized, executed and delivered and are legal, valid and binding instruments, enforceable in accordance with their terms;

(iii) the Assignments have been duly authorized, executed and delivered and each is a legal, valid and binding instrument;

(iv) the Agent is vested with all the rights, titles, interests, powers and privileges of the Manufacturers purported to be assigned to it by the Assignments and the Agent has a valid security interest in the Equipment;

(v) this Agreement, the Conditional Sale Agreements and the Assignments have been duly filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 and deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and provision has been made for publication of notice of such deposit in The Canada Gazette in accordance with said Section 86, and a Uniform Commercial Code financing statement has been filed in the State of Minnesota, and no other filing, recording or deposit (or giving of notice) with any other Federal, state or local government is necessary in order to protect the rights of Agent therein or in the Equipment in any state of the United States of America or in Canada;

(vi) no authorization or approval from any governmental or public body or authority of the United States of America, or of any of the states thereof or the District of Columbia is, to the knowledge of said counsel, necessary in connection with the execution, delivery and performance of this Agreement, the Conditional Sale Agreements and the Assignments;

(vii) under the circumstances contemplated by this Agreement it is not necessary to register the Conditional Sale Agreements, the Assignments or any certificate of interest delivered pursuant hereto under the Securities Act of 1933, as in effect on the date of such opinion, or to qualify the Conditional Sale Agreements or any other instrument or agreement contemplated hereby or thereby under the Trust Indenture Act of 1939, as in effect on the date of such opinion;

(viii) the Equipment (other than the air dump cars and the locomotive cranes, as to which no opinion is expressed) is rolling stock under 11 U.S.C. § 1168 and the Agent is entitled to the rights of a secured party with a purchase-money

equipment security interest in the Equipment under 11 U.S.C. § 1168;

(ix) the legal opinion referred to in subparagraph (c) of this Paragraph 6 is satisfactory in form and scope to said special counsel and that in their opinion the Permanent Investors, the Agent and they are justified in relying thereon;

and as to such other matters incident to the transactions contemplated by this Agreement as the Permanent Investors may reasonably request.

(c) An opinion of counsel for the Railroad, to the effect set forth in subparagraphs (a), (b), (c), (e), (f), (h), (i) (as to first sentence), (m) and (n) of Paragraph 4 and to the further effect that:

(i) other than liens and encumbrances which might attach and will be subject and subordinate to the right, title and interest of the Agent, no mortgage, deed of trust or other lien of any nature whatsoever which now covers or affects any property or interest therein of the Railroad, now attaches or hereafter will attach to the Equipment or in any manner affects or will affect adversely the right, title and interest of the Agent therein; and

(ii) neither the execution and delivery of the Railroad Documents, nor the consummation of the transactions therein contemplated nor the fulfillment of, nor compliance with, the terms and provisions thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Railroad is a party or by which it or its property may be bound, or constitute (with the giving of notice or the passage of time or both) a default thereunder, or result in the creation or imposition of any lien, charge, security interest or other encumbrance of any nature whatsoever upon any property of the Railroad or upon the Equipment pursuant to the terms of any such agreement or instrument.

(d) A Certificate of an officer of the Railroad to the effect that the Railroad's representations and warranties contained in this Agreement are true on and as of the Take Out Date, with the same effect as though made on such date, that the Railroad is not currently in default nor does a condition exist nor has an event occurred which with the lapse of time and/or the giving of notice would constitute a default under this Agreement or the Conditional Sale Agreements and that there has been no material adverse change in the business or financial condition of the Lessee from that shown in the last audited financial statement referred to in paragraph 4(k) hereof, except to the extent, if any, disclosed in the Railroad's Quarterly Reports on Form 10-Q for the quarters ended March 31, 1982, June 30, 1982 and September 30, 1982.

(e) Certificates of an appropriate officer of the Railroad in the forms of Schedules 8, 9 and 10 to Exhibit B-1 hereto, in each case appropriately adapted to refer to the terms and conditions of this Agreement.

In giving the opinions specified in this Paragraph 6, counsel may qualify its opinion to the effect that any agreement is enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. In giving the opinion specified in subparagraph (b) of this Paragraph 6, counsel may rely (i) as to authorization, execution and delivery by the Manufacturers of the documents executed by the Manufacturers and, as to title of the Manufacturer to its Equipment, on the opinions of counsel for the Manufacturers contained in the set of closing documents referred to in subparagraph (a) of this Paragraph 6 and (ii) as to any matter governed by the law of any jurisdiction other than the State of New York or the United States, on the opinions of counsel for the Manufacturers or the Railroad or of Messrs. McCarthy & McCarthy, special Canadian counsel for the Permanent Investors and the Agent, as to such matter. In giving the opinion specified in subparagraph (c) of this Paragraph 6, counsel may assume as to any matter governed by the law of any jurisdiction other than the State of Minnesota or the United States that the law of such other jurisdiction is the same as the law of the State of Minnesota, except that, in the case of Canadian law, such counsel may rely on the opinion of special Canadian counsel.

The Take Out Date closing hereunder shall take place at the offices of Messrs. Cravath, Swaine & Moore, in New York, New York.

7. Subject to Paragraphs 9 and 10 hereof, the Agent will accept payments made to it by the Railroad pursuant to the Conditional Sale Agreements and the Assignments on account of the principal of and interest on the Conditional Sale Indebtedness, and, so long as, to the knowledge of the Agent, no Event of Default under either of the Conditional Sale Agreements shall have occurred and be continuing, will apply such payments on the same day that the Agent receives such payment, to the payment pro rata, in immediately available funds, to the Investors, first, of interest payable to them, respectively, on their respective interests in the installments of the Conditional Sale Indebtedness, and second, of their respective interests in the principal installments of the Conditional Sale Indebtedness, in the order of the maturity thereof, until the same shall have been paid in full, except that moneys paid by the Railroad pursuant to Section 6.2 of the Conditional Sale Agreements in respect of Casualty Occurrences shall be applied as set forth in said Section 6.2, pro rata, to the Investors in accordance with their respective interests in the installments of Conditional Sale Indebtedness being prepaid.

8. No certificate of interest shall have any priority over any other certificate of interest. Each Investor, upon payment to it of all amounts payable under any certificate of interest delivered to it pursuant hereto, will surrender such certificate of interest to the Agent.

9. The Agent will accept all sums paid to it pursuant to Section 6 of either of the Conditional Sale Agreements with respect to Casualty Occurrences (as therein defined) and, so long as, to the knowledge of the Agent, no Event of Default under either of the Conditional Sale Agreements shall have occurred and be continuing, will apply such sums in accordance with the terms of said Section 6.

10. If, to the knowledge of the Agent, an Event of Default under either of the Conditional Sale Agreements shall have occurred and be continuing, all moneys held by or coming into the possession of the Agent, which, under the provisions of the Conditional Sale Agreements, are applicable to the payment of Conditional Sale Indebtedness or interest thereon (including, without limitation, the net

proceeds of any repossession and sale or lease of any of the Equipment after deduction of all expenses, including reasonable counsel fees, incurred by the Agent in connection with such repossession and sale or lease and otherwise hereunder in connection with the Conditional Sale Agreements and the Assignments which shall not theretofore have been reimbursed to the Agent by the Railroad pursuant to the Conditional Sale Agreements) shall be distributed, pro rata, among the Investors in accordance with their respective interests in the aggregate amount of the Conditional Sale Indebtedness at the time of such distribution.

11. So long as the Agent shall have no actual knowledge that an Event of Default under either Conditional Sale Agreement shall have occurred and be continuing, the Agent shall be entitled to use its discretion with respect to exercising or refraining from exercising any rights or taking or refraining from taking any action which may be vested in it or which it may be entitled to assert or take under the Conditional Sale Agreements, except as otherwise specifically provided herein or therein. The Agent shall incur no liability hereunder in acting upon any notice, certificate, warrant or other paper or instrument believed by it to be genuine and signed by the proper party or parties or with respect to anything which it may do or refrain from doing in the exercise of its best judgment or which may seem to it to be necessary or desirable, except liability resulting from its willful misconduct or negligence; provided, however, that in case the Agent shall have actual knowledge of the occurrence of an Event of Default under either Conditional Sale Agreement, the Agent shall promptly notify the Investors thereof and shall take such action and assert such rights under the Conditional Sale Agreement as shall be agreed upon by Investors holding interests totaling more than 50% of the aggregate Conditional Sale Indebtedness then outstanding ("Majority Investors"). In case the Agent is required to take action hereunder, it shall be indemnified by the Investors in proportion to their respective interests in the aggregate Conditional Sale Indebtedness then outstanding against any liability or expense, including reasonable counsel fees, in connection with taking such action or asserting such rights.

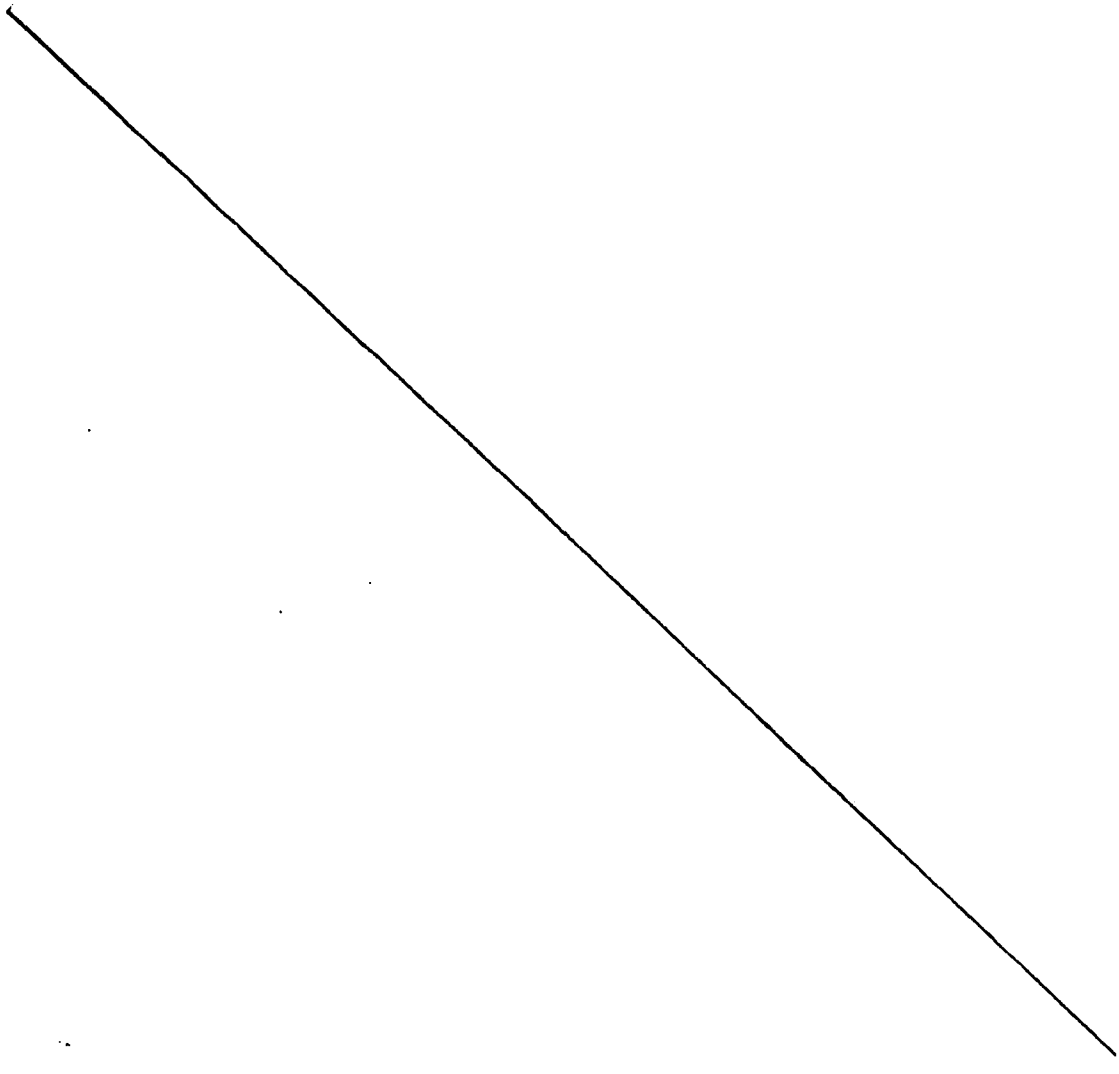
The Agent may consult with independent legal counsel of its own choice and acceptable to the Majority Investors and the Agent shall be under no liability for any action taken or not taken in good faith by it in accordance with the opinion of such counsel.

Notwithstanding anything to the contrary contained in this Paragraph 11, the Railroad agrees that, in the case of an Event of Default pursuant to clause (a) of Section 16.1 of either Conditional Sale Agreement, the Railroad will on demand of any Permanent Investor pay to such Permanent Investor an amount equal to such Permanent Investor's interest in the amount in default, and accrued interest thereon at the overdue interest rate within five (5) business days of receipt of such demand . If the Railroad fails to make such payment, such Permanent Investor may bring suit for such Permanent Investor's entire interest in the unpaid principal amount of the Conditional Sale Indebtedness under both Conditional Sale Agreements and accrued interest thereon. Such Permanent Investor will not invoke pre-judgment attachment or sequestration (or other comparable pre-judgment remedies) against the Equipment, will not take or demand possession of the Equipment pursuant to the Conditional Sale Agreements, and will not institute or prosecute such suit if and to the extent that the institution or prosecution thereof or the entry of judgment thereon would, under applicable law, result in the surrender, encumbrance, waiver or loss of the security provided by such Conditional Sale Agreements and the Assignments thereof or prohibit the exercise by the Agent of its rights and remedies under such Conditional Sale Agreements and such Assignments. Neither the entry of a money judgment in the amount set forth above, nor the existence of an unsatisfied money judgment, nor the enforcement of such judgment by such Permanent Investor by means of postjudgment remedies available to all judgment creditors under applicable law (other than levy upon the Equipment while the Agent retains an interest therein) shall by itself constitute surrender, encumbrance, waiver or loss of security. Any Permanent Investor which exercises any rights under this paragraph shall give prompt notice thereof to each other Permanent Investor.

12. The Railroad will pay or cause to be paid (i) the reasonable fees and disbursements of Messrs. Cravath, Swaine & Moore, as special counsel for the Permanent Investors and the Agent, and the cost of producing and reproducing the Finance Agreement, this amendment and restatement thereof, the Conditional Sale Agreements and the Assignments, (ii) the fee payable to the placing agent in connection with the placement of the Conditional Sale Indebtedness with the Permanent Investors, (iii) the reasonable routine and ordinary fees, costs and disbursements of the Agent, (iv) the costs of filing, recording and giving

public notice or publication as to such filing and recording of this Agreement, the Conditional Sale Agreements, the Assignments and any amendments or supplements thereto with the Interstate Commerce Commission and with the Registrar General of Canada, (v) the reasonable fees and disbursements of special Canadian counsel for the Permanent Investor and the Agent and (vi) the costs of producing and reproducing any amendments or supplements and the reasonable fees and disbursements of Messrs. Cravath, Swaine & Moore in connection therewith. The Investors, the Permanent Investors, the Resigning Agent and the Agent shall have no liability for any of the aforesaid fees, costs, disbursements and expenses.

13. The Agent will promptly mail or deliver one counterpart or copy of all notices, statements or documents



received by it from the Railroad pursuant to the Conditional Sales Agreements or the Assignments to each Investor.

14. All notices, instructions, directions and approvals to be delivered hereunder to the Agent by any Investor shall be in writing signed by an officer, assistant officer, manager or assistant manager of such Investor, and the Agent may rely on any notice, instruction, direction or approval so signed.

15. In the event of any dispute with respect to the delivery or ownership or right to possession of funds or documents at any time held by the Agent hereunder, or with respect to title to any of the Equipment, the Agent is hereby authorized and directed to retain, without liability to anyone, all or any of such funds or documents and title to such Equipment until such dispute shall have been settled either by mutual agreement of the Investors concerned or by final order, decree or judgment of a court of competent jurisdiction. During such period of retention the Agent agrees to invest such funds in the Federal Funds Market or similar investments and to pay the interest received thereon pro rata to the Investors.

16. All documents deliverable hereunder to the Agent shall be delivered or mailed to it at its address at P. O. Box 2258 (2 Hopkins Plaza, if by hand), Baltimore, Maryland 21203, or such other address as it may furnish in writing.

All documents deliverable hereunder to the Railroad shall be delivered or mailed to it at its address c/o Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, Minnesota, 55101, Attention of Vice President and Controller, or such other address as it may furnish in writing.

All documents and funds deliverable hereunder to the Permanent Investors shall be delivered or mailed to them at their respective addresses set forth in Schedule II hereto or as otherwise furnished in writing.

All documents deliverable hereunder to Messrs. Cravath, Swaine & Moore shall be delivered or mailed to them at 1 Chase Manhattan Plaza, New York, New York 10005.

17. The terms of this Agreement and all rights and obligations of the parties hereto hereunder shall be

governed by the laws of the State of New York. Such terms, rights and obligations may not be changed orally, but may be changed only by an agreement in writing signed by the Majority Investors.

18. The Agent shall be entitled to terminate its duties and responsibilities hereunder by giving written notice to each of the Investors that it desires to terminate such duties and responsibilities on a date (at least 30 days subsequent to the giving of such notice) stated in said notice. If, prior to the date stated in said notice, Investors holding interests totaling more than 50% of the aggregate amount of the Conditional Sale Indebtedness then outstanding shall have requested in writing that the Agent assign to a person or institution designated by such Investors all right, title and interest of the Agent under the Conditional Sale Agreements and the Assignments, and in and to the Equipment, the Agent shall comply with such request. In the event that such request is not received by the Agent on or before the date designated in said notice, the Agent shall be entitled to appoint a successor to act hereunder (which successor shall be a bank or trust company, having a capital and surplus in excess of $150,000,000) and to assign to such successor, subject to the provisions of this Agreement, all such right, title and interest of the Agent. Upon such assignment by the Agent to a person or institution designated by such Investors or, in the absence of such designation, to a successor appointed by the Agent, the Agent shall thereafter be relieved of all further duties and responsibilities hereunder and all such duties and responsibilities shall be assumed by such successor to the Agent.

Any corporation resulting from any merger or consolidation to which the Agent or any successor to it shall be a party, or any corporation in any manner succeeding to all or substantially all of the business of the Agent or any successor Agent, provided such corporation shall be a bank or a trust company and shall have a capital and surplus aggregating in excess of $150,000,000, shall be the successor agent hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

19. The Railroad and the Agent, as successor assignee of the Manufacturers under the Assignments, agree that, subject to the payment of the amount to be paid by the Permanent Investors and by the Railroad pursuant to

Paragraph 2 hereof, the Conditional Sale Agreements shall be amended as follows:

(a) Section 3.3 of Conditional Sale Agreement No. 1 is deleted and the following is substituted therefor:

"3.3. The Railroad hereby acknowledges itself to be indebted to the respective Manufacturers in the amount of, and hereby promises to pay to the respective Manufacturers at such bank or trust company in the United States as each of the Manufacturers or its assignee shall designate for payment to it in funds immediately available at such place of payment, the ~~$44,739,724.92~~ $38,826,268.44 Purchase Price of the Equipment ($73,617,104.05, hereinafter sometimes referred to as the "Conditional Sale Indebtedness" of which ~~$41,782,996.68~~ represents Series A Conditional Sale Indebtedness, ~~$20,007,194.22~~ represents Series B Conditional Sale Indebtedness, and $11,826,913.15 represents Series C Conditional Sale Indebtedness) in installments as follows:

(a) on June 15, 1983, and on each June 15 and December 15 thereafter, an installment of interest accrued on the unpaid portion of the Conditional Sale Indebtedness from time to time outstanding until the same shall have become due and payable, at the rate of 11-3/4% per annum;

(b) on December 15, 1987, an installment equal to the entire outstanding principal amount of the Series A Conditional Sale Indebtedness;

(c) on December 15, 1989, an installment equal to the entire outstanding principal amount of Series B Conditional Sale Indebtedness; and

(d) on each December 15, commencing December 15, 1985, and ending December 15, 1989, an installment equal to 20% of the principal amount of Series C Conditional Sale Indebtedness outstanding as of December 15, 1982 (subject to reduction in the event of prepayments in respect of Casualty Occurrences)."

(b) Section 3.3 of Conditional Sale Agreement No. 2 is deleted and the following is substituted therefor:

"3.3. The Railroad hereby acknowledges itself to be indebted to the Manufacturer in the amount of, and hereby promises to pay to the Manufacturer at such bank or trust company in the United States as the Manufacturer or its assignee shall designate for payment to it in funds immediately available at such place of payment, the Purchase Price of the Equipment ($1,077,387.30, hereinafter sometimes referred to as the "Conditional Sale Indebtedness" of which ~~$611,494.71~~ represents Series A Conditional Sale Indebtedness, ~~$292,805.56~~ represents Series B Conditional Sale Indebtedness and $173,087.03 represents Series C Conditional Sale Indebtedness) in installments as follows:

(a) on June 15, 1983, and on each June 15 and December 15 thereafter, an installment of interest accrued on the unpaid portion of the Conditional Sale Indebtedness from time to time outstanding until the same shall have become due and payable, at the rate of 11-3/4% per annum;

(b) on December 15, 1987, an installment equal to the entire outstanding principal amount of the Series A Conditional Sale Indebtedness;

(c) on December 15, 1989, an installment equal to the entire outstanding principal amount of the Series B Conditional Sale Indebtedness; and

(d) on each December 15, commencing December 15, 1985, and ending December 15, 1989, an installment equal to 20% of the principal amount of Series C Conditional Sale Indebtedness outstanding as of December 15, 1982 (subject to reduction in the event of prepayments in respect of Casualty Occurrences)."

(c) Section 3.6 of each Conditional Sale Agreement is deleted and the following is substituted therefor:

"3.6. Interest under this Agreement shall be determined on a basis of a 360-day year of twelve 30-day months."

(d) Section 3.7 of each Conditional Sale Agreement is deleted and the following is substituted therefor:

"3.7. The Railroad will pay interest, payable on demand, on all unpaid balances of indebtedness, after the same shall have become due and payable pursuant to the terms hereof (whether at stated maturity, by acceleration or otherwise), at 13-3/4% per annum."

(e) Section 3.9 of each Conditional Sale Agreement is deleted and the following is substituted therefor:

"3.9. The Railroad may not prepay the Conditional Sale Indebtedness in whole or in part except pursuant to Section 6 hereof in respect of a Casualty Occurrence."

(f) Section 6.1 of each Conditional Sale Agreement is amended to delete the proviso at the end of the second sentence thereof.

(g) Section 6.2 of each Conditional Sale Agreement is amended to delete the last sentence thereof and to delete the first and second sentences thereof and the following is substituted therefor:

"6.2. Any money paid to the Manufacturers pursuant to Section 6.1 hereof shall, so long as no Event of Default shall have occurred and be continuing, be applied, in whole or in part, as the Railroad shall direct in a written instrument filed with the Manufacturers, either (i) to prepay indebtedness in respect of the Purchase Price of the Equipment hereunder or under the Other Agreement or (ii) to or toward the cost of an Item or Items of Equipment of new standard gauge railroad rolling stock excluding work and passenger equipment to replace such Item of Equipment having suffered a Casualty Occurrence and which new Item or Items of Equipment shall be of a quality and have a value and utility at least equal to such Item of Equipment having suffered a Casualty Occurrence. In case any such money shall be applied to prepay indebtedness, it shall be so applied, on such date as the Railroad shall specify in such written direction, to prepay without penalty or premium the unpaid balance of the principal installments of the Purchase Price of the Equipment hereunder and under the Other Agreement thereafter falling due pro rata among such installments and ratably as between such installments due hereunder and under the Other Agreement."

(h) Section 6.3 of each Conditional Sale Agreement is amended to delete the second sentence thereof and the following is substituted therefor:

"For the purpose of computing the Depreciated Value of any Item of Equipment which has suffered a Casualty Occurrence, such Depreciated Value shall be deemed to be that amount which bears the same ratio to the portion of the Purchase Price attributable thereto as the unpaid Conditional Sale Indebtedness hereunder and under the Other Agreement (without giving effect to any prepayments then or theretofore made in respect of Casualty Occurrences) as of the date payment is made with respect to such Casualty Occurrence bears to the original Conditional Sale Indebtedness hereunder and under the Other Agreement."

(i) Section 6.4 of each Conditional Sale Agreement is amended to delete the following therefrom:

"repurchase agreements fully secured by any one or more of the obligations referred to in clause (i) above, or (v)"

(j) Section 6.6 of each Conditional Sale Agreement is amended in its entirety to read as follows:

"6.6. Whenever the Railroad shall file with the Manufacturers, pursuant to the foregoing provisions of this Section 6, a written direction to apply money to or toward the cost of a replacing Item of new standard gauge railroad equipment, the Railroad shall file with the Manufacturers in such number of counterparts as may reasonably be requested:

(a) a certificate of a Vice President or Chief Accounting Officer of the Railroad, authorized to make such a certification, certifying: that such Item is new standard gauge railroad rolling stock (other than work or passenger equipment) and has been plated or marked as required by the provisions of this Section 6 and certifying the cost of such replacing Item, the amount which such replacing Item would have cost if acquired on the earliest date when any such money was paid to the Manufacturers and that the cost thereof does not exceed the fair value of such Item and that such replacing Item have a

quality and value and utility at least equal to the Item or Items replaced;

(b) an opinion of counsel for the Railroad that title to each replacing Item is vested in the Manufacturers free and clear of all liens and encumbrances, and that such Item has come under and become subject to this Agreement and the security interest of the Agent hereunder;

(c) a bill of sale in favor of the Manufacturers or their assignee covering such replacement Item from, if a new Item, the manufacturer thereof or, if a used Item, the Railroad.

(k) Section 6.10 of each Conditional Sale Agreement is deleted.

(l) Section 8.2 of each Conditional Sale Agreement is amended so that the references in clauses (i) and (ii) to the Railroad will refer instead to its parent, Burlington Northern Inc.

(m) Section 14.4 of each Conditional Sale Agreement is amended to change the reference to The Chase Manhattan Bank as Agent to refer to Mercantile-Safe Deposit and Trust Company as Agent.

(n) Schedule A of Conditional Sale Agreement No. 1. is amended to delete four covered hopper cars bearing identifying numbers BN 460841, 460938, 461000 and 461175, which have suffered casualty occurrences with an aggregate Depreciated Value of $168,701.48.

(o) Pursuant to Section 14.3 of the Conditional Sale Agreements, the Railroad acknowledges the assignment of the Conditional Sale Agreements to the Agent and agrees to make all payments thereunder to the Agent in the manner described in the second paragraph of Paragraph 2 hereof.

20. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by applicable Federal law and such additional rights arising out of the filing, recording or depositing hereof as shall be conferred

by the laws of the several jurisdictions in which this Agreement shall be filed, recorded or deposited.

21. This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all of the parties so long as at least one counterpart is signed by each party hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written.

[Corporate Seal]

Attest:

by _____
Assistant Secretary

BURLINGTON NORTHERN RAILROAD COMPANY,

by _____
Vice President

THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION), Individually and as Resigning Agent,

by

_____
Second Vice President

[Corporate Seal]

Attest:

by _____
Assistant Corporate
Trust Officer

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY, as Agent
as aforesaid,

by

_____
Assistant Vice President

Investors

MORGAN GUARANTY TRUST COMPANY
OF NEW YORK,

by

_____
Vice President

CITIBANK, N.A.,

by

_____
Vice President

THE TORONTO-DOMINION BANK,
San Francisco Agency,

by

_____
Senior Manager

SECURITY PACIFIC NATIONAL BANK,

by

_____
Vice President

BANK OF AMERICA NATIONAL TRUST & SAVINGS ASSOCIATION,

by

_____

Vice President

BANKERS TRUST COMPANY,

by

_____

Assistant Treasurer

MANUFACTURERS HANOVER TRUST COMPANY,

by

_____

Vice President

CHEMICAL BANK,

by

_____

Vice President

WELLS FARGO BANK NATIONAL ASSOCIATION,

by

_____

Corporate Banking Officer

SEATTLE-FIRST NATIONAL BANK,

by

_____

Vice President

FIRST INTERSTATE BANK OF OREGON, N.A. (formerly FIRST NATIONAL BANK OF OREGON),

by

_____

Vice President

Permanent Investors

NEW YORK LIFE INSURANCE COMPANY,

by

_____

AETNA LIFE INSURANCE COMPANY,

by

_____

THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES,

by

_____

ZURICH INSURANCE COMPANY,

by

_____

UNION MUTUAL LIFE INSURANCE COMPANY,

by

_____

UNIONMUTUAL PENSION & INSURANCE CORPORATION,

by

_____

THE MINNESOTA MUTUAL LIFE INSURANCE COMPANY,

by

_____

SUN LIFE ASSURANCE COMPANY OF CANADA (U.S.),

by

_____

TRANSAMERICA LIFE INSURANCE AND ANNUITY COMPANY,

by

_____

INVESTORS SYNDICATE OF AMERICA, INC.,
by

_____

PRESBYTERIAN MINISTERS' FUND,

by

_____

GENERAL REASSURANCE
CORPORATION,

by

_____

AMERICAN GUARANTEE &
LIABILITY INSURANCE COMPANY,

by

_____

MUTUAL SERVICE LIFE INSURANCE
COMPANY,

by

_____

UNIVERSAL UNDERWRITERS
INSURANCE COMPANY,

by

_____

STATE OF WASHINGTON)
) ss:
COUNTY OF KING)

On this 23rd day of December, 1982, before me personally appeared John B. Parrish, to me personally known, who, being by me duly sworn, says that he is a Vice President of BURLINGTON NORTHERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Blair A. George
Notary Public

[Notorial Seal]

My Commission expires October 2, 1984

STATE OF MARYLAND)
) ss:
CITY OF BALTIMORE)

On this day of December, 1982, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and 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.

Notary Public

[Notorial Seal]

My Commission expires

SCHEDULE I

INVESTORS

Name and Address of Investors	Principal Amount of Conditional Sale Indebtedness Held as of Take Out Date
The Chase Manhattan Bank (National Association) One Chase Manhattan Plaza New York, N.Y. 10081 Attn: Land Transportation Division	$ 23,362,497.87
Citibank, N.A. 399 Park Avenue, 12th Floor New York, N.Y. 10043 Attn: Mr. Peter A. Darbee Account Officer Surface Transportation & Process Industries Department	14,855,969.69
Morgan Guaranty Trust Company of New York 23 Wall Street New York, N.Y. 10015 Attn: Mr. L. L. Chamberlin Vice President	14,855,969.69
The Toronto-Dominion Bank, San Francisco Agency 114 Sansome Street (Suite 700) San Francisco, California 94104 Attn: Senior Manager	3,961,591.92

with copy to:

Vice President & General Manager
North American Accounts Group
The Toronto-Dominion Bank
P.O. Box 1
Toronto Dominion Bank
Toronto, Ontario Canada M5K 1A2

Name and Address of Investors	Principal Amount of Conditional Sale Indebtedness Held as of Take Out Date
Bank of America National Trust & Savings Association North America Division Service Center - South 1000 West Temple Street Los Angeles, California 90012 with copy to: 233 South Wacker Drive Chicago, IL 60606 Attn: Mr. Bruce E. Wilson Vice President	$ 2,971,193.92
Security Pacific National Bank Security Plaza 333 South Hope Street Los Angeles, California 90071 Attn: Mr. R. Bruce Owen Vice President Corporate Banking	2,971,193.92
Bankers Trust Company 280 Park Avenue, 5th Floor New York, N.Y. 10017 Attn: Mr. Steven Gordon Assistant Treasurer	1,980,795.97
Chemical Bank 20 Pine Street New York, N.Y. 10005 Attn: Mr. John S. Garnett Assistant Vice President	1,980,795.97
First Interstate Bank of Oregon, N.A. P.O. Box 3131 Portland, Oregon 97208 Attn: Mr. Daniel Durkin Senior Vice President	1,980,795.97
Manufacturers Hanover Trust Company 350 Park Avenue New York, N.Y. 10022 Attn: Mr. Salvatore J. Bommarito Vice President	1,980,795.97

Name and Address of Investors	Principal Amount of Conditional Sale Indebtedness Held as of Take Out Date
Seattle-First National Bank P.O. Box 3586 Seattle, Washington 98124 Attn: Mr. Timothy M. Crow Vice President U.S. Department	$ 1,980,795.97
Wells Fargo National Association 420 Montgomery Street San Francisco, California 94144 Attn: Mr. Steven T. Huntley Corporate Banking Officer	1,980,795.97
Total	$74,863,192.83*

* Of which $168,701.48 will be paid out of funds advanced by the Railroad and the balance will be paid out of funds deposited by the Permanent Investors.

SCHEDULE II

CONDITIONAL SALE INDEBTEDNESS

Permanent Investors	Series A	Series B	Series C	Total
New York Life Insurance Company 51 Madison Avenue New York, N.Y. 10010 Attention of Investment Department, Room 203 All communications to or with New York Life Insurance Company, other than payments on account of the Certificates made in accordance with the terms of this Agreement, shall be made to the above address. Such payments shall be made by wire or intra-bank transfer of immediately available funds for credit to the account of New York Life Insurance Company, General Account No. 003-0000-95 in Chemical Bank, New York, N.Y., with sufficient information (including interest rate and maturity) to identify the source and application of such payments.	$20,000,000			$20,000,000

Permanent Investors	Series A	Series B	Series C	Total
Aetna Life Insurance Company 151 Farmington Avenue Hartford, Connecticut 06156 Attention of Bond Investment Department A611 Payments of principal and interest should be made by crediting for the account of certain separate accounts maintained by it, each of which shall, for the purposes of this Agreement, be deemed a separate holder of the Conditional Sale Indebtedness, by wire transfer of Federal funds to Account No. 000-45-808 in care of Morgan Guaranty Trust Company of New York, 23 Wall Street, New York, New York 10015, Attention of Money Transfer Department with sufficient information to identify the source and application of such funds. All notices in respect to payment and all responses to requests for confirmation of outstanding balances should be addressed to 151 Farmington Avenue, Hartford, Connecticut 06156, Attention of Treasurer/Securities Operation, Bond Settlement Unit, D101. All other correspondence, statements and notices should be addressed as specified above.			$10,000,000	$10,000,000

Permanent Investors	Series A	Series B	Series C	Total
The Equitable Life Assurance Society of the United States 1285 Avenue of the Americas New York, N.Y. 10019 Attention of Corporate Finance Department. Two Certificates: (i) $8,000,000 and (ii) $1,394,491.35. All payments on account of the Certificates shall be made by wire transfer of immediately available funds to Account No. 037-1-000233 at the Chase Manhattan Bank, N.A., 110 West 52nd Street, New York, N.Y. 10019, with instructions to give advice of payment by telephone to the Banking Division, Treasurer's Department, The Equitable Life Assurance Society of the United States, New York, N.Y. Notices in respect of payment shall be sent to the first address above, Attention of Securities Custody Division, Treasurer's Department. Address all other communications to the first address above.	$9,394,491.35			$9,394,491.35

Permanent Investors	Series A	Series B	Series C	Total
Zurich Insurance Company 231 North Martingale Road Schaumburg, Illinois 60196 Attention of Mr. Stuart Olin, Assistant U.S. Manager. Certificate of Interest to be issued in the name of Boehm & Co. Payments shall be made by wire transfer of immediately available funds to Boehm & Co., in care of Bankers Trust Company, Personal Trust, One Bankers Trust Plaza (25th Fl.), attention of Income Collection (interest payments only) (attention of Reorganization for payments other than interest) for Zurich Insurance Company, Account number 61558, New York, N.Y., 10005, with sufficient information to identify the source and application of funds.		$6,000,000		$6,000,000
Union Mutual Life Insurance Company, 2211 Congress Street, Portland, Maine 04122. Attention of Bond Investment Department. Payment of principal and/or interest to be made by bank wire transfer of Federal Funds to Maine National Bank, 400 Congress Street, Portland, Maine 04112 for credit to Account No. 00-0062-0, with sufficient information to identify the source and application of funds.		$5,000,000		$5,000,000

Permanent Investors	Series A	Series B	Series C	Total
Unionmutual Pension & Insurance Corporation, 2211 Congress Street, Portland, Maine 04122. Attention of Bond Investment Department. Payment of principal and/or interest to be made by bank wire transfer of Federal Funds to Maine National Bank, 400 Congress Street, Portland, Maine 04112 for credit to Account No. 005-3796-9, with sufficient information to identify the source and application of funds.			$1,000,000	$1,000,000
The Minnesota Mutual Life Insurance Company 400 North Robert Street, St. Paul, Minnesota 55101 Attention of Investment Department. Payments by wire transfer of immediately available funds to the Federal Reserve Bank of Minneapolis for the account of The First National Bank of St. Paul, 332 Minnesota Street, St. Paul, Minnesota 55101, attention of Wire Transfer Department, for credit to The Minnesota Mutual Life Insurance Company, Account No. 10-00600 (with sufficient information to identify the source and application of funds).	$5,000,000			$5,000,000

Permanent Investors	Series A	Series B	Series C	Total
Sun Life Assurance Company of Canada (U.S.) One Sun Life Executive Park Wellesley Hills, Massachusetts 02181 Attention of Investment Department, Private Placement Section. Payments by wire transfer of immediately available funds to Manufacturers Hanover Trust Company, 40 Wall Street, New York, N.Y. 10015, for deposit into the account of Sun Life Assurance Company of Canada (U.S.), Account No. 144-0-53101. Notice in respect of payment to be sent to One Sun Life Executive Park, Wellesley Hills, Massachusetts 02181, Attention of Investment Accounting.	$5,000,000			$5,000,000
Transamerica Life Insurance and Annuity Company P.O. Box 60033, Terminal Annex, Los Angeles, California 90060 Attention of Transamerica Investment Services. Payments to be made by bank wire or interbank transfer of immediately available funds for credit the account Transamerica Life Insurance and Annuity Company, Account No. 12353-04395 Bank of America, Corporate Services Center, 1000 West Temple, Los Angeles, California 90080.		$4,000,000		$4,000,000

Permanent Investors	Series A	Series B	Series C	Total
Investors Syndicate of America, Inc. 3100 IDS Tower Minneapolis, Minnesota 55402 Attention of Director, Senior Securities Research. Certificate to be registered to "ISACO". Certificate of Interest to be delivered to F&M Marquette National Bank, 777 Marquette Avenue, Minneapolis, Minnesota 55402, attention of Pat Collis (612-370-2197). Payment to be made by bank wire or interbank transfer of immediately available funds for credit to the account of Investors Syndicate of America, Inc. # 1087-0723, at F&M Marquette National Bank, Minneapolis, Minnesota, with phone advice by said bank to Ms. A. Cummings at 612-372-2032.	$3,000,000			$3,000,000
Presbyterian Ministers' Fund 1809 Walnut Street Philadelphia, Pennsylvania 19103 Attention of Investment Department. All notices and other communications to be addressed to the address listed above. All payments by wire transfer of immediately available funds to Central Penn National Bank, Five Penn Center Plaza, Philadelphia, Pennsylvania 19101, Attention of Trust Department, for credit to Presbyterian Ministers' Fund, Account No. 87050, with notice of each payment to Presbyterian Ministers' Fund at the address listed above.		$2,000,000		$2,000,000

Permanent Investors	Series A	Series B	Series C	Total
General Reassurance Corporation 430 Park Avenue, 17th Floor New York, N.Y. 10022 Attention of Ms. Miriam Molk. Payments by wire transfer of immediately available funds to Connecticut National Bank (formerly Hartford National Bank), Federal Boston, Routing Number 011900445, with sufficient information to identify the source and application of funds. Certificate of Interest to be issued in the name of Agnew & Co., and mailed to Putnam Trust Company, 10 Mason Street, Greenwich, Connecticut 06830, attention of Mrs. Betsy Bianco, Custody Account Administrator.		$1,300,000		$1,300,000
American Guarantee & Liability Insurance Company 231 North Martingale Road Schaumburg, Illinois 60196 Attention of Mr. Stuart Olin, Assistant U.S. Manager. Certificate of Interest to be issued in the name of Boehm & Co. Payments shall be made by wire transfer of immediately available funds to Boehm & Co., in care of Bankers Trust Company, Personal Trust, One Bankers Trust Plaza (25th Fl.), attention of Income Collection (interest payments only) (attention of Reorganization for payments other than interest), for American Guarantee & Liability Insurance Company, Account number 61565, Tax I.D. # 366071400, New York, N.Y. 10005, with sufficient information to identify the source and application of funds.		$1,000,000		$1,000,000

Permanent Investors	Series A	Series B	Series C	Total
Mutual Service Life Insurance Company P.O. Box 43035 St. Paul, Minnesota 55164 Attention of Investment Department. Payments by wire transfer of immediately available funds to the First National Bank of Minneapolis, First Bank Place East, Minneapolis, Minnesota 55480, Attention of Corporate Trust Services Department, Agency-Custody, Daryl H. Moritko, for credit to Mutual Service Life Insurance Company's Account No. 3271-965, with sufficient information to identify source and application of funds.			$1,000,000	$1,000,000
Universal Underwriters Insurance Company 5115 Oak Street Kansas City, Missouri 64112 Attention of G. B. Martin, Vice President and Treasurer. Certificate of interest to be issued in the name of UUVEST. Payments of principal shall be made by wire transfer of immediately available funds to UUVEST, in care of United Missouri Bank, 10th and Grand Street, Kansas City, Missouri 64141, for Universal Underwriters Insurance Company, Account number 000-738-2., tax I.D. No. 431266724, with sufficient information to identify the source and application of funds. Payments of interest shall be sent to Universal Underwriters Insurance Company, 5115 Oak Street, Kansas City, Missouri 64112,		$1,000,000		$1,000,000

Permanent Investors	Series A	Series B	Series C	Total
attention of Investments, with sufficient information to identify the source and application of funds.				
	$42,394,491.35	$20,300,000	$12,000,000	$74,694,491.35

Schedule III-A
to
Finance Agreement

[CS&M Ref. 1629-042]

Conditional Sale Agreements dated as of October 1, 1979
Interest Rate: 11-3/4%

SERIES A
CERTIFICATE OF INTEREST

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY ("Agent") hereby acknowledges receipt from

("Investor") of ($), such sum having been paid by the Investor under and pursuant to the terms and conditions of an Amended and Restated Finance Agreement and Amendment dated as of December 1, 1982 ("Finance Agreement"), among Burlington Northern Railroad Company ("Railroad"), The Chase Manhattan Bank (National Association) ("Resigning Agent") the Agent, the parties named in Schedule I thereto ("Interim Investors"), the Investor and the parties named in Schedule II thereto ("Investors"). By reason of such payment the Investor has an interest in a principal amount equal to such sum in the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreements hereinafter mentioned) and in and to (i) the Conditional Sale Agreement dated as of October 1, 1979 ("CSA No. 1") among FMC Corporation, General Electric Company, Difco, Inc., ("Builders") and the Railroad and the railroad equipment covered by CSA No.1, (ii) the Agreement and Assignment dated as of October 1, 1979, between the Builders and the Resigning Agent, (iii) the Conditional Sale Agreement dated as of October 1, 1979 ("CSA No. 2"), between Transportation Products Company ("Manufacturer"), and the Railroad and the railroad equipment covered by CSA No. 2, (iv) the Agreement and Assignment dated as of October 1, 1979, between the Manufacturer and the Resigning Agent and (v) all cash and other property from time to time held by the Agent under the Finance Agreement, except to the extent that installments of such principal amount shall have been paid.

Under the terms of the CSA No. 1 and the CSA No. 2 (subject to the rights of prepayment contained therein in the event of a Casualty Occurrence as defined therein) and the Finance Agreement (i) such principal amount is payable in one installment on December 15, 1987, (ii) such principal amount bears interest from the date hereof on the unpaid portion thereof from time to time outstanding on each

June 15 and December 15 commencing on June 15, 1983, until such principal amount shall have been paid in full, at 11-3/4% per annum, (iii) all such principal and interest remaining unpaid after the same shall have become due and payable bears interest at 13-3/4% per annum. All payments received by the Agent in accordance with the terms of the Finance Agreement and CSA No. 1 and CSA No. 2 shall be disbursed by the Agent in accordance with the terms and conditions of the Finance Agreement.

The interests of the Investor referred to in this Certificate of Interest may not be transferred except in the manner provided for in Paragraph 5 of the Finance Agreement and subject to the terms, conditions and limitations provided therein.

Dated:

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
as Agent under the Finance Agreement,

by _____
Authorized Officer

INQUIRY SHOULD BE MADE TO THE AGENT IF CERTIFICATION AS TO BALANCE DUE HEREUNDER IS REQUIRED.

Schedule III-B
to
Finance Agreement

[CS&M Ref. 1629-042]

Conditional Sale Agreements dated as of October 1, 1979
Interest Rate: 11-3/4%

SERIES B
CERTIFICATE OF INTEREST

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY ("Agent") hereby acknowledges receipt from

("Investor") of ($), such sum having been paid by the Investor under and pursuant to the terms and conditions of an Amended and Restated Finance Agreement and Amendment dated as of December 1, 1982 ("Finance Agreement"), among Burlington Northern Railroad Company ("Railroad"), The Chase Manhattan Bank (National Association) ("Resigning Agent") the Agent, the parties named in Schedule I thereto ("Interim Investors"), the Investor and the parties named in Schedule II thereto ("Investors"). By reason of such payment the Investor has an interest in a principal amount equal to such sum in the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreements hereinafter mentioned) and in and to (i) the Conditional Sale Agreement dated as of October 1, 1979 ("CSA No. 1") among FMC Corporation, General Electric Company, Difco, Inc., ("Builders") and the Railroad and the railroad equipment covered by CSA No.1, (ii) the Agreement and Assignment dated as of October 1, 1979, between the Builders and the Resigning Agent, (iii) the Conditional Sale Agreement dated as of October 1, 1979 ("CSA No. 2"), between Transportation Products Company ("Manufacturer"), and the Railroad and the railroad equipment covered by CSA No. 2, (iv) the Agreement and Assignment dated as of October 1, 1979, between the Manufacturer and the Resigning Agent and (v) all cash and other property from time to time held by the Agent under the Finance Agreement, except to the extent that installments of such principal amount shall have been paid.

Under the terms of the CSA No. 1 and the CSA No. 2 (subject to the rights of prepayment contained therein in the event of a Casualty Occurrence as defined therein) and the Finance Agreement (i) such principal amount is payable in one installment on December 15, 1989, (ii) such principal amount bears interest from the date hereof on the unpaid portion thereof from time to time outstanding on each

June 15 and December 15 commencing on June 15, 1983, until such principal amount shall have been paid in full, at 11-3/4% per annum, (iii) all such principal and interest remaining unpaid after the same shall have become due and payable bears interest at 13-3/4% per annum. All payments received by the Agent in accordance with the terms of the Finance Agreement and CSA No. 1 and CSA No. 2 shall be disbursed by the Agent in accordance with the terms and conditions of the Finance Agreement.

The interests of the Investor referred to in this Certificate of Interest may not be transferred except in the manner provided for in Paragraph 5 of the Finance Agreement and subject to the terms, conditions and limitations provided therein.

Dated:

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
as Agent under the Finance Agreement,

by_____
Authorized Officer

INQUIRY SHOULD BE MADE TO THE AGENT IF CERTIFICATION AS TO BALANCE DUE HEREUNDER IS REQUIRED.

Schedule III-C
to
Finance Agreement

[CS&M Ref. 1629-042]

Conditional Sale Agreements dated as of October 1, 1979
Interest Rate: 11-3/4%

SERIES C
CERTIFICATE OF INTEREST

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY ("Agent") hereby acknowledges receipt from

("Investor") of ($), such sum having been paid by the Investor under and pursuant to the terms and conditions of an Amended and Restated Finance Agreement and Amendment dated as of December 1, 1982 ("Finance Agreement"), among Burlington Northern Railroad Company ("Railroad"), The Chase Manhattan Bank (National Association) ("Resigning Agent") the Agent, the parties named in Schedule I thereto ("Interim Investors"), the Investor and the parties named in Schedule II thereto ("Investor"). By reason of such payment the Investor has an interest in a principal amount equal to such sum in the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreements hereinafter mentioned) and in and to (i) the Conditional Sale Agreement dated as of October 1, 1979 ("CSA No. 1") among FMC Corporation, General Electric Company, Difco, Inc., ("Builders") and the Railroad and the railroad equipment covered by CSA No.1, (ii) the Agreement and Assignment dated as of October 1, 1979, between the Builders and the Resigning Agent, (iii) the Conditional Sale Agreement dated as of October 1, 1979 ("CSA No. 2"), between Transportation Products Company ("Manufacturer"), and the Railroad and the railroad equipment covered by CSA No. 2, (iv) the Agreement and Assignment dated as of October 1, 1979, between the Manufacturer and the Resigning Agent and (v) all cash and other property from time to time held by the Agent under the Finance Agreement, except to the extent that installments of such principal amount shall have been paid.

Under the terms of the CSA No. 1 and the CSA No. 2 (subject to the rights of prepayment contained therein in the event of a Casualty Occurrence as defined therein) and the Finance Agreement (i) such principal amount is payable in equal annual installments on December 15 of 1985, 1986, 1987, 1988 and 1989 (subject to reduction in the event of prepayments in respect of Casualty Occurrences), (ii) such

principal amount bears interest from the date hereof on the unpaid portion thereof from time to time outstanding on each June 15 and December 15 commencing on June 15, 1983, until such principal amount shall have been paid in full, at 11-3/4% per annum, (iii) all such principal and interest remaining unpaid after the same shall have become due and payable bears interest at 13-3/4% per annum. All payments received by the Agent in accordance with the terms of the Finance Agreement and CSA No. 1 and CSA No. 2 shall be disbursed by the Agent in accordance with the terms and conditions of the Finance Agreement.

The interests of the Investor referred to in this Certificate of Interest may not be transferred except in the manner provided for in Paragraph 5 of the Finance Agreement and subject to the terms, conditions and limitations provided therein.

Dated:

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
as Agent under the Finance Agreement,

by_____
Authorized Officer

INQUIRY SHOULD BE MADE TO THE AGENT IF CERTIFICATION AS TO BALANCE DUE HEREUNDER IS REQUIRED.

For reference purposes, the following pages consist of composite conformed copies of the two Conditional Sale Agreements and the two Assignments.

The black markings in the Conditional Sale Agreements identify provisions which have been amended by the Amended and Restated Finance Agreement and Amendment.

Recordation No. 11075 Filed 1425
November 21, 1979 - 10:45 A.M.
Interstate Commerce Commission
Deposited, Registrar General of Canada
November 23, 1979

10237A
EXHIBIT A

CONDITIONAL SALE AGREEMENT

CONDITIONAL SALE AGREEMENT dated as of October 1, 1979 among FMC Corporation, a Delaware corporation (hereinafter called "FMC"), GENERAL ELECTRIC COMPANY, a New York corporation (hereinafter called "General Electric", and DIFCO, INC. an Ohio corporation (hereinafter called "DIFCO"), (the foregoing companies being hereinafter collectively called the "Manufacturers", or severally, a "Manufacturer") and BURLINGTON NORTHERN INC., a Delaware corporation (hereinafter called the "Railroad").

WHEREAS, each Manufacturer is willing to construct, sell and deliver to the Railroad, and the Railroad is willing to purchase, the railroad equipment to be built by such Manufacturer as described in Schedules A, B and C attached hereto (collectively called the "Equipment" or "Items" and individually called the "Item of Equipment" or the "Item"); and

WHEREAS, except as otherwise provided in Section 3.1 hereof, each Manufacturer and the Railroad have agreed that this Agreement shall exclusively and completely state the rights of such Manufacturer and the Railroad with respect to the Equipment and shall supersede all other agreements, oral or written, with respect to the Equipment; and

WHEREAS, it is proposed that certain other companies enter into a Conditional Sale Agreement dated as of the date hereof (such Conditional Sale Agreement, when and if signed, being hereinafter called the "Other Agreement") with the Railroad covering railroad equipment as described in the Schedules attached thereto;

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

SECTION 1. CONSTRUCTION AND SALE.

Each Manufacturer will construct, sell and deliver to the Railroad, and the Railroad will purchase from such Manufacturer and accept delivery of and pay for as hereinafter provided, those Items of Equipment which are indicated on Schedules A, B and C attached hereto to be constructed and sold by such Manufacturer, each Item of which shall be constructed in accordance with the applicable specifications referred to in said Schedules A, B and C with such modifications thereof as may be agreed upon in writing by the Railroad and the Manufacturer thereof (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design and quality of equipment and material used in the manufacture of such Items shall conform to all Department of Transportation and Interstate Commerce Commission requirements and specifications for new equipment in effect on the date such Items are delivered hereunder, and to all Rules of the Association of American Railroads, applicable to new railroad equipment of the character of such Items as of the date of this Agreement.

SECTION 2. DELIVERY.

2.1. Each Manufacturer will deliver the various Items of Equipment to be manufactured by it to the Railroad in accordance with the delivery schedule set forth in Schedules A, B and C attached hereto; provided, however, that the Manufacturers shall have no obligation to deliver any Item of Equipment hereunder if an Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute an Event of Default, has occurred and is continuing.

2.2. Each Manufacturer's obligation as to time of delivery is subject, however, to delays resulting from causes beyond such Manufacturer's reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riots or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, or delays in receiving necessary materials.

2.3 Notwithstanding the foregoing provisions, any Item of Equipment not delivered and accepted on or before

the outside delivery date provided therefor in Schedules A, B and C hereto, shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement. In the event of any such exclusion the Manufacturer of such excluded Item of Equipment shall remain obligated to construct, sell and deliver to the Railroad, and the Railroad shall remain obligated to purchase from such Manufacturer, accept delivery of and pay for, any such Item of Equipment thus excluded from this Agreement, and the Railroad and such Manufacturer shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not excluded herefrom, and such Manufacturer and the Railroad shall further execute a separate agreement providing for the sale of such excluded Equipment by such Manufacturer to the Railroad upon the same terms and conditions as those contained herein, modified only to the extent necessary to provide for payment in cash upon delivery of the Equipment, either directly or indirectly by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Railroad may determine and as may be reasonably satisfactory to such Manufacturer.

2.4. The Equipment during construction shall be subject to inspection by one or more inspectors or other authorized representatives of the Railroad. Upon completion of each Item of Equipment by the Manufacturer thereof, it shall be presented to such inspectors or representatives for inspection at the place designated herein for delivery of such Item of Equipment, and, if such Item of Equipment conforms to the Specifications applicable thereto, such inspectors or representatives shall execute and deliver to such Manufacturer a certificate or certificates of acceptance (hereinafter called the "Certificate of Acceptance") stating that such Item of Equipment has been inspected and is accepted by them on behalf of the Railroad and is marked in accordance with Section 5.1 hereof. Any Certificate of Acceptance may cover any number of Items of Equipment. Such Certificate of Acceptance shall be conclusive evidence that the Items of Equipment covered thereby have been delivered to the Railroad and conform to the Specifications and are acceptable to the Railroad in all details; provided, however, that the Manufacturer of such Items of Equipment shall not be relieved of its warranties.

2.5. The Manufacturer of each Item of Equipment shall bear the risk of loss of each Item of Equipment or damage thereto until delivery (at such place as specified in

such Manufacturer's Schedule attached hereto) to and acceptance by the Railroad. Upon such delivery to and acceptance by the Railroad of each such Item of Equipment the Railroad shall bear the risk of loss of or damage to such Item.

SECTION 3. PURCHASE PRICE AND PAYMENT.

3.1 The base price per Item of Equipment, including freight charges, if any, to place of destination, but exclusive of interest and all other charges, is as set forth in Schedules A, B and C attached hereto. The base price per Item of Equipment shall be subject to increase or decrease (a) as may have been agreed to by the Manufacturer thereof and the Railroad in accordance with agreements, if any, providing for price escalations heretofore entered into, which agreements shall remain in effect for the limited purpose of determining the price of the Equipment between the Railroad and the Manufacturer under this Section 3.1 or (b) as may be agreed to in writing by the Manufacturer thereof and the Railroad, and the term "Purchase Price" as used herein shall mean the base price as so increased or decreased.

3.2. For the purpose of making settlement for the Equipment, the Equipment hereunder and under the Other Agreement shall be divided into not more than 20 groups of Items of Equipment, or such other number as shall be agreed to by the parties hereto (each such group of Items being hereinafter called a "Group").

3.3. The Railroad hereby acknowledges itself to be indebted to the respective Manufacturers in the amount of, and hereby promises to pay to the respective Manufacturers at such bank or trust company in the United States as each of the Manufacturers or its assignee shall designate for payment to it in funds immediately available at such place of payment, the Purchase Price of the Equipment (hereinafter sometimes referred as to the "Conditional Sale Indebtedness") in installments as follows:

(a) On April 1, 1980 and on each April 1 and October 1 thereafter, an installment of interest accrued on the unpaid portion of the Conditional Sale Indebtedness from time to time outstanding until the same shall have become due and payable, at a rate per annum (i) from January 1, 1980 through September 30,

1983 equal to the Prime Rate (as defined below), (ii) from October 1, 1983 through September 30, 1986 equal to 103% of said Prime Rate and (iii) from October 1, 1986 through September 30, 1988 equal to 106% of said Prime Rate;

(b) On October 1, 1983 and on each October 1 thereafter to and including October 1, 1987, in addition to the installment of interest then payable, an installment equal to $9,800,000; provided, however, that in no event shall an installment made under this subsection (b) be in excess of the entire principal balance remaining unpaid as of the date of such installment;

(c) On October 1, 1988, in addition to the installment of interest then payable, an installment equal to the entire principal balance, if any, remaining unpaid as of said date.

As used herein the term "Prime Rate" shall mean the prime commercial lending rate per annum announced by The Chase Manhattan Bank (National Association) at its principal office in New York City from time to time, each change in such announced rate to be effective for purposes of this Agreement on the day on which such change is effective.

3.4. The term "Closing Date" with respect to each Group shall mean such date not later than December 31, 1980 which is not more than twenty business days following presentation, by the Manufacturers of the Items of Equipment included in such Group, to the Railroad of the invoice, or invoices, and the Certificate or Certificates of Acceptance with respect to such Group, as shall be fixed by the Railroad by written or telegraphic notice delivered to such Manufacturer or Manufacturers and any assignee thereof at least five business days prior to the Closing Date designated therein.

3.5. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and holidays on which banks in the State of New York are authorized or required to close. If any date on which a payment is to be made hereunder is not a business day, the amount otherwise payable on such date shall be payable on the next succeeding business day, and no interest on such amount shall accrue for the period from and after the nominal date for payment thereof to such next succeeding business day.

3.6. Interest under this Agreement shall be determined on a basis of a year of 365 or 366 days, as the case may be, for the actual number of days (including the first day but excluding the last day) elapsed.

3.7. The Railroad will pay interest, payable on demand, on all unpaid balances of indebtedness, after the same shall have become due and payable pursuant to the terms hereof (whether at stated maturity, by acceleration or otherwise), at a rate per annum equal at all times to one percent per annum above (i) the Prime Rate from January 1, 1980 through September 30, 1983, (ii) 103% of the Prime Rate from October 1, 1983 through September 30, 1986 and (iii) 106% of the Prime Rate from October 1, 1986 through September 30, 1988 and thereafter, provided, however, that the parties hereto may specify a different interest rate to be applicable to any refinancing hereunder.

3.8. All payments provided for in this Agreement shall be made by the Railroad 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 by 1 p.m. New York City time on the day any such payments are due.

3.9. The Railroad may, upon at least five business days' notice to the Manufacturers, prepay the Conditional Sale Indebtedness in whole or in part with accrued interest to the date of such prepayment on the amount prepaid, provided that each partial prepayment shall be in an amount (exclusive of interest) equal to $100,000 or an integral multiple thereof and shall be applied to the installments in the inverse order of their maturities.

3.10. If this Agreement shall be assigned as contemplated by Section 14.4, the Railroad agrees to pay to the Agent a commitment fee at the rate of 1/2 of 1% per annum on the unused portion of the aggregate $75,589,000 commitment arranged by the Agent to finance the purchase of the Equipment hereunder and under the Other Agreement, computed from November 15, 1979 to the later of the final Closing Date hereunder or the final Closing Date under the Other Agreement (hereinafter called the "Ultimate Closing Date"), payable April 1, 1980, October 1, 1980 and on the Ultimate Closing Date. The Railroad agrees to pay the Agent a commitment fee at the rate of 1/2 of 1% per annum upon the additional $1,000,000 over and above said $75,589,000 commitment computed from the date of the Railroad's notice

to the Agent that such additional amount shall be required to the Closing Date upon which such amount is drawn down and payable at such Closing Date.

SECTION 4. TITLE TO THE EQUIPMENT.

4.1. Each Manufacturer shall and hereby does retain the full legal title to and property in the Equipment built by it until the Railroad shall have made all of the payments hereunder and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as herein provided. 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 terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

4.2. When and only when the Manufacturers shall have been paid in full the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon and all other payments as herein provided, and all the Railroad's other obligations herein contained shall have been performed, 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 Manufacturers except that each Manufacturer, if requested by the Railroad so to do, will execute a bill or bills of sale of the Equipment transferring such Manufacturer's title thereto and property therein to the Railroad or upon its order free of all liens and encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address specified in Section 21 hereof, and will execute in the same manner and deliver at the same place, for filing, registering, recording or depositing 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 the title of the Railroad to the Equipment, and will pay to the Railroad any money paid to such Manufacturer pursuant to Section 6 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 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 to file such certificate within a reasonable time after written demand by the Railroad.

SECTION 5. MARKING OF EQUIPMENT.

5.1. The Railroad will cause each Item of Equipment to be kept numbered with its road number as set forth in Schedules A, B and C hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon both sides of each Item of Equipment in letters not less than one inch in height, the words "Unit Subject to Security Interest of the Agent Bank under Conditional Sale Agreement Recorded with the I.C.C.", with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Manufacturer thereof to such Item of Equipment, its rights under this Agreement and the rights of any assignee under Section 14 hereof. The Railroad will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced, obliterated or destroyed. The Railroad will not change the road number of any Item of Equipment except with the consent of the Manufacturer thereof and any assignee pursuant to Section 14 hereof and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed, recorded or deposited in all public offices where this Agreement shall have been filed, recorded or deposited.

5.2. Except as above provided, the Railroad will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Railroad or its affiliates on railroad equipment used by it of the same or a similar type for convenience of idenfication of the right of the Railroad to use the Equipment under this Agreement.

SECTION 6. CASUALTY OCCURRENCES.

6.1. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or irreparably damaged, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise or rendered permanently unfit for use from any cause whatsoever (each such occurrence, except for any requisition which by its terms is indefinite or does not exceed the original term of this Agreement, being hereinafter called a "Casualty Occurrence"), prior to the payment of the indebtedness in respect of the Purchase Price of such Item, together with interest thereon and all other payments required hereby, the Railroad shall, within 30 days after a responsible officer of the Railroad shall have received notice that such Item of Equipment has suffered a Casualty Occurrence, but in no event later than 180 days after such Item of Equipment has suffered a Casualty Occurrence, fully inform the Manufacturers in regard thereto. Whenever from time to time the total Depreciated Value (as defined in Section 6.3) of Items of Equipment hereunder and under the Other Agreement which have suffered a Casualty Occurrence (exclusive of Items of Equipment having suffered a Casualty Occurrence with respect to which payments or replacements shall have been made to the Manufacturers pursuant to this Section 6 or Section 6 of the Other Agreement) shall exceed $500,000 (or such lesser amount as the Railroad shall elect), the Railroad shall, within 30 days of such event, pay the Manufacturers and the Manufacturers under the Other Agreement a sum equal to the aggregate Depreciated Value, as of such date of payment, of such Items of Equipment under this Agreement and under the Other Agreement; provided, however, that if prior to the date such payment is required to be made the Railroad, at its election, shall have transferred, in accordance with Section 6.6, to the Manufacturers hereunder or under the Other Agreement, title to a replacement Item or Items of Equipment meeting the requirements of clause (iii) of Section 6.2, then, in such case, there shall be deducted from the amount of such payment an amount equal to the aggregate Depreciated Value, as of such date of payment, of all such replacement Items of Equipment. The Railroad shall file with the Manufacturers a certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad setting forth the Depreciated Value, as of such date of payment, of each Item of Equipment suffering a Casualty Occurrence.

6.2. Any money paid to the Manufacturers pursuant to Section 6.1 hereof shall, so long as no Event of Default shall have occurred and be continuing, be applied, in whole or in part, as the Railroad shall direct in a written instrument filed with the Manufacturers, either (i) to prepay indebtedness in respect of the Purchase Price of the Equipment hereunder or under the Other Agreement, (ii) to or toward the cost of an Item or Items of Equipment of new standard gauge railroad equipment excluding passenger equipment to replace such Item of Equipment having suffered a Casualty Occurrence and which new Item or Items of Equipment shall be of a quality and have a value and utility at least equal to such Item of Equipment having suffered a Casualty Occurrence or (iii) to be released to the Railroad against transfer, in accordance with Section 6.6, to the Manufacturers of title to an Item or Items of used standard gauge railroad equipment which shall be free of all liens and charges except as permitted by Section 10 and shall be of the same character as the Equipment described in Schedules A, B and C hereto (or of such other character as may be acceptable to the Manufacturers) to replace such Item or Items of Equipment having suffered a Casualty Occurrence. In case any such money shall be applied to prepay indebtedness, it shall be so applied, on such date as the Railroad shall specify in such written direction, to prepay without penalty or premium, the unpaid balance of the principal installments of the Purchase Price of the Equipment hereunder and under the Other Agreement thereafter falling due in the inverse order of the maturity of such installments and ratably as between such installments due hereunder and under the Other Agreement. In case of replacement pursuant to clause (ii) of the first sentence of this Section 6.2, the amount to be paid by the Manufacturers in respect of any replacing Item shall not exceed the lesser of the cost of such Item or the amount which such Item would have cost if acquired on the earliest date when any of such money was paid to the Manufacturers, and the Railroad shall pay any additional cost of such Item. Under no circumstance shall Manufacturers be required under this Section 6.2 to make prepayments or to pay for replacements except out of funds paid to Manufacturers pursuant to Section 6.1 hereof. In the case of any replacement pursuant to clause (ii) of the first sentence of this Section 6.2, the Purchase Price of such replacing Item shall for the purpose of this Agreement be the amount of money advanced by the Manufacturers in payment therefor, but shall not include any portion of the cost thereof paid by the Railroad. The amount which any such replacing Item would have cost if

acquired on the earliest date when any of such money was paid to the Manufacturers shall be conclusively determined by the certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad to be filed as hereinafter provided. In the case of each release of money to the Railroad pursuant to clause (iii) of the first sentence of this Section 6.2, the amount of money so released shall be equal to the Depreciated Value, as of the date such money was paid to the Manufacturers pursuant to Section 6.1, of the used replacement Item or Items transferred to the Manufacturers pursuant to said clause (iii), as the amount of such Depreciated Value shall be certified to by the Railroad in connection with such release as provided in Section 6.6.

6.3. The "Depreciated Value" as of any date of determination of any original or replacement Item of Equipment shall mean the purchase price paid for such Item when new depreciated to such date of determination on a straight line basis from the date such Item was originally delivered by the manufacturer thereof to a residual value of zero, computed at the rate of 6.667% of such purchase price per year pro rated on a daily basis. For the purpose of computing the Depreciated Value of any Item of Equipment which has suffered a Casualty Occurrence, such Depreciated Value shall be computed on a daily basis to the date of the occurrence of such Casualty Occurrence.

6.4. So long as no Event of Default shall have occurred and be continuing, any money paid to the Manufacturers pursuant to this Section 6 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in (i) such direct obligations of the United States of America or any agency or instrumentality thereof, or other obligations for which the faith of the United States is pledged to provide for the payment of principal and interest or (ii) commercial paper or finance company paper rated "A-1" or "P-1" or their equivalent by Standard & Poor's Corporation or a comparable national rating agency or (iii) obligations issued or guaranteed by any state of the United States or the District of Columbia or any political subdivision of any such state or district rated "AA" or better by a national rating service, or (iv) repurchase agreements fully secured by any one or more of the obligations referred to in clause (i) above, or (v) certificates of deposit issued by or bankers' acceptances drawn on and accepted by commercial banks in the United States of America which are members of the Federal

Reserve System having total assets aggregating at least $200,000,000, in each case maturing in not more than one year from the date of such investment (all such investments being hereinafter called "Investments"), as may be specified in such written direction. Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest or earned discount received by the Manufacturers on any Investments shall be held by the Manufacturers and applied as herein provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus any interest received by the Manufacturers thereon, up to the cost (including accrued interest or earned discount) thereof, shall be held by the Manufacturers for application pursuant to this Section 6, and any excess shall be paid to the Railroad. If such proceeds (plus such interest or earned discount) shall be less than such cost, the Railroad will promptly pay to the Manufacturers an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Manufacturers in connection with the purchase and sale of Investments.

6.5. The Railroad will cause any replacing Item to be plated or marked as provided in Section 5.1 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all of the 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 replacements shall be free and clear of all liens and encumbrances and shall be taken initially and shall remain in the name of the Manufacturers subject to the provisions hereof, and the Railroad shall promptly execute, acknowledge, deliver, file and record all such documents (including the filing with the Interstate Commerce Commission in accordance with applicable law and the deposit with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and publication of notice of such deposit in The Canada Gazette in accordance with said Section 86 of an appropriate supplemental agreement describing such replacements) and do any and all such acts as may be necessary to cause such replacements to come under and be subject to this Agreement and to protect the title of the Manufacturers to such replacements. All such replacements shall be warranted in like manner as the Items replaced, and the vendor of the replacements shall if other than the Manufacturers, duly consent to the subjection thereof to this Agreement and agree to be bound by all the

terms and provisions contained herein in respect of such replacements in the like manner as the Manufacturers are in respect of the original Equipment delivered hereunder.

6.6. Whenever the Railroad shall file with the Manufacturers, pursuant to the foregoing provisions of this Section 6, a written direction to apply money to or toward the cost of a replacing Item of new standard gauge railroad equipment or to release money to the Railroad against transfer of title to the Manufacturers of a replacing Item of used standard gauge railroad equipment, or whenever the Railroad shall transfer title to the Manufacturers of such a replacing Item of used standard gauge railroad equipment pursuant to Section 6.1, the Railroad shall file with the Manufacturers in such number of counterparts as may reasonably be requested:

(a) a certificate of a Vice President or Chief Accounting Officer of the Railroad, authorized to make such a certification, certifying: (i) if such replacing Item is a new, unused Item, that such Item is new standard gauge railroad equipment (other than work or passenger equipment) and has been plated or marked as required by the provisions of this Section 6 and certifying the cost of such replacing Item, the amount which such replacing Item would have cost if acquired on the earliest date when any such money was paid to the Manufacturers and that the cost thereof does not exceed the fair value of such Item and that such replacing Item have a quality and value and utility at least equal to the Item or Items replaced; and (ii) if such replacing Item is a used Item, that such Item is used standard gauge railroad equipment (other than work or passenger equipment) and has been plated and marked as required by the provisions of this Section 6 and certifying the Depreciated Value of such Item, as of the earliest date any such money was paid to the Manufacturers, and that such replacing Item is of the character required by the terms of clause (iii) of the first sentence of Section 6.2;

(b) an opinion of counsel for the Railroad that title to each replacing Item is vested in the Manufacturers free and clear of all liens and encumbrances, and that such Item has come under and become subject to this Agreement and the security interest of the Agent hereunder;

(c) a bill of sale in favor of the Manufacturers or their assignee covering such replacement Item from, if a new Item, the manufacturer thereof or, if a used Item, the Railroad; and

(d) copies of financing statements filed in accordance with the Uniform Commercial Code where such replacing Item is not rolling stock.

6.7. In the event that any moneys paid to, or held by, the Manufacturers pursuant to this Section 6 are applied to the prepayment of indebtedness in respect of the Purchase Price, the Railroad will pay to the Manufacturers on the date of such application interest then accrued and unpaid on the indebtedness so prepaid.

If an Event of Default shall have occurred and be continuing, then so long as such Event of Default shall continue all money then held by the Manufacturers pursuant to this Section 6 shall be applied by the Manufacturers as if such money were money received upon the sale of Equipment pursuant to Section 16 hereof.

6.8. In order to facilitate the sale, or other disposition of any Equipment suffering a Casualty Occurrence, the Manufacturers shall upon request of the Railroad, provided the Railroad shall then be in compliance with the terms of this Section 6, 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 the terms and scope of this Conditional Sale Agreement, in such form as may be reasonably requested by the Railroad.

6.9. In the event that prior to the expiration of the term of this Agreement, the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period ending on or before said date, the Railroad's duty to pay the indebtedness in respect of the Purchase Price thereof shall continue for the duration of such requisitioning or taking. The Railroad shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

6.10. The Railroad represents and warrants that not more than $3,000,000 in aggregate Purchase Price of Items of Equipment under this Agreement and under the Other Agreement constitutes Equipment which is not operable on railroad tracks; and the Railroad agrees that no purchase of new Equipment or replacement of used Equipment under this Section 6 or Section 6 of the Other Agreement will at any time result in a greater proportion of all Equipment hereunder and under the Other Agreement (computed on the basis of Depreciated Value as of such time) constituting Equipment not operable on railroad tracks than the ratio of $3,000,000 to $75,589,000.

SECTION 7. TAXES.

All payments to be made by the Railroad hereunder will be free of expense to the Manufacturers for collection or other charges and will be free of expense to the Manufacturers in respect of the amount of any local, state or federal taxes, license and registration fees, assessments, charges, fines, penalties, sales, use and property taxes, gross receipts taxes arising out of receipts from use or operation of the Equipment, and other taxes, fees and governmental charges similar or dissimilar to the foregoing (other than net income, excess profits and similar taxes) hereafter levied or imposed upon, or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which expenses, taxes and licenses the Railroad assumes and agrees to pay on demand in addition to the other amounts payable by it pursuant to this Agreement. The Railroad will also pay promptly all taxes and assessments which may be imposed upon the Equipment or for the use or operation thereof by the Railroad or upon the earnings arising therefrom or upon the Manufacturers solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all taxes and assessments which might in any way affect the title of the Manufacturers or result in a lien upon any Item of Equipment; provided, however, that the Railroad shall be under no obligation to pay any taxes, assessments, licenses, charges, fines or penalties of any kind so long as it is contesting in good faith and by appropriate legal proceedings such taxes, assessments, licenses, charges, fines or penalties and the nonpayment thereof does not, in the opinion of the Manufacturers, adversely affect the property or rights of the Manufacturers hereunder. If any such expenses, taxes, assessments,

licenses, charges, fines or penalties shall have been charged or levied against the Manufacturers directly and paid by the Manufacturers, the Railroad shall reimburse the Manufacturers on presentation of an invoice therefor; provided, however, that the Railroad shall not be obligated to reimburse the Manufacturers for any expenses, taxes, assessments, licenses, charges, fines or penalties so paid unless the Manufacturers shall have submitted notice in writing to the Railroad at least one business day in advance of payment thereof.

SECTION 8. REPORTS AND INSPECTIONS.

8.1. On or before April 1 in each year, commencing with the year 1981, the Railroad will furnish to the Manufacturers an accurate statement, as of the preceding December 31, (a) showing the amount, description and road numbers of the Items of Equipment then subject to this Agreement, the amount, description and road numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the Manufacturers may reasonably request, and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the markings required by Section 5.1 hereof shall have been preserved or replaced.

8.2. In addition to the statements described in Section 8.1 above, the Railroad will furnish to the Manufacturers: (i) as soon as available and in any event within 120 days after the end of each fiscal year of the Railroad, a copy of the annual report for such year for the Railroad, containing financial statements for such year certified in a manner acceptable to the Manufacturers by independent public accountants acceptable to the Manufacturers; (ii) promptly after the sending or filing thereof, copies of all reports which the Railroad sends to any of its security holders, and copies of all reports and registration statements which the Railroad files with the Securities and Exchange Commission or any national securities exchange; (iii) as soon as possible and in any event within 30 days after a Casualty Occurrence, a statement showing the amount, description and road numbers of all Items of Equipment that suffered such Casualty Occurrence; and (iv) such other information respecting the

condition or operations, financial or otherwise, of the Railroad as the Manufacturers may from time to time reasonably request.

8.3. The Manufacturers shall have the right, at their sole cost and expense by their authorized representative, to inspect the Equipment and the Railroad's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Manufacturers the existence and proper maintenance thereof during the continuance of this Agrement.

SECTION 9. POSSESSION, USE AND MAINTENANCE.

9.1. The Railroad, so long as no Event of Default has occurred and is continuing under this Agreement, shall have absolute right, from and after delivery of the Equipment by the Manufacturers to the Railroad, to the possession of the Equipment and the use thereof upon the railroad lines owned or operated by it either alone or jointly with another and whether under lease or otherwise, or upon the railroad lines owned or operated by any railroad company controlled by or controlling the Railroad, or over which it has trackage rights, and the Equipment may also be used upon connecting and other railroads in the usual interchange of traffic or leased to other railroads, from and after delivery of the Equipment by the Manufacturers to the Railroad; provided, however, that such use and lease shall be subject to all the terms and conditions of this Agreement and that the Railroad shall not assign or permit the assignment of any Item of Equipment to service involving the regular operation and maintenance thereof outside the continental United States. The Railroad agrees that it will not permit at any time more than 2% in aggregate Depreciated Value, as of such time, of the Items of Equipment hereunder and under the Other Agreement to be located in Mexico.

9.2. The Railroad shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Railroad shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange. The Railroad shall not modify any Item of Equipment without the written authority and approval of the Manufacturers which approval shall not be unreasonably withheld, provided that no such approval shall be necessary if and to the extent

such modification is required by Section 11 hereof. Any parts (except communications, signal and automatic control equipment and devices having a similar use which are added to any Item of Equipment by the Railroad, the cost of which is not included in the Purchase Price of such Item and which are not required for the operation or use of such Item by the Interstate Commerce Commission, the Department of Transportation or any other regulatory body) installed or replacements made by the Railroad upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Manufacturers, without cost or expense to the Manufacturers.

SECTION 10. PROHIBITION AGAINST LIENS.

10.1. The Railroad will pay or satisfy and discharge any and all sums claimed by any party by, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien or a charge upon any Item of Equipment equal or superior to the security title of the Manufacturers, and any liens, encumbrances or charges which might be levied against or imposed upon any Item of Equipment as a result of the failure of the Railroad to perform or observe any of its covenants or agreements under this Agreement, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested by the Railroad in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Manufacturers, adversely affect the property or rights of the Manufacturers hereunder.

10.2. The covenant of Section 10.1 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 or other liens arising in the ordinary course of business and mechanics', workmen's, repairmen's or other liens arising in the ordinary course of business and, in each case, not delinquent (such liens being herein called "permitted liens").

SECTION 11. COMPLIANCE WITH RULES, LAWS AND REGULATIONS.

During the term of this Agreement the Railroad will 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 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 operation or use of the Equipment; and in the event that such laws or rules require the alteration of the Equipment, the Railroad will conform therewith at its expense, and will maintain the same in proper condition for operation under such laws and rules; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Manufacturers, adversely affect the property or rights of the Manufacturers hereunder.

SECTION 12. INDEMNITIES.

12.1. The Railroad agrees to indemnify, protect and hold harmless the Manufacturers against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including claims for strict liability in tort and counsel fees, arising out of retention by the Manufacturers of security title to the Equipment, or out of the use and operation thereof during the period when security title thereto remains in the Manufacturers. This covenant of indemnity shall continue in full force and effect notwithstanding payment in full of the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and the conveyance of the Equipment, as provided in Section 4.2 hereof, or the termination or assignment of this Agreement in any manner whatsoever; provided, that any assignee under Section 14 hereof shall receive the full benefit of this Section 12.1 notwithstanding the retention by the Manufacturers of their rights hereunder.

12.2 The Railroad, after delivery to and acceptance by the Railroad pursuant to Section 2.5 hereof of each Item of Equipment, will bear the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such Item of Equipment.

12.3. The warranties of each Manufacturer with respect to defects in material or workmanship of the Items of Equipment to be built by such Manufacturer are set forth in Schedules A, B and C hereto.

SECTION 13. PATENT INDEMNITIES.

13.1. Except in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by a Manufacturer, and articles and materials specified by the Railroad and not manufactured by a Manufacturer, each Manufacturer agrees to indemnify, protect and hold harmless the Railroad from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Railroad because of the use in or about the construction or operation of any Item of Equipment to be built by such Manufacturer, of any design, article or material which infringes or is claimed to infringe on or to constitute contributory infringement with respect to any patent or other right. The Railroad likewise will indemnify, protect and hold harmless each Manufacturer from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against such Manufacturer because of the use in or about the construction or operation of any Item of Equipment to be built by such Manufacturer, of any design, systems, processes, formulae and combinations specified by the Railroad and not developed or purported to be developed by the Manufacturer, or any article or material specified by the Railroad and not manufactured by the Manufacturer, which infringes or is claimed to infringe on or to constitute contributory infringement with respect to any patent or other right. In case any Item of Equipment is held to constitute infringement of any patent or any similar right in respect of which liability may be charged against a Manufacturer, and the use of any Item of Equipment to be built by such Manufacturer is enjoined, such Manufacturer shall, at its own expense and at its option, either procure for the Railroad the right to continue using such Item of Equipment or replace the same with noninfringing, or remove the infringing portion of such Item of Equipment and refund the purchase price and the transportation and installation costs of such portion but in each case without impairing the operational capability of such equipment. Without intending

any limitation of the foregoing, each Manufacturer agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to the Railroad every claim, right and cause of action which such Manufacturer has or hereafter shall have against the originator of any design or against the seller or sellers of any designs or articles or materials purchased or otherwise acquired by such Manufacturer for use in or about the construction or operation of the Items of Equipment to be built by such Manufacturer on the ground that any such design, article or material or operation thereof infringes or is claimed to infringe on or to constitute contributory infringement with respect to any patent or other right and each Manufacturer further agrees to execute and deliver to the Railroad all and every such further assurance as may be reasonably requested by the Railroad, more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. Each Manufacturer will give notice to the Railroad of any claim known to such Manufacturer from which liability may be charged against the Railroad hereunder and the Railroad will give notice to each Manufacturer of any claim known to it from which liability may be charged against such Manufacturer hereunder.

13.2. The patent indemnity set forth in Section 13.1 shall not be applicable to General Electric, and the following patent indemnity shall be applicable instead: Except in cases of designs specified by the Railroad and not developed or purported to be developed by General Electric, and articles and materials specified by the Railroad and not manufactured by General Electric, General Electric warrants for itself that Equipment furnished hereunder, and any part thereof, shall be delivered free of any rightful claim of any third party for infringement of any United States patent. If notified promptly in writing and given authority, information and assistance, General Electric shall defend, or may settle, at its expense, any suit or proceeding against the Railroad so far as based on a claimed infringement which would result in a breach of this warranty and General Electric shall pay all damages and costs awarded therein against the Railroad due to such breach. In case any Equipment or part thereof is in such suit or proceeding found to constitute such an infringement and the use of such Equipment or part thereof is enjoined, General Electric shall, at its expense and option, either procure for the Railroad the right to continue using said Equipment or part thereof, or replace same within six months of such

injunction with non-infringing Equipment or part thereof acceptable to the Railroad, or modify same so it becomes non-infringing, or remove the Equipment or part thereof and refund the Purchase Price (less reasonable depreciation for any period of use) and any transportation costs separately paid by the Railroad but in each case without impairing the operational capability of such Equipment. The preceding shall not apply to the use of any Equipment or part thereof furnished hereunder in conjunction with any other product in a combination not furnished by General Electric as a part of this transaction. As to any such combination, General Electric assumes no liability whatsoever for patent infringement and the Railroad will hold General Electric harmless against any infringement claims arising therefrom. General Electric will give notice to the Railroad of any claim known to General Electric from which liability may be charged against the Railroad hereunder and the Railroad will give notice to General Electric of any claim known to them from which liability may be charged against General Electric hereunder.

13.3 The term "design" wherever used in this Agreement or in any assignment of this Agreement shall be deemed to include formulae, systems, processes, and combinations.

SECTION 14. ASSIGNMENTS.

14.1 Except as otherwise provided in Section 9.1 hereof, the Railroad, to the extent that it may effectively do so under applicable law, covenants not to sell, assign, transfer or otherwise dispose of all or any of its rights under this Agreement or transfer the right to possession of any Item of Equipment without first obtaining the written consent of the Manufacturers. An assignment or transfer to a railroad company or other purchaser (including a successor corporation by consolidation or merger) which shall acquire all or substantially all the railroad lines of the Railroad, and which by execution of any appropriate instrument satisfactory to the Manufacturers shall assume and agree to perform each and all of the obligations and covenants of the Railroad hereunder, shall not be deemed a breach of this covenant. A lease of any or part of the Equipment to a subsidiary at least 80% directly or indirectly owned by the Railroad shall not be deemed to be a breach of this covenant, provided that the Railroad shall continue to be obligated under all the terms of this Agreement.

14.2. All or any of the rights, benefits and advantages of the Manufacturers under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Manufacturers and reassigned by an assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve any Manufacturer from, any of the obligations of such Manufacturer to construct and deliver the Equipment in accordance with Sections 1 and 2.1 hereof, or to respond to its warranties and indemnities contained in Sections 12.3 (subject always to any DISCLAIMER OR IMPLIED WARRANTIES and limitation of remedies) and 13 hereof, or relieve the Railroad of its obligations to the Manufacturers hereunder or any other obligation which, according to its terms and context, is intended to survive an assignment.

14.3. Upon any such assignment, 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 of the Manufacturers' right, security title and interest in and to the Equipment 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 and notices thereafter to be made by the Railroad hereunder shall, to the extent so assigned, be made to the assignee at the address of the assignee specified in the aforesaid notice.

14.4. The Railroad hereby acknowledges that, concurrently with the execution and delivery of this Agreement and in accordance with the custom of railroad equipment manufacturers, the Railroad has made arrangements for and the Manufacturers are executing and delivering an Agreement and Assignment dated as of the date hereof (hereinafter called the "Assignment") among the Manufacturers and The Chase Manhattan Bank (National Association), as agent and assignee (hereinafter called the "Agent"), pursuant to which the Manufacturers are assigning certain of their respective rights and interests hereunder. The Railroad expressly acknowledges and agrees with the Agent and its successors and assigns, for the purpose of inducing the execution and delivery of the Assignment by the Agent and its advance to the Manufacturers in consideration therefor of an amount equal to the aggregate Purchase Price of the Equipment, that the rights of the Agent and its successors

and assigns to the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, or any part thereof as so assigned, as well as all other rights hereunder so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever, whether arising out of any breach of any obligation of any Manufacturer in respect of the Equipment or the manufacture, construction, delivery or warranty thereof or with respect to any indemnity herein contained or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, at any time owing to the Railroad by any Manufacturer or to any other person, firm or corporation or to any governmental authority, or for any cause whatsoever, it being the intent hereof that, except in the case of an intentionally wrongful act on the part of the Agent or its successors and assigns, the Railroad shall be unconditionally and absolutely obligated to pay the Agent the entire unpaid balance or the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, all in the manner and upon the dates set forth in Section 3 hereof. Any and all such obligations, if any and howsoever arising, shall be and remain enforceable by the Railroad against and only against the Manufacturers. Nothing contained in this Section 14.4 is intended to expand the scope of the Manufacturers' warranties which are always subject to the DISCLAIMERS OF IMPLIED WARRANTIES and limitations of remedy set forth therein.

14.5. In the event of any such assignment, or successive assignment, by the Manufacturers of security titled to the Equipment and of the Manufacturers' rights hereunder with respect thereto, the Railroad will, whenever requested by such assignee, change the names and word or words to be marked on each side of each Item of Equipment so as to indicate the security title of such assignee to the Equipment with such names and word or words as shall be specified by such assignee, subject to the requirements of the laws of the jurisdictions in which the Equipment shall be operated relating to such names and word or words for use on equipment covered by conditional sale agreements with respect to railroad equipment. The cost of marking such names and word or words with respect to the Agent (or to any successor assignee of the Agent) shall be borne by the

Railroad. The cost of marking such names and word or words in connection with any subsequent assignment (other than to a successor agent or trustee of the Agent) will be borne by the subsequent assignee.

14.6. In the event of any such assignment prior to the completion of delivery of the Equipment, the Railroad will, in connection with settlement for the Group subsequent to such assignment, deliver to the assignee, at the time of delivery by the Railroad of notice fixing the Closing Date with respect to such Group, all documents required by the terms of such assignment to be delivered to the assignee in connection with such settlement, in such number of counterparts as may reasonably be requested, except for any opinion of counsel for the assignee.

14.7. If this Agreement shall have been assigned by any of the Manufacturers or all of the Manufacturers (hereafter collectively called the "Assigning Manufacturers" and severally called an "Assigning Manufacturer"), and the assignee shall not, whether by reason of an insufficiency of funds or otherwise, make payment to an Assigning Manufacturer on the Closing Date with respect to any Item of Equipment manufactured by such Assigning Manufacturer and designated for settlement on such Closing Date of an amount equal to that portion of the Purchase Price of such Item of Equipment as provided in the instrument of assignment, such Assigning Manufacturer will promptly notify the Railroad of such event, such Item of Equipment shall be excluded from settlement on such Closing Date but fully preserving such Assigning Manufacturer's security title to such Item in a manner acceptable to such Assigning Manufacturer and the Railroad shall not later than 60 days after such Closing Date pay or cause to be paid to such Assigning Manufacturer the Purchase Price of all such Items of Equipment, or the portion thereof unpaid by the assignee, such payment to be in cash, together with interest for the period from and including the Closing Date on which settlement was to have been made to but not including the deferred date of payment of the Purchase Price under this Section 14.7 at a rate per annum equal to the Prime Rate, or, if such Assigning Manufacturer and the Railroad shall mutually agree, by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Railroad shall determine and as may be reasonably satisfactory to such Assigning Manufacturer.

SECTION 15. APPLICATION OF PROVISIONS OF SECTION 16, "EVENTS OF DEFAULT", AND SECTION 17, "REMEDIES".

It is contemplated that each Manufacturer will assign certain of its rights under this Agreement, and all its respective right, security title and interest in and to the Equipment, to the Agent. It is desired by the parties hereto that the Agent should upon such assignment be entitled to enforce all of the assigned rights, powers, privileges and remedies of the respective Manufacturers under this Agreement, including but not limited to the enforcement of any remedies in case of an Event of Default under this Agreement. Accordingly, on the assumption that such assignments to the Agent will be made by each Manufacturer, the Events of Default and the remedies therefor as set forth in Sections 16 and 17 hereof are set forth as if there were but a single Manufacturer.

SECTION 16. EVENTS OF DEFAULT.

16.1 In the event that any one or more of the following events of default ("Events of Default") shall occur and be continuing, to-wit:

(a) The Railroad shall fail to pay in full any sum payable by the Railroad when payment thereof shall be due under Section 3 or 6 hereof and such default shall continue for ten days; or

(b) The Railroad shall fail or refuse to comply with any covenant, agreement, term or provision of this Agreement on its part to be kept and performed or to make provision satisfactory to the Manufacturer for such compliance for more than 30 days after written notice from the Manufacturer specifying the default and demanding the same to be remedied; or

(c) Any representation or warranty made by the Railroad herein or in any statement or certificate furnished to the Manufacturer or any assignee of the Manufacturer pursuant to or in connection with this Agreement proves untrue in any material respect as of the date of issuance or making thereof; or

(d) A case shall be commenced under subchapter IV of chapter 11 of Public Law 95-598, 11 U.S.C. 1161 et seq. (as said Law may be amended from time to time) by

or against the Railroad and (unless such case shall within 30 days from the commencement thereof be dismissed, nullified, stayed or otherwise rendered ineffective, but then only so long as such stay shall continue in force or such ineffectiveness shall continue) either (i) the trustee or trustees in such proceeding, with the approval of the court having jurisdiction, shall not have agreed in writing, within the period specified in section 1168(a)(1) of said Law, to perform all obligations of the Railroad under this Agreement and with the court's approval confirmed that such obligations shall have the same status as obligations incurred by such trustee or trustees or (ii) any Event of Default (other than under this paragraph (d)) occurring prior to or at any time after the commencement of such case shall not have been duly cured within the respective period specified in section 1168(a)(2) of said Law; or

(e) Any other proceedings shall be commenced by or against the Railroad for any relief under any bankruptcy or insolvency laws, or laws 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 duly assumed in writing, pursuant to a court order or decree, by trustee or trustees or receiver or receivers appointed for the Railroad or for the property of the Railroad in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(f) The Railroad shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right or possession of any Item of Equipment; or

(g) Any Event of Default as defined in the Other Agreement shall occur and be continuing;

then at any time after the occurrence and during the continuance of such an Event of Default the Manufacturer may, upon written notice to the Railroad and upon compliance with any legal requirements then in force and applicable to such action by the Manufacturer, declare the entire indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness), together with the interest thereon then accrued and unpaid, and all other amounts payable by the Railroad under this Agreement, immediately due and payable, without further demand, and the Manufacturer shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated.

16.2. The Manufacturer may waive any such Event of Default and its consequences and rescind and annul any such declaration by notice to the Railroad in writing to that effect. Upon any such waiver the respective rights of the parties shall be as they would have been if no such Event of Default had existed and no such declaration had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

SECTION 17. REMEDIES.

17.1. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such default, the Manufacturer may, upon such further notice, if any, as may be required for compliance with any mandatory requirements of law then in force and applicable to the action to be taken by the Manufacturer, take or cause to be taken by its agent or agents immediate possession of the Equipment, or any Item thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Section 17 expressly provided, and may

remove the same from possession and use of the Railroad and for such purpose may enter upon the premises of the Railroad or where the Equipment may be located and may 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, with or without process of law.

17.2. In case the Manufacturer shall rightfully demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the lines of the Railroad for the delivery of the Equipment to the Manufacturer, the Railroad shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points as shall be reasonably designated by the Manufacturer and shall there deliver the Equipment or cause it to be delivered to the Manufacturer; and, at the option of the Manufacturer, the Manufacturer may keep the Equipment on any of the railroad lines or premises of the Railroad until the Manufacturer 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 Manufacturer reasonably convenient. The agreement to deliver the Equipment as hereinbefore provided is of the essence of this Agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Manufacturer shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Manufacturer and its agent or agents for damages of whatever nature in connection with any retaking of any Item of Equipment in any reasonable manner.

17.3. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time thereafter during the continuance of such Event of Default and after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided (unless such declaration has been rescinded and annulled as provided in Section 16.2 hereof), the Manufacturer (after retaking possession of the Equipment as hereinbefore in this Section 17 provided) may at its election and upon such notice as is hereinafter set forth retain the Equipment in satisfaction of the entire unpaid indebtedness in respect of the Purchase Price thereof, together with interest thereon and all other payments due hereunder and make such disposition thereof as

the Manufacturer shall deem fit. Written notice of the Manufacturer's election to retain the Equipment shall be given to the Railroad by telegram or registered mail, addressed as provided in Section 21 hereof, and to any other persons to whom the law may require notice, within 30 days after the indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable by the Manufacturer as above provided. In the event that the Manufacturer should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all of the Railroad's rights in the Equipment shall thereupon terminate and all payments made by the Railroad may be retained by the Manufacturer as compensation for the use of the Equipment; 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 Manufacturer the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness), together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of title to any 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 17.3 object in writing to the Manufacturer within 30 days from the receipt of notice of the Manufacturer's election to retain the Equipment, then the Manufacturer may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold the Equipment pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Manufacturer shall not have given 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 this Section 17.

17.4. Any sale hereunder may be held or conducted at such place or places and at such time or times as the Manufacturer 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 Manufacturer may determine, provided that the Railroad shall be given written notice of such sale not less then 30 days prior thereto, by mail addressed as provided herein. If such sale shall be a private sale, it

shall be subject to the rights of the Railroad to purchase or provide a purchaser, within 30 days after notice of the proposed sale price, at the same price offered in writing by the intending purchaser or a better price. In the event that the Railroad does not exercise said right to purchase or provide a purchaser for the Equipment, the Manufacturer may bid for and become the purchaser of the Equipment, or any Item thereof, so offered for sale without accountability to the Railroad (except to the extent of surplus money received as hereinafter provided in this Section 17), and in payment of the Purchase Price therefor the Manufacturer shall be entitled to have credited on account thereof all sums due to the Manufacturer from the Railroad hereunder.

17.5. Each and every power and remedy hereby specifically given to the Manufacturer 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 Manufacturer. 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 Manufacturer 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.

17.6. All sums of money realized by the Manufacturer under the remedies herein provided shall be applied, first to the payment of the expenses and liabilities of the Manufacturer herein undertaken to be paid, second to the payment of interest on the indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the Conditional Sale Indebtedness), third to the payment, ratably in accordance with the unpaid balance of each installment, of the installments of indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the Conditional Sale Indebtedness) accrued and unpaid, and fourth to any unpaid commitment fee due hereunder. If, after applying as aforesaid all sums of money realized by the Manufacturer, there shall remain any amount due to it under the provisions of this Agreement, the Manufacturer 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 Manufacturer, there

shall remain a surplus in the possession of the Manufacturer, such surplus shall be paid without interest to the Railroad.

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

17.8. The foregoing provisions of this Section are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

SECTION 18. APPLICABLE STATE LAWS.

18.1. Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an agreement of conditional sale, shall not modify the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale agreement and enforced as such.

18.2. 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, notice of intention to take possession of or to sell the Equipment, or any Item thereof, and any other requirements as to the time, place and terms of sale thereof, and other requirements with respect to the enforcement of the Manufacturers' rights hereunder and any and all rights of redemption.

SECTION 19. EXTENSION NOT A WAIVER.

No delay or omission in the exercise of any power or remedy herein provided or otherwise available to the Manufacturers shall impair or affect the Manufacturers'

right thereafter to exercise the same. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Manufacturers' rights or the obligations of the Railroad hereunder. The Manufacturers' 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 Manufacturers' rights hereunder with respect to any subsequent payments or Events of Default.

SECTION 20. RECORDING.

The Railroad at its expense will cause this Agreement, any assignment hereof and any supplements hereto and thereto to be filed, recorded or deposited and re-filed, re-recorded or re-deposited, if necessary, with the Interstate Commerce Commission and the Registrar General of Canada (with notice of such deposit to be published in The Canada Gazette in accordance with Section 86 of the Railway Act of Canada), and otherwise as may be required by law or reasonably requested by the Manufacturers (including, without limitation, in accordance with the laws of Mexico) for the purpose of proper protection, to the satisfaction of counsel for the Manufacturers, of their security title to the Equipment and their rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Manufacturers certificates or other evidences of such filing, recording or depositing, and an opinion or opinions of counsel for the Railroad with respect thereto, satisfactory to the Manufacturers.

SECTION 21. NOTICE.

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

(a) to the Railroad:

Burlington Northern Inc.
Burlington Northern Building
176 East Fifth Street
St. Paul, MN 55101
Attention: Vice President and Treasurer

(b) to FMC:

FMC Corporation
4700 Northwest Front Ave.
Box 3616
Portland, OR 97208
Attention: Mr. William Galbraith

(c) to General Electric:

General Electric Company
2901 East Lake Road,
Bldg. 14-4
Erie, PA 16531
Attention: Manager, Financing and
Sales Accounting

(d) to DIFCO:
Difco, Inc.
1501 North Main Street
Findlay, OH 45850
Attention: Mr. Fred Flowers

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

SECTION 22. HEADINGS

All section headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement.

SECTION 23. EFFECT AND MODIFICATION OF AGREEMENTS.

Except as provided in Section 3.1 hereof, this Agreement and the Schedules relating hereto exclusively and completely state the rights and agreements of the

Manufacturers and the Railroad with respect to the Equipment and supersede all other agreements, oral or written, with respect to the Equipment. No variation of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and duly executed on behalf of the Manufacturers and the Railroad.

SECTION 24. LAW GOVERNING.

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by applicable federal law and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

SECTION 25. DEFINITIONS.

The term "Manufacturers", whenever used in this Agreement, means, before any assignment of any of their rights hereunder, FMC, General Electric, and DIFCO and any successor or successors for the time being to the properties and business of each, respectively, and, after any such assignment, 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 and excluded from any assignment. The rights and undertakings of each Manufacturer and the rights and obligations of the Railroad with respect to each Manufacturer hereunder are several and not joint.

SECTION 26. PAYMENT OF EXPENSES.

The Railroad will pay all stamp or other taxes and all reasonable costs and expenses incident to this Agreement, the Assignment, and the first assignment of this Agreement, and any instrument supplemental or related thereto, including but not limited to all fees and expenses of the first assignee of this Agreement and 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. For the purposes of this Section 26, if the first assignee is the Agent, then any successor agent to the Agent shall also be considered the first assignee.

SECTION 27. CONSOLIDATION OR MERGER.

In case of any consolidation or merger to which the Railroad or any Manufacturer shall be a party, or in case of any sale of all or substantially all of the assets of the Railroad or any Manufacturer, the corporation resulting from such consolidation or merger (if other than the Railroad or such Manufacturer), or the corporation which shall acquire such assets, shall expressly assume all obligations hereunder not then performed by the Railroad or such Manufacturer, as the case may be, and shall become entitled to all rights hereunder of the Railroad or such Manufacturer, as the case may be.

SECTION 28. EXECUTION.

This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all of the parties so long as at least one counterpart is signed by each party hereto. Although this Agreement is dated for convenience as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

[Corporate Seal]

Attest:

/s/ A. R. Kidston
Assistant Secretary

FMC CORPORATION

By /s/ B. R. van Eck
Vice President

[Corporate Seal]

Attest:

/s/ J. T. Hughes
Attesting Secretary

GENERAL ELECTRIC COMPANY

By /s/ R. D. Morey
Title: Manager-Marketing
Locomotive Marketing
Department

[Corporate Seal]

Attest:

/s/ Mary Schindler
Assistant Secretary

DIFCO, INC.

By /s/ Fred F. Flowers
President

[Corporate Seal]

Attest:

By /s/ Garrett F. Steinhibel
Assistant Secretary

BURLINGTON NORTHERN INC.

By /s/ Frank H. Coyne
Executive Vice President-
Finance and Administration

STATE OF ILLINOIS)
: ss.:
COUNTY OF COOK)

On this 16th day of November, 1979, before me personally appeared B.R. Van Eck, to me personally known, who, being by me duly sworn, says that he is a _____ of FMC 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.

(Seal)

/s/ Judith A. Zemar
Notary Public

COMMONWEALTH OF PENNSYLVANIA)
: ss.:
COUNTY OF ERIE)

On this 19th day of November, 1979, before me personally appeared R.D. Morey , to me personally known, who, being by me duly sworn, says that he is a Manager-Marketing Locomotive Marketing Department of GENERAL ELECTRIC COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Seal) /s/ Doris W. Chilcott
Notary Public

Doris W. Chilcott, Notary Public
Lawrence Park Twp., Erie Co., Pa.
My Commission Expires Nov. 26, 1979

STATE OF OHIO)
: ss.:
COUNTY OF HANCOCK)

On this 16th day of November, 1979, before me personally appeared Fred F. Flowers, to me personally known, who, being by me duly sworn, says that he is a President of DIFCO, INC., 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.

(Seal)

/s/ Dortha E. Buckland
Notary Public
Exp. 7-9-82

STATE OF MINNESOTA)
: ss:
COUNTY OF RAMSEY)

On this 15th day of November, 1979, before me personally appeared Frank H. Coyne, to me personally known, who, being by me duly sworn, says that he is the Executive Vice President-Finance and Administration of BURLINGTON NORTHERN INC., 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.

(Seal)

/s/ J. H. McCarthy
Notary Public

J.H. McCarthy
Notary Public-Minnesota
Ramsey County
My Comm. Expires Jan. 6, 1982

SCHEDULE A

(To Conditional Sale Agreement)

MANUFACTURER.	FMC Corporation
DESCRIPTION OF EQUIPMENT. . . .	1,000 100-ton, 4700 cu. ft. covered hopper cars bearing identifying numbers BN 460200 through BN 461199, both inclusive.
SPECIFICATIONS.	Per Burlington Northern Purchase Order DB-09368-9 dated August 1, 1979 and FMC Corporation specifications R9048-78 dated May 30, 1978
BASE PRICE.	$42,300 per Item ($42,300,000 for 1,000 Items).
DELIVER TO.	Burlington Northern Inc.
PLACE OF DELIVERY	FOB Manufacturer's Plant.
ESTIMATED DELIVERY DATES. . . .	February-May 1980.
OUTSIDE DELIVERY DATE.	December 31, 1980.
WARRANTY.	See Annex 1 attached hereto.
DISCLAIMER.	In no event shall FMC Corporation be liable for special, incidental or consequential damages or commercial loss.

ANNEX 1 TO SCHEDULE A

Warranty of FMC Corporation

FMC Corporation (the "Manufacturer") warrants that the Items of Equipment to be built by it will be built in accordance with the Specifications therefor and warrants that such Items of Equipment will be free from defects in material (except as to specialties incorporated therein and not manufactured by the Manufacturer, in respect of which the Manufacturer hereby appoints and constitutes the Railroad its agent and attorney-in-fact to assert and enforce from time to time in the name of the Manufacturer but for the account of the Railroad and in all cases at the sole cost and expense of the Railroad whatever claims and rights the Manufacturer may have against the manufacturer of the specialty) or workmanship under normal use and service, the Manufacturer's obligation under this warranty being limited to repairing or replacing at its plant any part or parts of any such Item of Equipment, which shall, within one year after the delivery of such Item of Equipment to the Railroad, be returned to the Manufacturer with transportation charges prepaid and which the Manufacturer's examination shall disclose to its satisfaction to have been thus defective; provided, however, that this warranty shall not apply to (i) any components which shall have been repaired or altered unless repaired or altered by the Manufacturer or its authorized service representatives, if, in its judgment, such repairs or alterations affect the reliability of any such Item of Equipment or (ii) any such Item of Equipment which has been subject to misuse, negligence or accident. Any claim by the Railroad for breach of the foregoing warranty shall be deemed waived unless submitted in writing to the Manufacturer within ten (10) days from the date the Railroad discovered, or by reasonable inspection should have discovered, the breach. Any cause of action for breach of this warranty must be brought within one year from the date the alleged breach occurs. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE MANUFACTURER, EXCEPT FOR ITS OBLIGATION HEREUNDER AS LIMITED HEREBY, AND THE MANUFACTURER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY

OF THE EQUIPMENT EXCEPT AS AFORESAID AND EXCEPT FOR PATENT INDEMNITIES CONTAINED IN SECTION 13 HEREOF. IN NO EVENT SHALL FMC CORPORATION BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR COMMERCIAL LOSS. The Manufacturer reserves the right to make changes in the design of, or add any improvements to, any Items of Equipment to be built by it at any time with the approval of the Railroad without incurring any obligation to make similar changes or additions with respect of other equipment previously delivered to the Railroad. The Manufacturer further agrees with the Railroad that acceptance of any Items of Equipment under Section 2.4 hereof shall not be deemed a waiver by the Railroad of any of its rights under Section 12.3 hereof.

SCHEDULE B

(To Conditional Sale Agreement)

MANUFACTURER.	General Electric Company
DESCRIPTION OF EQUIPMENT. . . .	3,000 h.p. Model C-30-7 diesel-electric locomotive bearing identifying nos. BN 5047-5086.
SPECIFICATIONS.	Per Burlington Northern Inc. Purchase Order DB-09362-9.
BASE PRICE.	$783,850 per Item ($31,354,000 for 40 Items).
DELIVER TO.	Burlington Northern Inc.
PLACE OF DELIVERY	FOB Erie, Pennsylvania.
ESTIMATED DELIVERY DATES. . . .	February-April, 1980.
OUTSIDE DELIVERY DATE.	December 31, 1980.
WARRANTY.	See Annex 1 attached hereto.

ANNEX 1 TO SCHEDULE B

Warranty of General Electric Company

GE warrants to the Railroad that each unit of Equipment manufactured by it hereunder will be free from defects in material, workmanship and title under normal use and service, and will be of the kind and quality designated or described in the Specifications referred to in Schedule B to which this Annex 1 is attached. The foregoing warranty is exclusive and in lieu of all other warranties, whether written, oral, implied or statutory (except as to title). NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR PURPOSE SHALL APPLY. If it appears within two (2) years from date of shipment by GE, or within 250,000 miles of operation, whichever event shall first occur, that the Equipment delivered by GE under this Agreement does not meet the warranties specified above, and the Railroad notifies GE promptly, GE, after verification as to condition and usage, shall correct any defect, including nonconformance with the Specifications, at its option, either by repairing any defective part or parts made available to GE, or by making available at GE's plant or warehouse, a repaired or replacement part. If requested by GE, the Railroad will ship the defective part or parts, with shipping charges prepaid, to the plant or warehouse designated by GE. The foregoing shall consitute the sole remedy of the Railroad and the sole liability of GE.

The liability of GE to the Railroad (except as to title) arising out of the supplying of any unit of Equipment hereunder, or its use, whether on warranty, contract or negligence, shall not in any case exceed the cost of correcting defects in the Equipment as herein provided, and upon the expiration of the warranty period specified above, all such liability shall terminate. GE shall have no liability for any unit of Equipment or part thereof which becomes defective by reason of improper storage or application, misuse, negligence, accident or improper operation, maintenance, repairs or alterations on the part of the Railroad or any third party other than GE. In no event, whether as a result of breach of contract, warranty, tort (including negligence) or otherwise, shall GE or its suppliers be liable for any special, consequential,

incidental or penal damages, including, but not limited to, loss of profits or revenues, loss of the use of the Equipment or any associated equipment, damage to the associated equipment, cost of capital, cost of substitute products, facilities, services or replacements, downtime costs or claims of customers of the Railroad for such damages.

It is understood that GE has the right to make any changes in design and add improvements to equipment at any time without incurring any obligations to install, at GE's expense, the same on other equipment sold by GE.

SCHEDULE C

(To Conditional Sale Agreement)

MANUFACTURER.	DIFCO, Inc.
DESCRIPTION OF EQUIPMENT. . . .	10 air dump cars bearing identifying numbers FW&D 963122 through FW&D 963131, inclusive.
SPECIFICATIONS.	Burlington Northern Inc. Letter of Intent dated September 24, 1979.
BASE PRICE.	$73,500 per Item ($735,000 for 10 Items).
PLACE OF DELIVERY	FOB Manufacturer's Plant.
ESTIMATED DELIVERY DATES. . . .	August and September, 1980
OUTSIDE DELIVERY DATE.	December 31, 1980
WARRANTY.	See Annex 1 attached hereto.

ANNEX 1 TO SCHEDULE C

Warranty of Difco Inc.

Difco, Inc. (the "Manufacturer") warrants that the Items of Equipment to be built by it will be built in accordance with the Specifications therefor and warrants that such Items of Equipment will be free from defects in material (except as to specialties incorporated therein specified by the Railroad and not manufactured by the Manufacturer, in respect of which the Manufacturer hereby appoints and constitutes the Railroad its agent and attorney-in-fact to assert and enforce from time to time in the name of the Manufacturer but for the account of the Railroad and in all cases at the sole cost and expense of the Railroad whatever claims and rights the Manufacturer may have against the manufacturer of the specialty) or workmanship under normal use and service, the Manufacturer's obligation under this warranty being limited to making good at its plant any part or parts of any such Item of Equipment, which shall, within two years after the delivery of such Item of Equipment to the Railroad, be returned to the Manufacturer with transportation charges prepaid and which the Manufacturer's examination shall disclose to its satisfaction to have been thus defective; provided, however, that this warranty shall not apply to (i) any components which shall have been repaired or altered unless repaired or altered by the Manufacturer or its authorized service representatives, if, in its judgment, such repairs or alterations affect the stability of any such Item of Equipment or (ii) any such Item of Equipment which has been subject to misuse, negligence or accident. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE MANUFACTURER, EXCEPT FOR ITS OBLIGATION HEREUNDER AS LIMITED HEREBY, THE MANUFACTURER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF THE EQUIPMENT EXCEPT AS AFORESAID AND EXCEPT FOR PATENT INDEMNITIES CONTAINED IN SECTION 13 HEREOF. IN NO EVENT SHALL THE MANUFACTURER BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGE OR COMMERCIAL LOSS. The Manufacturer reserves the right to make changes in the design of, or add any improvements to,

any Items of Equipment to be built by it at any time with approval of the Railroad. The Manufacturer further agrees with the Railroad that acceptance of any Items of Equipment under Section 2.4 hereof shall not be deemed a waiver by the Railroad of any of its rights under Section 12.3 hereof.

Recordation No. 11231 File 1425
December 26, 1979 - 10:40 A.M.
Interstate Commerce Commission
Deposited, Registrar General of Canada
December 31, 1979

EXHIBIT A-1

CONDITIONAL SALE AGREEMENT

CONDITIONAL SALE AGREEMENT dated as of October 1, 1979 between Transportation Products Company, an Illinois corporation (hereinafter called "TPC") (the foregoing company being hereinafter called the "Manufacturer") and BURLINGTON NORTHERN INC. (hereinafter called the "Railroad").

WHEREAS, the Manufacturer is willing to sell and deliver to the Railroad, and the Railroad is willing to purchase, the railroad equipment as described in Schedules A and B attached hereto (hereinafter collectively called the "Equipment" or "Items" and individually called the "Item of Equipment" or the "Item"); and

WHEREAS, the Manufacturer and the Railroad have agreed that this Agreement shall exclusively and completely state the rights of the Manufacturer and the Railroad with respect to the Equipment and shall supersede all other agreements, oral or written, with respect to the Equipment; and

WHEREAS, it is proposed that FMC Corporation, General Electric Company and Difco, Inc. enter into a Conditional Sale Agreement dated as of the date hereof (such Conditional Sale Agreement, when and if signed, being hereinafter called the "Other Agreement") with the Railroad covering railroad equipment as described in the Schedules attached thereto;

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

SECTION 1. CONSTRUCTION AND SALE.

The Manufacturer will sell and deliver to the Railroad, and the Railroad will purchase from the Manufacturer and accept delivery of and pay for as hereinafter provided, those Items of Equipment which are indicated on Schedules A and B attached hereto to be sold by the Manufacturer, each Item of which shall be constructed in accordance with the applicable specifications referred to in said Schedules A and B with such modifications thereof as may be agreed upon in writing by the Railroad and the Manufacturer (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design and quality of equipment and material used in the manufacture of such Items shall conform to all Department of Transportation and Interstate Commerce Commission requirements and specifications, if applicable, for new equipment in effect on the date such Items are delivered hereunder, and to all Rules of the Association of American Railroads, applicable to new railroad equipment of the character of such Items as of the date of this Agreement.

SECTION 2. DELIVERY.

2.1. The Manufacturer will deliver the various Items of Equipment to be sold by it to the Railroad in accordance with the delivery schedule set forth in Schedules A and B attached hereto; provided, however, that the Manufacturer shall have no obligation to deliver any Item of Equipment hereunder if an Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute an Event of Default, has occurred and is continuing.

2.2. The Manufacturer's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Manufacturer's reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riots or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, or delays in receiving necessary materials.

2.3. Notwithstanding the foregoing provisions, any Item of Equipment not delivered and accepted on or before the outside delivery date provided therefor in Schedules A and B hereto, shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement. In the event of any such exclusion the Manufacturer shall remain obligated to sell and deliver to the Railroad, and the Railroad shall remain obligated to purchase from the Manufacturer, accept delivery of and pay for, any such Item of Equipment thus excluded from this Agreement, and the Railroad and the Manufacturer shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not excluded herefrom, and the Manufacturer and the Railroad shall further execute a separate agreement providing for the sale of such excluded Equipment by the Manufacturer to the Railroad upon the same terms and conditions as those contained herein, modified only to the extent necessary to provide for payment in cash upon delivery of the Equipment either directly or indirectly by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Railroad may determine and as may be reasonably satisfactory to the Manufacturer.

2.4. The Equipment during construction shall be subject to inspection by one or more inspectors or other authorized representatives of the Railroad. Upon completion of each Item of Equipment, it shall be presented to such inspectors or representatives for inspection at the place designated herein for delivery of such Item of Equipment, and, if such Item of Equipment conforms to the Specifications applicable thereto, such inspectors or representatives shall execute and deliver to the Manufacturer a certificate or certificates of acceptance (hereinafter called the "Certificate of Acceptance") stating that such Item of Equipment has been inspected and is accepted by them on behalf of the Railroad and is marked in accordance with Section 5.1 hereof. Any Certificate of Acceptance may cover any number of Items of Equipment. Such Certificate of Acceptance shall be conclusive evidence that the Items of Equipment covered thereby have been delivered to the Railroad and conform to the Specifications and are acceptable to the Railroad in all details.

2.5. The Manufacturer shall bear the risk of loss of each Item of Equipment or damage thereto until delivery (at such place as specified in the Manufacturer's Schedule

attached hereto) to and acceptance by the Railroad. Upon such delivery to and acceptance by the Railroad of each such Item of Equipment the Railroad shall bear the risk of loss of or damage to such Item.

SECTION 3. PURCHASE PRICE AND PAYMENT

3.1. The base price per Item of Equipment, including freight charges, if any, to place of destination but exclusive of interest and all other charges, is as set forth in Schedules A and B attached hereto. The base price per Item of Equipment shall be subject to increase or decrease as may be agreed to in writing by the Manufacturer and the Railroad, and the term "Purchase Price" as used herein shall mean the base price as so increased or decreased.

3.2. For the purpose of making settlement for the Equipment, the Equipment hereunder and under the Other Agreement shall be divided into not more than 20 groups of Items of Equipment, or such other number as shall be agreed to by the parties hereto (each such group of Items being hereinafter called a "Group").

3.3. The Railroad hereby acknowledges itself to be indebted to the Manufacturer in the amount of, and hereby promises to pay to the Manufacturer at such bank or trust company in the United States as the Manufacturer or its assignee shall designate for payment to it in funds immediately available at such place of payment, the Purchase Price of the Equipment (hereinafter sometimes referred to as the "Conditional Sale Indebtedness") in installments as follows:

(a) On April 1, 1980 and on each April 1 and October 1 thereafter, an installment of interest accrued on the unpaid portion of the Conditional Sale Indebtedness from time to time outstanding until the same shall have become due and payable, at a rate per annum (i) from January 1, 1980 through September 30, 1983 equal to the Prime Rate (as defined below), (ii) from October 1, 1983 through September 30, 1986 equal to 103% of said Prime Rate and (iii) from October 1, 1986 through

September 30, 1988 equal to 106% of said Prime Rate;

(b) On October 1, 1983 and on each October 1 thereafter to and including October 1, 1987, in addition to the installment of interest then payable, an installment equal to $200,000; provided, however, that in no event shall an installment made under this subsection (b) be in excess of the entire principal balance remaining unpaid as of the date of such installment; and

(c) On October 1, 1988, in addition to the installment of interest then payable, an installment equal to the entire principal balance, if any, remaining unpaid as of said date.

As used herein the term "Prime Rate" shall mean the prime commercial lending rate per annum announced by The Chase Manhattan Bank (National Association) at its principal office in New York City from time to time, each change in such announced rate to be effective for purposes of this Agreement on the day on which such change is effective.

3.4. The term "Closing Date" with respect to each Group shall mean such date not later than December 31, 1980 which is not more than twenty business days following presentation, by the Manufacturer of the Items of Equipment included in such Group, to the Railroad of the invoice, or invoices, and the Certificate or Certificates of Acceptance with respect to such Group, as shall be fixed by the Railroad by written or telegraphic notice delivered to the Manufacturer and any assignee thereof at least five business days prior to the Closing Date designated therein.

3.5. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and holidays on which banks in the State of New York are authorized or required to close. If any date on which a payment is to be made hereunder is not a business day, the amount otherwise payable on such date shall be payable on the next succeeding business day, and no interest on such amount shall accrue for the period from and after the nominal date for payment thereof to such next succeeding business day.

3.6. Interest under this Agreement shall be determined on a basis of a year of 365 or 366 days, as the case may be, for the actual number of days (including the first day but excluding the last day) elapsed.

3.7. The Railroad will pay interest, payable on demand, on all unpaid balances of indebtedness, after the same shall have become due and payable pursuant to the terms hereof (whether at stated maturity, by acceleration or otherwise), at a rate per annum equal at all times to one percent per annum above (i) the Prime Rate from January 1, 1980 through September 30, 1983, (ii) 103% of the Prime Rate from October 1, 1983 through September 30, 1986 and (iii) 106% of the Prime Rate from October 1, 1986 through September 30, 1988 and thereafter, provided, however, that the parties hereto may specify a different interest rate to be applicable to any refinancing hereunder.

3.8. All payments provided for in this Agreement shall be made by the Railroad 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 by 1 p.m. New York City time on the day any such payments are due.

3.9. The Railroad may, upon at least five business days' notice to the Manufacturer, prepay the Conditional Sale Indebtedness in whole or in part with accrued interest to the date of such prepayment on the amount prepaid, provided that each partial prepayment shall be in an amount (exclusive of interest) equal to $100,000 or an integral multiple thereof and shall be applied to the installments in the inverse order of their maturities.

3.10. If this Agreement shall be assigned as contemplated by Section 14.4, the Railroad agrees to pay to the Agent a commitment fee at the rate of 1/2 of 1% per annum on the unused portion of the aggregate $75,589,000 commitment arranged by the Agent to finance the purchase of the Equipment hereunder and under the Other Agreement, computed from November 15, 1979 to the later of the final Closing Date hereunder or the final Closing Date under the Other Agreement (hereinafter called the "Ultimate Closing Date"), payable on April 1, 1980, October 1, 1980 and on the Ultimate Closing Date. The Railroad agrees to pay the Agent a commitment fee at the rate of 1/2 of 1% per annum upon the

additional $1,000,000 over and above said $75,589,000 commitment computed from the date of the Railroad's notice to the Agent that such additional amount shall be required to the Closing Date upon which such amount is drawn down and payable at such Closing Date.

SECTION 4. TITLE TO THE EQUIPMENT.

4.1. The Manufacturer shall and hereby does retain the full legal title to and property in the Equipment built by it until the Railroad shall have made all of the payments hereunder and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as herein provided. 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 terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

4.2. When and only when the Manufacturer shall have been paid in full the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon and all other payments as herein provided, and all the Railroad's other obligations herein contained shall have been performed, 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 Manufacturer except that the Manufacturer, if requested by the Railroad so to do, will execute a bill or bills of sale of the equipment transferring the Manufacturer's title thereto and property therein to the Railroad or upon its order free of all liens and encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address specified in Section 21 hereof, and will execute in the same manner and deliver at the same place, for filing, registering, recording or depositing 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 the title of the Railroad to the equipment, and will pay to the Railroad any money paid to the Manufacturer pursuant to Section 6 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 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 to file such certificate within a reasonable time after written demand by the Railroad.

SECTION 5. MARKING OF EQUIPMENT.

5.1. The Railroad will cause each Item of Equipment to be kept numbered with its road number, if applicable, as set forth in Schedules A and B hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon both sides of each Item of Equipment in letters not less than one inch in height, the words "Unit Subject to Security Interest of the Agent Bank under Conditional Sale Agreement Recorded with the I.C.C.", with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Manufacturer to such Item of Equipment, its rights under this Agreement and the rights of any assignee under Section 14 hereof. The Railroad will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced, obliterated or destroyed. The Railroad will not change the road number of any Item of Equipment except with the consent of the Manufacturer and any assignee pursuant to Section 14 hereof and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed, recorded or deposited in all public offices where this Agreement shall have been filed, recorded or deposited.

5.2. Except as above provided, the Railroad will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Railroad or its affiliates on railroad equipment used by it

of the same or a similar type for convenience of identification of the right of the Railroad to use the Equipment under this Agreement.

SECTION 6. CASUALTY OCCURRENCES.

6.1. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or irreparably damaged, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise or rendered permanently unfit for use from any cause whatsoever (each such occurrence, except for any requisition which by its terms is indefinite or does not exceed the original term of this Agreement, being hereinafter called a "Casualty Occurrence"), prior to the payment of the indebtedness in respect of the Purchase Price of such Item, together with interest thereon and all other payments required hereby, the Railroad shall, within 30 days after a responsible officer of the Railroad shall have received notice that such Item of Equipment has suffered a Casualty Occurrence, but in no event later than 180 days after such Item of Equipment has suffered a Casualty Occurrence, fully inform the Manufacturer in regard thereto. Whenever from time to time the total Depreciated Value (as defined in Section 6.3, of Items of Equipment hereunder and under the Other Agreement which have suffered a Casualty Occurrence (exclusive of Items of Equipment having suffered a Casualty Occurrence with respect to which payments or replacements shall have been made to the Manufacturers pursuant to this Section 6 or Section 6 of the Other Agreement) shall exceed $500,000 (or such lesser amount as the Railroad shall elect), the Railroad shall, within 30 days of such event, pay the Manufacturer and the Manufacturers under the Other Agreement a sum equal to the aggregate Depreciated Value, as of such date of payment, of such Items of Equipment under this Agreement and under the Other Agreement; provided, however, that if prior to the date such payment is required to be made the Railroad, at its election, shall have transferred, in accordance with Section 6.6, to the Manufacturer hereunder or the Manufacturers under the Other Agreement, title to a replacement Item or Items of Equipment meeting the requirements of clause (iii) of Section 6.2, then, in such case, there shall be deducted from the amount of such payment an amount equal to the aggregate Depreciated Value,

as of such date of payment, of all such replacement Items of Equipment. The Railroad shall file with the Manufacturer a certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad setting forth the Depreciated Value, as of such date of payment, of each Item of Equipment suffering a Casualty Occurrence.

6.2. Any money paid to the Manufacturer pursuant to Section 6.1 hereof shall, so long as no Event of Default shall have occurred and be continuing, be applied, in whole or in part, as the Railroad shall direct in a written instrument filed with the Manufacturer, either (i) to prepay indebtedness in respect of the Purchase Price of the Equipment hereunder or under the Other Agreement, (ii) to or toward the cost of an Item or Items of Equipment of new standard gauge (if applicable) railroad equipment excluding passenger equipment to replace such Item of Equipment having suffered a Casualty Occurrence and which new Item or Items of Equipment shall be of a quality and have a value and utility at least equal to such Item of Equipment having suffered a Casualty Occurrence or (iii) to be released to the Railroad against transfer, in accordance with Section 6.6, to the Manufacturer of title to an Item or Items of used standard gauge (if applicable) railroad equipment which shall be free of all liens and charges except as permitted by Section 10 and shall be of the same character as the Equipment described in Schedules A and B hereto (or of such other character as may be acceptable to the Manufacturer) to replace such Item or Items of Equipment having suffered a Casualty Occurrence. In case any such money shall be applied to prepay indebtedness, it shall be so applied, on such date as the Railroad shall specify in such written direction, to prepay without penalty or premium the unpaid balance of the principal installments of the Purchase Price of the Equipment hereunder and under the Other Agreement thereafter falling due in the inverse order of the maturity of such installments and ratably as between such installments due hereunder and under the Other Agreement. In case of replacement pursuant to clause (ii) of the first sentence of this Section 6.2, the amount to be paid by the Manufacturer in respect of any replacing Item shall not exceed the lesser of the cost of such Item or the amount which such Item would have cost if acquired on the earliest date when any of such money was paid to the Manufacturer, and the Railroad shall pay any additional cost of such Item. Under no circumstance shall the Manufacturer be required

under this Section 6.2 to make prepayments or to pay for replacements except out of funds paid to the Manufacturer pursuant to Section 6.1 hereof. In the case of any replacement pursuant to clause (ii) of the first sentence of this Section 6.2, the Purchase Price of such replacing Item shall for the purpose of this Agreement be the amount of money advanced by the Manufacturer in payment therefor, but shall not include any portion of the cost thereof paid by the Railroad. The amount which any such replacing Item would have cost if acquired on the earliest date when any of such money was paid to the Manufacturer shall be conclusively determined by the certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad to be filed as hereinafter provided. In the case of each release of money to the Railroad pursuant to clause (iii) of the first sentence of this Section 6.2, the amount of money so released shall be equal to the Depreciated Value, as of the date such money was paid to the Manufacturer pursuant to Section 6.1, of the used replacement Item or Items transferred to the Manufacturer pursuant to said clause (iii), as the amount of such Depreciated Value shall be certified to by the Railroad in connection with such release as provided in Section 6.6.

6.3. The "Depreciated Value" as of any date of determination of any original or replacement Item of Equipment shall mean the purchase price paid for such Item when new depreciated to such date of determination on a straight line basis from the date such Item was originally delivered by the manufacturer thereof to a residual value of zero, computed at the rate of 6.667% of such purchase price per year pro rated on a daily basis. For the purpose of computing the Depreciated Value of any Item of Equipment which has suffered a Casualty Occurrence, such Depreciated Value shall be computed on a daily basis to the date of the occurrence of such Casualty Occurrence.

6.4. So long as no Event of Default shall have occurred and be continuing, any money paid to the Manufacturer pursuant to this Section 6 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in (i) such direct obligations of the United States of America or any agency or instrumentality thereof, or other obligations for which the faith of the United States is pledged to provide for the payment of principal and interest or (ii) commercial paper

or finance company paper rated "A-1" or "P-1" or their equivalent by Standard & Poors Corporation or a comparable national rating agency or (iii) obligations issued or guaranteed by any state of the United States or the District of Columbia or any political subdivision of any such state or district rated "AA" or better by a national rating service, or (iv) repurchase agreements fully secured by any one or more of the obligations referred to in clause (i) above, or (v) certificates of deposit issued by or bankers acceptances drawn on and accepted by commercial banks in the United States of America which are members of the Federal Reserve System having total assets aggregating at least $200,000,000, in each case maturing in not more than one year from the date of such investment (all such investments being hereafter called "Investments"), as may be specified in such written direction. Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest or earned discount received by the Manufacturer on any Investments shall be held by the Manufacturer and applied as herein provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus interest received by the Manufacturer thereon, up to the cost (including accrued interest or earned discount) thereof, shall be held by the Manufacturer for application pursuant to this Section 6, and any excess shall be paid to the Railroad. If such proceeds (plus such interest or earned discount) shall be less than such cost, the Railroad will promptly pay to the Manufacturer an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Manufacturer in connection with the purchase and sale of Investments.

6.5. The Railroad will cause any replacing Item to be plated or marked as provided in Section 5.1 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all of the 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 replacements shall be free and clear of all liens and encumbrances and shall be taken initially and shall remain in the name of the Manufacturer subject to the provisions hereof, and the Railroad shall promptly execute, acknowledge, deliver, file and record all such documents (including the filing with the Interstate Commerce

Commission in accordance with applicable law and the deposit with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and publication of notice of such deposit in The Canada Gazette in accordance with said Section 86 of an appropriate supplemental agreement describing such replacements) and do any and all such acts as may be necessary to cause such replacements to come under and be subject to this Agreement and to protect the title of the Manufacturer to such replacements. All such replacements shall be warranted in like manner as the Items replaced, and the vendor of the replacements shall, if other than the Manufacturer, duly consent to the subjection thereof to this Agreement and agree to be bound by all the terms and provisions contained herein in respect of such replacements in the like manner as the Manufacturer is in respect of the original Equipment delivered hereunder.

6.6. Whenever the Railroad shall file with the Manufacturer, pursuant to the foregoing provisions of this Section 6, a written direction to apply money to or toward the cost of a replacing Item of new standard gauge (if applicable) railroad equipment or to release money to the Railroad against transfer of title to the Manufacturer of a replacing Item of used standard gauge (if applicable) railroad equipment, or whenever the Railroad shall transfer title to the Manufacturer of such a replacing Item of used standard gauge (if applicable) railroad equipment pursuant to Section 6.1, the Railroad shall file with the Manufacturer in such number of counterparts as may reasonably be requested:

(a) a certificate of a Vice President or Chief Accounting Officer of the Railroad, authorized to make such a certification, certifying: (i) if such replacing Item is a new, unused Item, that such Item is new standard gauge (if applicable) railroad equipment (other than passenger equipment) and has been plated or marked as required by the provisions of this Section 6 and certifying the cost of such replacing Item, the amount which such replacing Item would have cost if acquired on the earliest date when any such money was paid to the Manufacturer and that the cost thereof does not exceed the fair value of such Item and that such replacing Item has a quality and value and utility at least equal to the Item or Items replaced; and (ii) if such replacing Item is a used Item, that such Item is used standard

guage (if applicable) railroad equipment (other than passenger equipment) and has been plated and marked as required by the provisions of this Section 6 and certifying the Depreciated Value of such Item, as of the earliest date any such money was paid to the Manufacturer, and that such replacing Item is of the character required by the terms of clause (iii) of the first sentence of Section 6.2;

(b) an opinion of counsel for the Railroad that title to each replacing Item is vested in the Manufacturer free and clear of all liens and encumbrances, and that such Item has come under and become subject to this Agreement and the security interest of the Agent hereunder;

(c) a bill of sale in favor of the Manufacturer or its assignee covering such replacement Item from, if a new Item, the Manufacturer thereof or, if a used Item, the Railroad; and

(d) copies of financing statements filed in accordance with the Uniform Commercial Code where such replacing Item is not rolling stock.

6.7. In the event that any moneys paid to, or held by, the Manufacturer pursuant to this Section 6 are applied to the prepayment of indebtedness in respect of the Purchase Price, the Railroad will pay to the Manufacturer on the date of such application interest then accrued and unpaid on the indebtedness so prepaid.

If any Event of Default shall have occurred and be continuing, then so long as such Event of Default shall continue all money then held by the Manufacturer pursuant to this Section 6 shall be applied by the Manufacturer as if such money were money received upon the sale of Equipment pursuant to Section 16 hereof.

6.8. In order to facilitate the sale, or other disposition of any Equipment suffering a Casualty Occurrence, the Manufacturer shall upon request of the Railroad, provided the Railroad shall then be in compliance with the terms of this Section 6, 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 the terms and scope of this Conditional Sale Agreement, in such form as may be reasonably requested by the Railroad.

6.9. In the event that prior to the expiration of the term of this Agreement, the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period ending on or before said date, the Railroad's duty to pay the indebtedness in respect of the Purchase Price thereof shall continue for the duration of such requisitioning or taking. The Railroad shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

6.10. The Railroad represents and warrants that not more that $3,000,000 in aggregate Purchase Price of Items of Equipment under this Agreement and under the Other Agreement constitutes Equipment which is not operable on railroad tracks; and the Railroad agrees that no purchase of new Equipment or replacement of used Equipment under this Section 6 or Section 6 of the Other Agreement will at any time result in a greater proportion of all Equipment hereunder and under the Other Agreement (computed on the basis of Depreciated Value as of such time) constituting Equipment not operable on railroad tracks than the ratio of $3,000,000 to $75,589,000.

SECTION 7. TAXES.

All payments to be made by the Railroad hereunder will be free of expense to the Manufacturer for collection or other charges and will be free of expense to the Manufacturer in respect of the amount of any local, state or federal taxes, license and registration fees, assessments, charges, fines, penalties, sales, use and property taxes, gross receipts taxes arising out of receipts from use or operation of the Equipment, and other taxes, fees, and governmental charges similar or dissimilar to the foregoing (other than net income, excess profits and similar taxes) hereafter levied or imposed upon, or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which

expenses, taxes and licenses the Railroad assumes and agrees to pay on demand in addition to the other amounts payable by it pursuant to this Agreement. The Railroad will also pay promptly all taxes and assessments which may be imposed upon the Equipment or for the use or operation thereof by the Railroad or upon the earnings arising therefrom or upon the Manufacturer solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all taxes and assessments which might in any way affect the title of the Manufacturer or result in a lien upon any Item of Equipment; provided, however, that the Railroad shall be under no obligation to pay any taxes, assessments, licenses, charges, fines or penalties of any kind so long as it is contesting in good faith and by appropriate legal proceedings such taxes, assessments, licenses, charges, fines or penalties and the nonpayment thereof does not, in the opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder. If any such expenses, taxes, assessments, licenses, charges, fines or penalties shall have been charged or levied against the Manufacturer directly and paid by the Manufacturer, the Railroad shall reimburse the Manufacturer on presentation of an invoice therefor; provided, however, that the Railroad shall not be obligated to reimburse the Manufacturer for any such expenses, taxes, assessments, licenses, charges, fines or penalties so paid unless the Manufacturer shall have submitted notice in writing to the Railroad at least one business day in advance of payment thereof.

SECTION 8. REPORTS AND INSPECTIONS.

8.1. On or before April 1 in each year, commencing with the year 1981, the Railroad will furnish to the Manufacturer an accurate statement, as of the preceding December 31, (a) showing the amount, description and road numbers (if applicable) of the Items of Equipment then subject to this Agreement, the amount, description and road numbers (if applicable) of all Items of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the Manufacturer may reasonably request, and (b) stating that, in the case of all Equipment repaired and repainted during

the period covered by such statement, the markings required by Section 5.1 hereof shall have been preserved or replaced.

8.2. In addition to the statements described in Section 8.1 above, the Railroad will furnish to the Manufacturer: (i) as soon as available and in any event within 120 days after the end of each fiscal year of the Railroad, a copy of the annual report for such year for the Railroad, containing financial statements for such year certified in a manner acceptable to the Manufacturer by independent public accountants acceptable to the Manufacturer; (ii) promptly after the sending or filing thereof, copies of all reports which the Railroad sends to any of its security holders, and copies of all reports and registration statements which the Railroad files with the Securities and Exchange Commission or any national securities exchange; (iii) as soon as possible and in any event within 30 days after a Casualty Occurrence, a statement showing the amount, description and road numbers (if applicable) of all Items of Equipment that suffered such Casualty Occurrence; and (iv) such other information respecting the condition or operations, financial or otherwise, of the Railroad as the Manufacturer may from time to time reasonably request.

8.3. The Manufacturer shall have the right, at its sole cost and expense by its authorized representative, to inspect the Equipment and the Railroad's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Manufacturer the existence and proper maintenance thereof during the continuance of this Agreement.

SECTION 9. POSSESSION, USE AND MAINTENANCE.

9.1. The Railroad, so long as no Event of Default has occurred and is continuing under this Agreement, shall have absolute right, from and after delivery of the Equipment by the Manufacturer to the Railroad, to the possession of the Equipment and the use thereof upon the railroad lines owned or operated by it either alone or jointly with another and whether under lease or otherwise, or upon the railroad lines owned or operated by any railroad company controlled by or controlling the Railroad, or over which it has trackage rights, and the Equipment may also be used upon connecting and other railroads in the usual

interchange of traffic and lease to other railroads, from and after delivery of the Equipment by the Manufacturer to the Railroad; provided, however, that such use and lease shall be subject to all the terms and conditions of this Agreement and that the Railroad shall not assign or permit the assignment of any Item of Equipment to service involving the regular operation and maintenance thereof outside the continental United States. The Railroad agrees that it will not permit at any time more than 2% in aggregate Depreciated Value, as of such time, of the Items of Equipment hereunder and under the Other Agreement to be located in Mexico.

9.2. The Railroad shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Railroad shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable (if applicable) for use in interchange. The Railroad shall not modify any Item of Equipment without the written authority and approval of the Manufacturer which approval shall not be unreasonably withheld, provided that no such approval shall be necessary if and to the extent such modification is required by Section 11 hereof. Any parts (except communications, signal and automatic control equipment and devices having a similar use which are added to any Item of Equipment by the Railroad, the cost of which is not included in the Purchase Price of such Item and which are not required for the operation or use of such Item by the Interstate Commerce Commission, the Department of Transportation or any other regulatory body) installed or replacements made by the Railroad upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Manufacturer, without cost or expense to the Manufacturer.

SECTION 10. PROHIBITION AGAINST LIENS.

10.1. The Railroad will pay or satisfy and discharge any and all sums claimed by any party by, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien or a charge upon any Item of Equipment equal or superior to the security title of the Manufacturer, and any liens, encumbrances or charges which might be levied against or imposed upon any Item of Equipment as a result of the failure of the Railroad to

perform or observe any of its covenants or agreements under this Agreement, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested by the Railroad in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder.

10.2. The covenant of Section 10.1 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 or other liens arising in the ordinary course of business and mechanics', workmen's, repairmen's or other liens arising in the ordinary course of business and, in each case, not delinquent (such liens being herein called "permitted liens").

SECTION 11. COMPLIANCE WITH RULES, LAWS AND REGULATIONS.

During the term of this Agreement, the Railroad will 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 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 operation or use of the Equipment; and in the event that such laws or rules require the alteration of the Equipment, the Railroad will conform therewith at its expense, and will maintain the same in proper condition for operation under such laws and rules; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder.

SECTION 12. INDEMNITIES.

12.1. The Railroad agrees to indemnify, protect and hold harmless the Manufacturer against all losses, damages, injuries, liabilities, claims and demands

whatsoever, regardless of the cause thereof, and expenses in connection therewith, including claims for strict liability in tort and counsel fees, arising out of retention by the Manufacturer of security title to the Equipment, or out of the use and operation thereof during the period when security title thereto remains in the Manufacturer. This covenant of indemnity shall continue in full force and effect notwithstanding payment in full of the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and the conveyance of the Equipment, as provided in Section 4.2 hereof, or the termination of this Agreement in any manner whatsoever; provided, that any assignee under Section 14 hereof shall receive the full benefit of this Section 12.1 notwithstanding the retention by the Manufacturer of its rights hereunder.

12.2. The Railroad, after delivery to and acceptance by the Railroad pursuant to Section 2.5 hereof of each Item of Equipment, will bear the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such Item of Equipment.

12.3. The Manufacturer hereby assigns to the Railroad and its respective successors and assigns, each and all of its rights against the manufacturer of each Item of Equipment to be sold by it insofar as such rights arise out of any or all warranties, express or implied, with respect to such Item of Equipment, and the Manufacturer hereby appoints and constitutes the Railroad its agent and attorney-in-fact during the term of this Agreement, so long as the Railroad is not in default hereunder, to assert and enforce, from time to time in the name and for the account of the Manufacturer and the Railroad, as their interests may appear, in all cases at the sole cost and expense of the Railroad, whatever claims and rights the Manufacturer may have against said manufacturer thereof upon said warranties; it being understood, however, that said assignment and appointment are not exclusive, that the Railroad shall not have the sole right to assert and enforce such claims and rights in respect of such warranties and that the Manufacturer has concurrently with such assignment and appointment, similarly assigned such claims and rights to the assignee of its right, title and interest under this Agreement and appointed such assignee its agent and

attorney-in-fact to assert and enforce such claims and rights for its benefit as well. THE ASSIGNMENT PROVIDED FOR IN THIS SECTION 12.3 IS EXPRESSLY IN LIEU OF, AND THE MANUFACTURER HEREBY EXPRESSLY DISCLAIMS ANY LIABILITY UNDER, ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE MANUFACTURER, EXCEPT FOR ITS OBLIGATIONS HEREUNDER AS LIMITED HEREBY, AND THE MANUFACTURER DOES NOT ASSUME OR AUTHORIZE ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE DELIVERY OF THE EQUIPMENT. IN NO EVENT SHALL THE MANUFACTURER BE LIABLE FOR DAMAGES, INCLUDING, WITHOUT LIMITATION, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR COMMERCIAL LOSS.

SECTION 13. ASSIGNMENT OF PATENT INDEMNITIES.

13.1. The Manufacturer hereby assigns to the Railroad and its respective successors and assigns, each and all of its rights against the manufacturer of each Item of Equipment to be sold by it insofar as such rights arise out of any or all indemnities with respect to such Items of Equipment for violations of patents or similar rights, and the Manufacturer hereby appoints and constitutes the Railroad its agent and attorney-in-fact during the term of this Agreement so long as the Railroad is not in default hereunder, to assert and enforce as long as the Railroad is not in default hereunder, to assert and enforce, from time to time in the name and for the account of the Manufacturer and the Railroad, as their interests may appear, in all cases at the sole cost and expense of the Railroad, whatever claims and rights the Manufacturer may have against said manufacturer thereof upon said indemnities; it being understood, however, that said assignment and appointment are not exclusive, that the Railroad shall not have the sole right to assert and enforce such claims and rights in respect of such indemnities and that the Manufacturer has concurrently with such assignment and appointment, similarly assigned such claims and rights to the assignee of its right, title and interest under this Agreement and appointed such assignee its agent and attorney-in-fact to assert and enforce such claims and rights for its benefit as well.

SECTION 14. ASSIGNMENTS.

14.1. Except as otherwise provided in Section 9.1 hereof, the Railroad, to the extent that it may effectively do so under applicable law, covenants not to sell, assign, transfer or otherwise dispose of all or any of its rights under this Agreement or transfer the right to possession of any Item of Equipment without first obtaining the written consent of the Manufacturer. An assignment or transfer to a railroad company or other purchaser (including a successor corporation by consolidation or merger) which shall acquire all or substantially all the railroad lines of the Railroad, and which by execution of an appropriate instrument satisfactory to the Manufacturer shall assume and agree to perform each and all of the obligations and covenants of the Railroad hereunder, shall not be deemed a breach of this covenant. A lease of any or part of the Equipment to a subsidiary at least 80% directly or indirectly owned by the Railroad shall not be deemed to be a breach of this covenant, provided that the Railroad shall continue to be obligated under all the terms of this Agreement.

14.2. All or any of the rights, benefits and advantages of the Manufacturer under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Manufacturer and reassigned by an assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Manufacturer from, any of the obligations of the Manufacturer to sell and deliver the Equipment in accordance with Sections 1 and 2.1 hereof, or relieve the Railroad of its obligations to the Manufacturer hereunder.

14.3. Upon any such assignment, 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 of the Manufacturer's right, security title and interest in and to the Equipment 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 and notices thereafter to be made by the Railroad hereunder shall, to the extent so assigned, be made to the assignee at

the address of the assignee specified in the aforesaid notice.

14.4. The Railroad hereby acknowledges that, concurrently with the execution and delivery of this Agreement and in accordance with the custom of railroad equipment manufacturers, the Railroad has made arrangements for and the Manufacturer is executing and delivering an Agreement and Assignment dated as of the date hereof (hereinafter called the "Assignment") between the Manufacturer and The Chase Manhattan Bank (National Association), as agent and assignee (hereinafter called the "Agent"), pursuant to which the Manufacturer is assigning certain of its respective rights and interests hereunder. The Railroad expressly acknowledges and agrees with the Agent and its successors and assigns, for the purpose of inducing the execution and delivery of the Assignment by the Agent and its advance to the Manufacturer in consideration therefor of an amount equal to the aggregate Purchase Price of the Equipment, that the rights of the Agent and its successors and assigns to the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, or any part thereof as so assigned, as well as all other rights hereunder so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever, whether arising out of any breach of any obligation of any Manufacturer in respect of the Equipment or the manufacture, construction, delivery or warranty thereof or with respect to any indemnity herein contained or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, at any time owing to the Railroad by the Manufacturer or to any other person, firm or corporation or to any governmental authority, or for any cause whatsoever, it being the intent hereof that, except in the case of an intentionally wrongful act on the part of the Agent or its successors and assigns, the Railroad shall be unconditionally and absolutely obligated to pay the Agent the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, all in the manner and upon the dates set forth in Section 3 hereof. Any and all such obligations, if any and howsoever arising,

shall be and remain enforceable by the Railroad against and only against the Manufacturer.

14.5. In the event of any such assignment, or successive assignment, by the Manufacturer of security title to the Equipment and of the Manufacturer's rights hereunder with respect thereto, the Railroad will, whenever requested by such assignee, change the names and word or words to be marked on each side of each Item of Equipment so as to indicate the security title of such assignee to the Equipment with such names and word or words as shall be specified by such assignee, subject to the requirements of the laws of the jurisdictions in which the Equipment shall be operated relating to such names and word or words for use on equipment covered by conditional sale agreements with respect to railroad equipment. The cost of marking such names and word or words with respect to the Agent (or to any successor assignee of the Agent) shall be borne by the Railroad. The cost of marking such names and word or words in connection with any subsequent assignment (other than to a successor agent or trustee of the Agent) will be borne by the subsequent assignee.

14.6. In the event of any such assignment prior to the completion of delivery of the Equipment, the Railroad will, in connection with settlement for the Group subsequent to such assignment, deliver to the assignee, at the time of delivery by the Railroad of notice fixing the Closing Date with respect to such Group, all documents required by the terms of such assignment to be delivered to the assignee in connection with such settlement, in such number of counterparts as may reasonably be requested, except for any opinion of counsel for the assignee.

14.7. If this Agreement shall have been assigned by the Manufacturer (hereafter called the "Assigning Manufacturer"), and the assignee shall not, whether by reason of an insufficiency of funds or otherwise, make payment to the Assigning Maufacturer on the Closing Date with respect to any Item of Equipment manufactured by the Assigning Manufacturer and designated for settlement on such Closing Date of an amount equal to that portion of the Purchase Price of such Item of Equipment as provided in the instrument of assignment, the Assigning Manufacturer will promptly notify the Railroad of such event, such Item of Equipment shall be excluded from settlement on such Closing

Date but fully preserving the Assigning Manufacturer's security title to such Item in a manner acceptable to the Assigning Maufacturer and the Railroad shall not later than 60 days after such Closing Date pay or cause to be paid to the Assigning Manufacturer the Purchase Price of all such Items of Equipment, or the portion thereof unpaid by the assignee, such payment to be in cash, together with interest for the period from and including the Closing Date on which settlement was to have been made to but not including the deferred date of payment of the Purchase Price under this Section 14.7 at a rate per annum equal to the Prime Rate, or, if the Assigning Manufacturer and the Railroad shall mutually agree, by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Railroad shall determine and as may be reasonably satisfactory to the Assigning Manufacturer.

SECTION 15. APPLICATION OF PROVISIONS OF SECTION 16, "EVENTS OF DEFAULT", AND SECTION 17, "REMEDIES".

It is contemplated that the Manufacturer will assign certain of its rights under this Agreement, and all its respective right, security title and interest in and to the Equipment, to the Agent. It is desired by the parties hereto that the Agent should upon such assignment be entitled to enforce all of the assigned rights, powers, privileges and remedies of the Manufacturer under this Agreement, including but not limited to the enforcement of any remedies in case of an Event of Default under this Agreement.

SECTION 16. EVENTS OF DEFAULT.

16.1. In the event that any one or more of the following events of default ("Events of Default") shall occur and be continuing, to-wit:

(a) The Railroad shall fail to pay in full any sum payable by the Railroad when payment thereof shall be due under Section 3 or 6 hereof and such default shall continue for ten days; or

(b) The Railroad shall fail or refuse to comply with any covenant, agreement, term or provision of this

Agreement on its part to be kept and performed or to make provision satisfactory to the Manufacturer for such compliance for more than 30 days after written notice from the Manufacturer specifying the default and demanding the same to be remedied; or

(c) Any representation or warranty made by the Railroad herein or in any statement or certificate furnished to the Manufacturer or any assignee of the Manufacturer pursuant to or in connection with this Agreement or the Assignment proves untrue in any material respect as of the date of issuance or making thereof; or

(d) A case shall be commenced under subchapter IV of chapter 11 of Public Law 95-598, 11 U.S.C. §1161 et seq. (as said Law may be amended from time to time) by or against the Railroad and (unless such case shall within 30 days from the commencement thereof be dismissed, nullified, stayed or otherwise rendered ineffective, but then only so long as such stay shall continue in force or such ineffectiveness shall continue) either (i) the trustee or trustees in such proceeding, with the approval of the court having jurisdiction, shall not have agreed in writing, within the period specified in section 1168(a)(1) of said Law, to perform all obligations of the Railroad under this Agreement and with the court's approval confirmed that such obligations shall have the same status as obligations incurred by such trustee or trustees or (ii) any Event of Default (other than under this paragraph (d)) occurring prior to or at any time after the commencement of such case shall not have been duly cured within the respective period specified in section 1168(a)(2) of said Law; or

(e) Any other proceedings shall be commenced by or against the Railroad for any relief under any bankruptcy or insolvency laws, or laws 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 duly assumed in writing, pursuant to a court order or decree, by trustee or trustees or receiver or receivers appointed for the Railroad or for the property of the Railroad in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(f) The Railroad shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any Item of Equipment; or

(g) An Event of Default as defined in the Other Agreement shall occur and be continuing;

then at any time after the occurrence and during the continuance of such an Event of Default the Manufacturer may, upon written notice to the Railroad and upon compliance with any legal requirements then in force and applicable to such action by the Manufacturer, declare the entire indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness), together with the interest thereon then accrued and unpaid, and all other amounts payable by the Railroad under this Agreement, immediately due and payable, without further demand, and the Manufacturer shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated.

16.2. The Manufacturer may waive any such Event of Default and its consequences and rescind and annul any such declaration by notice to the Railroad in writing to that effect. Upon any such waiver the respective rights of the parties shall be as they would have been if no such Event of Default had existed and no such declaration had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad that time is

of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

SECTION 17. REMEDIES.

17.1. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such default, the Manufacturer may, upon such further notice, if any, as may be required for compliance with any mandatory requirements of law then in force and applicable to the action to be taken by the Manufacturer, take or cause to be taken by its agent or agents immediate possession of the Equipment, or any Item thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Section 17 expressly provided, and may remove the same from possession and use of the Railroad and for such purpose may enter upon the premises of the Railroad or where the Equipment may be located and may 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, with or without process of law.

17.2. In case the Manufacturer shall rightfully demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the lines of the Railroad for the delivery of the Equipment to the Manufacturer, the Railroad shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points as shall be reasonably designated by the Manufacturer and shall there deliver the Equipment or cause it to be delivered to the Manufacturer; and, at the option of the Manufacturer, the Manufacturer may keep the Equipment on any of the railroad lines or premises of the Railroad until the Manufacturer 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 Manufacturer reasonably convenient. The agreement to deliver the Equipment as

hereinbefore provided is of the essence of this Agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Manufacturer shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Manufacturer and its agent or agents for damages of whatever nature in connection with any retaking of any Item of Equipment in any reasonable manner.

17.3. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time thereafter during the continuance of such Event of Default and after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided (unless such declaration has been rescinded and annulled as provided in Section 16.2 hereof), the Manufacturer (after retaking possession of the Equipment as hereinbefore in this Section 17 provided) may at its election and upon such notice as is hereinafter set forth retain the Equipment in satisfaction of the entire unpaid indebtedness in respect of the Purchase Price thereof, together with interest thereon and all other payments due hereunder and make such disposition thereof as the Manufacturer shall deem fit. Written notice of the Manufacturer's election to retain the Equipment shall be given to the Railroad by telegram or registered mail, addressed as provided in Section 21 hereof, and to any other persons to whom the law may require notice, within 30 days after the indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable by the Manufacturer as above provided. In the event that the Manufacturer should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all of the Railroad's rights in the Equipment shall thereupon terminate and all payments made by the Railroad may be retained by the Manufacturer as compensation for the use of the Equipment; 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 Manufacturer the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness), together with interest thereon accrued and unpaid and all other payments

due under this Agreement, then in such event absolute right to the possession of title to any 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 17.3 object in writing to the Manufacturer within 30 days from the receipt of notice of the Manufacturer's election to retain the Equipment, then the Manufacturer may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold the Equipment pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Manufacturer shall not have given 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 this Section 17.

17.4. Any sale hereunder may be held or conducted at such place or places and at such time or times as the Manufacturer 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 Manufacturer may determine, provided that the Railroad shall be given written notice of such sale not less than 30 days prior thereto, by mail addressed as provided herein. If such sale shall be a private sale, it shall be subject to the rights of the Railroad to purchase or provide a purchaser, within 30 days after notice of the proposed sale price, at the same price offered in writing by the intending purchaser or a better price. In the event that the Railroad does not exercise said right to purchase or provide a purchaser for the Equipment, the Manufacturer may bid for and become the purchaser of the Equipment, or any Item thereof, so offered for sale without accountability to the Railroad (except to the extent of surplus money received as hereinafter provided in this Secton 17), and in payment of the Purchase Price therefor the Manufacturer shall be entitled to have credited on account thereof all sums due to the Manufacturer from the Railroad hereunder.

17.5. Each and every power and remedy hereby specifically given to the Manufacturer 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 Manufacturer. 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 Manufacturer 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.

17.6. All sums of money realized by the Manufacturer under the remedies herein provided shall be applied, first to the payment of the expenses and liabilities of the Manufacturer herein undertaken to be paid, second to the payment of interest on the indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the Conditional Sale Indebtedness), third to the payment, ratably in accordance with the unpaid balance of each installment, of the installments of indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the Conditional Sale Indebtedness) accrued and unpaid and, fourth, to any unpaid commitment fee due hereunder. If, after applying as aforesaid all sums of money realized by the Manufacturer, there shall remain any amount due to it under the provisions of this Agreement, the Manufacturer 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 Manufacturer, there shall remain a surplus in the possession of the Manufacturer, such surplus shall be paid without interest to the Railroad.

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

17.8. The foregoing provisions of this Section are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

SECTION 18. APPLICABLE STATE LAWS.

18.1. Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an agreement of conditional sale, shall not modify the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale agreement and enforced as such.

18.2. 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, notice of intention to take possession of or to sell the Equipment, or any Item thereof, and any other requirements as to the time, place and terms of sale thereof, and other requirements with respect to the enforcement of the Manufacturer's rights hereunder and any and all rights of redemption.

SECTION 19. EXTENSION NOT A WAIVER.

No delay or omission in the exercise of any power or remedy herein provided or otherwise available to the Manufacturer shall impair or affect the Manufacturer's right thereafter to exercise the same. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Manufacturer's rights or the obligations of the Railroad hereunder. The Manufacturer'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 Manufacturer's rights hereunder with respect to any subsequent payments or Events of Default.

SECTION 20. RECORDING.

The Railroad at its expense will cause this Agreement, any assignment hereof and any supplements hereto and thereto to be filed, recorded or deposited and re-filed, re-recorded or re-deposited, if necessary, with the

Interstate Commerce Commission and the Registrar General of Canada (with notice of such deposit to be published in The Canada Gazette in accordance with Section 86 of the Railway Act of Canada), and otherwise as may be required by law or reasonably requested by the Manufacturer (including, without limitation, in accordance with the laws of Mexico) for the purpose of proper protection, to the satisfaction of counsel for the Manufacturer, of its security title to 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 Manufacturer certificates or other evidences of such filing, recording or depositing, and an opinion or opinions of counsel for the Railroad with respect thereto, satisfactory to the Manufacturer.

SECTION 21. NOTICE.

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

(a) to the Railroad:

Burlington Northern Inc.
Burlington Northern Building
176 East Fifth Street
St. Paul, MN 55101
Attention: Vice President and Treasurer

(b) to TPC:

Transportation Products Company
80 East Jackson Blvd., Suite 307
Chicago, IL 60604
Attention: Mr. John Miller

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

SECTION 22. HEADINGS.

All section headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement.

SECTION 23. EFFECT AND MODIFICATION OF AGREEMENTS.

Except as provided in Section 3.1 hereof, this Agreement and the Schedules relating hereto exclusively and completely state the rights and agreements of the Manufacturer and the Railroad with respect to the Equipment and supersede all other agreements, oral or written, with respect to the Equipment. No variation of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and duly executed on behalf of the Manufacturer and the Railroad.

SECTION 24. LAW GOVERNING.

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by applicable federal law and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

SECTION 25. DEFINITIONS.

The term "Manufacturer", whenever used in this Agreement, means, before any assignment of any of its rights hereunder, TPC and any successor or successors for the time being to the properties and business of TPC, and, after any such assignment, 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 and excluded from any assignment. The rights and undertakings of the Manufacturer and the rights and obligations of the Railroad with respect to the Manufacturer hereunder are several and not joint.

SECTION 26. PAYMENT OF EXPENSES.

The Railroad will pay all stamp or other taxes and all reasonable costs and expenses incident to this Agreement, the Assignment and the first assignment of this Agreement, and any instrument supplemental or related thereto, including but not limited to all fees and expenses of the first assignee of this Agreement and 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. For the purposes of this Section 26, if the first assignee is the Agent, then any successor agent to the Agent shall also be considered the first assignee.

SECTION 27. CONSOLIDATION OR MERGER.

In case of any consolidation or merger to which the Railroad or the Manufacturer shall be a party, or in case of any sale of all or substantially all of the assets of the Railroad or the Manufacturer, the corporation resulting from such consolidation or merger (if other than the Railroad or the Manufacturer), or the corporation which shall acquire such assets, shall expressly assume all obligations hereunder not then performed by the Railroad or the Manufacturer, as the case may be, and shall become entitled to all rights hereunder of the Railroad or the Manufacturer, as the case may be.

SECTION 28. EXECUTION.

This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all of the parties so long as at least one counterpart is signed by each party hereto. Although this Agreement is dated for convenience as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

[Corporate Seal]

TRANSPORTATION PRODUCTS COMPANY

Attest:

By /s/ WALTER J. DRANE
Vice President

/s/ JOAN STUVELING
Assistant Secretary

[Corporate Seal]

Attest:

/s/ GARRETT F. STEINHIBEL
Assistant Secretary

BURLINGTON NORTHERN INC.

By/s/ FRANK H. COYNE
Executive Vice President-
Finance and Administration

STATE OF ILLINOIS)
: ss.:
COUNTY OF COOK)

On this 14th day of December, 1979, before me personally appeared Walter J. Drane, to me personally known, who, being by me duly sworn, says that he is a Vice President of TRANSPORTATION PRODUCTS COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Seal) /s/ BERNICE STAGMAN
Notary Public

STATE OF MINNESOTA)
: ss:
COUNTY OF RAMSEY)

On this 14th day of December, 1979, before me personally appeared Frank H. Coyne, to me personally known, who, being by me duly sworn, says that he is the Executive Vice President-Finance and Administration of BURLINGTON NORTHERN INC., 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.

(Seal)

/s/ J. H. McCARTHY
Notary Public

J.H. McCARTHY
Notary Public - Minnesota
Ramsey County
My Comm. Expires Jan. 6, 1982

SCHEDULE A

(to Conditional Sale Agreement)

MANUFACTURER.....	Ohio Locomotive Crane
VENDOR.....	TRANSPORTATION PRODUCTS COMPANY
DESCRIPTION OF EQUIPMENT.....	One-Ohio#DE250 40/50 Ton Diesel Electric Locomotive Crane with identifying number BN 975319
SPECIFICATIONS.....	Per Burlington Northern Inc. Letter of Intent dated November 27, 1979
BASE PRICE.....	$600,000 per item
DELIVER TO.....	BURLINGTON NORTHERN INC.
PLACE OF DELIVERY.....	FOB MANUFACTURER'S PLANT, or such other place as agreed to between Transportation Products Company and Burlington Northern Inc.
ESTIMATED DELIVERY DATES.....	August, 1980
OUTSIDE DELIVERY DATE.....	December 31, 1980

SCHEDULE B

(to Conditional Sale Agreement)

MANUFACTURER.....	Ohio Locomotive Crane
VENDOR.....	TRANSPORTATION PRODUCTS COMPANY
DESCRIPTION OF EQUIPMENT.....	One-Ohio #DE400 40-50 Ton Diesel Electric Locomotive Crane with identifying number BN 975425
SPECIFICATIONS.....	Per Burlington Northern Inc. Letter of Intent dated November 27, 1979
BASE PRICE.....	$600,000 per item
DELIVER TO.....	BURLINGTON NORTHERN INC.
PLACE OF DELIVERY.....	FOB MANUFACTURER'S PLANT, or such other place as agreed to between Transportation Products Company and Burlington Northern Inc.
ESTIMATED DELIVERY DATES.....	July, 1980
OUTSIDE DELIVERY DATE.....	December 31, 1980

EXHIBIT B

AGREEMENT AND ASSIGNMENT dated as of October 1, 1979 among FMC CORPORATION, a Delaware corporation (hereinafter called "FMC"), GENERAL ELECTRIC COMPANY, a New York corporation (hereinafter called "General Electric") and DIFCO, INC., an Ohio corporation (hereinafter called "DIFCO") (the foregoing companies being hereinafter collectively called the "Manufacturers", or severally called a "Manufacturer"), and THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION), a national banking association organized under the laws of the United States of America, acting as Agent under a Finance Agreement dated as of the date hereof (hereinafter called the "Finance Agreement") (said bank so acting being hereinafter called the "Assignee").

WHEREAS, the Manufacturers and Burlington Northern Inc., a corporation duly organized and existing under the laws of the State of Delaware (hereinafter called the "Railroad"), have entered into a Conditional Sale Agreement, dated as of the date hereof (hereinafter called the "Conditional Sale Agreement"), covering the construction, sale and delivery, on the conditions therein set forth, by the respective Manufacturers and the purchase by the Railroad of the railroad equipment described in Schedules A, B and C to the Conditional Sale Agreement (said equipment being hereinafter called the "Equipment");

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Assignee to the respective Manufacturers, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. Each Manufacturer hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) All the right, security title and interest of such Manufacturer in and to the Equipment and each unit thereof to be constructed and sold by such Manufacturer when and as severally delivered and accepted and upon payment by the Assignee to such Manufacturer of the amounts required to be paid under Section 6 hereof with respect to such unit;

(b) All the right, title and interest of such Manufacturer in and to the Conditional Sale Agreement in respect of the Equipment to be constructed and sold by such Manufacturer thereunder (except the rights to cause to be constructed and to deliver the Equipment and the right to receive the payments specified in Sections 2.3 and 14.7 thereof and the right to reimbursement for taxes as provided in Section 7 of the Conditional Sale Agreement, and provided that such Manufacturer retains a right to indemnity as provided in Section 12.1 thereof notwithstanding assignment of such right hereunder), and in and to any and all amounts which may be or become due or owing to such Manufacturer under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) All of such Manufacturer's rights (except as herein provided), powers, privileges and remedies under the Conditional Sale Agreement (without any recourse, however, against such Manufacturer for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement); provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of each such Manufacturer to cause to be constructed and to deliver the Equipment to be sold by such Manufacturer in accordance with the Conditional Sale Agreement or in respect of its warranties and indemnities contained in Sections 12.3 and 13 of, and Schedules A, B and C to, the Conditional Sale Agreement or relieve the Railroad from its obligations to such Manufacturer under the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Section 14 of the Conditional Sale Agreement, all obligations of such Manufacturer to the Railroad in respect of the Equipment shall be and remain enforceable by the Railroad, its successors and assigns, against and only against such Manufacturer. In furtherance of the foregoing assignment and transfer, each Manufacturer hereby

authorizes and empowers the Assignee in the Assignee's own name, in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for such Manufacturer to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Railroad with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

Each Manufacturer agrees that any amount payable to such Manufacturer by the Railroad, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien or charge on any of the units of Equipment.

SECTION 2. Each Manufacturer covenants and agrees that it will cause the Equipment to be sold by such Manufacturer under the Conditional Sale Agreement to be constructed in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Railroad in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions to the Conditional Sale Agreement set forth to be performed and complied with by such Manufacturer. Each Manufacturer further covenants and agrees that it will warrant to the Assignee and the Railroad that at the time of delivery of each unit of the Equipment to be constructed and sold by such Manufacturer it had legal title to such unit and good and lawful right to sell such unit and the title to such unit was free of all claims, security interests, liens and encumbrances of any nature except only the rights of the Railroad under the Conditional Sale Agreement; and each Manufacturer further covenants and agrees that it will defend such title against all claims and demands whatsoever. Each Manufacturer will not deliver any of the Equipment to be constructed and sold by such Manufacturer to the Railroad until the filings and recordations referred to in Section 20 of the Conditional Sale Agreement have been effected.

SECTION 3. Each Manufacturer covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement

for any amount which may be due or owing by the Railroad on account of its indebtedness in respect of the aggregate Purchase Price of the Equipment and interest thereon, and any other sums becoming due under the Conditional Sale Agreement, or to enforce any provision of the Conditional Sale Agreement, each such Manufacturer will save, indemnify, defend and keep harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Railroad arising out of a breach by such Manufacturer of any obligation in respect of its Equipment, or the manufacture, construction, delivery or warranty thereof, or under Sections 12 and 13 of, or Schedules A, B and C to, the Conditional Sale Agreement, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by such Manufacturer. Any and all such obligations shall be and remain enforceable by the Railroad against and only against the respective Manufacturers and shall not be enforceable against the Assignee or any party or parties in whom security title to the Equipment, or any unit thereof, or any of the rights of the respective Manufacturers under the Conditional Sale Agreement shall vest by reason of this Assignment or of successive assignments or transfers. The respective Manufacturers shall have no liability under the foregoing provisions of this Section 3 unless (a) the Assignee, in any such suit, proceeding or action by the Assignee, hereinabove described, promptly moves or takes other appropriate action on the basis of Section 14.4 of the Conditional Sale Agreement, to strike any such defense, setoff, counterclaim or recoupment asserted by the Railroad, and the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, and (b) upon any such denial and acceptance, the Assignee promptly notifies the Manufacturer of the Equipment of any such defense, setoff, counterclaim or recoupment asserted by the Railroad and such Manufacturer is given the right by the Assignee to compromise, settle or defend against, at its expense, such defense, setoff, counterclaim or recoupment. Each Manufacturer will indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or

accruing against the Assignee or its assigns because of the use in or about the construction of the Equipment, or any unit thereof, to be constructed and sold by such Manufacturer, of any design, article or material which infringes, or is claimed to infringe, on any patent or other right, except for any design specified by the Railroad and not developed or purported to be developed by such Manufacturer or any article or material specified by the Railroad and not manufactured by such Manufacturer. Nothing in this Section 3 is intended to extend the scope of the Manufacturers' warranties which are always subject to the DISCLAIMERS OF IMPLIED WARRANTIES and limitations of remedy set forth therein.

SECTION 4. Each Manufacturer will cause to be plainly, distinctly, permanently and conspicuously marked on each side of each unit of the Equipment, to be constructed and sold by such Manufacturer, at the time of delivery thereof to the Railroad, in letters not less than one inch in height, the following legend:

UNIT SUBJECT TO SECURITY INTEREST OF
THE AGENT BANK UNDER CONDITIONAL SALE
AGREEMENT RECORDED WITH THE I.C.C.

SECTION 5. Upon request of the Assignee, its successors and assigns, each Manufacturer will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of such Manufacturer therein or in the Equipment.

SECTION 6. Subject to timely receipt by the Assignee of funds sufficient for the purpose, the Assignee, on each Closing Date as provided in Section 3 of the Conditional Sale Agreement with respect to a Group of Equipment (as defined in said Section 3) or as otherwise hereinafter set forth, shall pay to the Manufacturer of each unit of Equipment in such Group an amount equal to the Purchase Price of such unit, provided that there shall have been delivered to the Assignee, as provided in the Conditional Sale Agreement, the following documents, in such number of counterparts or copies as may reasonably be requested, in form and substance satisfactory to it and to the special counsel for the Agent hereinafter mentioned:

(a) Bills of Sale from each of the Manufacturers of such Equipment to the Assignee, dated as of such Closing Date and in the form of Schedule 1 hereto, transferring to the Assignee security title to the units of the Equipment in such Group and warranting to the Assignee and to the Railroad that at the time of delivery to the Railroad under the Conditional Sale Agreement such Manufacturers had legal title to such units and good and lawful right to sell such units and title to such units was free of all claims, security interests, liens and encumbrances of any nature except only the rights of the Railroad under the Conditional Sale Agreement;

(b) Certificate or Certificates of Acceptance signed by an authorized representative of the Railroad, dated the date of such acceptance and in the form of Schedule 2 hereto, stating that the units of the Equipment in such Group have been inspected and accepted by him on behalf of the Railroad and further stating that there was plainly, distinctly, permanently and conspicuously marked on each side of each of such units at the time of its acceptance, in letters not less than one inch in height, the following legend:

UNIT SUBJECT TO SECURITY INTEREST OF
THE AGENT BANK UNDER CONDITIONAL SALE
AGREEMENT RECORDED WITH THE I.C.C.

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

(d) Opinion of counsel for the Railroad, dated as of a date within 21 days after the date of execution and delivery of the Conditional Sale Agreement and this Assignment and substantially in the form of Schedule 3 hereto, to the effect that (i) the Railroad is a duly organized and existing corporation in good standing under the laws of Delaware, its state of incorporation, and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Railroad and is a valid instrument binding upon and enforceable against the

Railroad in accordance with its terms, (iii) the execution, delivery and performance by the Railroad of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-Laws of the Railroad, or any indenture, agreement or other instrument to which the Railroad is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Railroad, (iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or this Assignment, or, if any authority is necessary, that it has been duly obtained and is in full force and effect, (v) the Conditional Sale Agreement and this Assignment have been duly filed and recorded in accordance with Section 20 of the Conditional Sale Agreement, (vi) that the Equipment is rolling stock under 11 U.S.C. §1168 and that the Assignee is entitled to the rights of a secured party with a purchase-money equipment security interest in the Equipment thereunder, (vii) that the Equipment consists of railroad cars, locomotives or other rolling stock used or intended for use in connection with interstate commerce as required by 49 U.S.C. §11303 and (viii) that upon delivery of each unit of Equipment to the Railroad and payment of its purchase price, the Assignee shall have a duly perfected purchase-money equipment security interest therein;

(e) On December 6, 1979 (hereinafter called the "Initial Closing") an opinion of counsel for each Manufacturer, dated as of such date and substantially in the form of Schedule 4 hereto, stating that (i) such Manufacturer is a duly organized and existing corporation in good standing under the laws of the state of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by such Manufacturer and is a valid instrument binding upon and

enforceable against such Manufacturer in accordance with its terms, (iii) the execution, delivery and performance by such Manufacturer of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-Laws of such Manufacturer, or any Indenture, agreement or other instrument to which such Manufacturer is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of such Manufacturer, (iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or this Assignment, or, if any authority is necessary, that it has been duly obtained and is in full force and effect, (v) this Assignment has been duly authorized, executed and delivered by such Manufacturer and is a valid instrument binding upon and enforceable against such Manufacturer in accordance with its terms, and (vi) the Assignee is vested with all the right, title and interest of such Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date, an opinion of counsel for each Manufacturer of the Equipment in such Group, dated as of such Closing Date and substantially in the form of Schedule 5 hereto, reaffirming the opinion of such counsel delivered in respect of the Initial Closing and stating that security title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, were free of all claims, security interests, liens and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement;

(f) In respect of the Initial Closing, the opinion of Milbank, Tweed, Hadley & McCloy as to the due authorization, execution and delivery by (i) the Railroad and each Manufacturer of the Conditional Sale Agreement and (ii) each Manufacturer of this Assignment

and the validity and binding nature as regards (x) the Railroad and each Manufacturer of the Conditional Sale Agreement and (y) each Manufacturer of this Assignment. For purposes of such opinion such counsel may rely (other than as to matters of New York or U.S. Federal law) upon the opinion of counsel for the Railroad and for each Manufacturer, respectively, referred to above (and upon any opinions referred to in said opinion); and

(g) In respect of the Initial Closing a certificate of a Vice President of the Railroad dated the date of the Initial Closing concerning the Railroad's Certificate of Incorporation and By-Laws, payment of taxes, good standing and to the effect that no Event of Default as specified in the Conditional Sale Agreement, or event which with the lapse of time and/or notice provided for in the Conditional Sale Agreement would constitute such an Event of Default, has occurred and is continuing, and to the effect that, since December 31, 1978, there has been no material adverse change in the affairs or financial condition of the Railroad in the form of Schedule 6 hereto, a Certificate of Incumbency in the form of Schedule 7 hereto and a Certificate of Resolutions in the form of Schedule 8 hereto.

(h) In respect of each Closing Date a certificate of a Vice President of the Railroad dated the date of such Closing Date and in the Form of Schedule 9 hereto.

In giving the opinions specified in subparagraphs (d), (e) and (f) of the first paragraph of this Section 6, counsel may qualify any opinion to the effect that any agreement is enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. Any opinion delivered hereunder after the Initial Closing may state that counsel signing such opinion reaffirms any statement contained in any opinion of the same counsel theretofore delivered hereunder without repeating the substance of such earlier opinion.

The obligation of the Assignee hereunder to make payments on each Closing Date is hereby expressly

conditioned upon the prior receipt by the Assignee, as provided in the Finance Agreement, of all the funds to be furnished to the Assignee by the various parties to the Finance Agreement with respect to such Closing Date, or, if any of such parties default in furnishing such funds, the prior receipt by the Assignee from the Railroad of such funds as provided in the Finance Agreement; and, in the event of failure of any such party to furnish any such funds with respect thereto, such Closing Date shall be postponed for four business days. To the extent that the Railroad shall pay or cause to be paid to the Assignee, in accordance with the Finance Agreement, any amount or amounts on account of the Purchase Price of the Equipment to be settled for on such Closing Date, the Railroad shall be relieved of its indebtedness in respect of the Purchase Price of the Equipment under Section 3.3 of the Conditional Sale Agreement to the extent of the amount or amounts so paid by the Railroad. By any such payment, however, the Railroad shall not acquire any rights under this Assignment. If the Assignee fails to pay any Manufacturer any amount required to be paid with respect to any unit of Equipment pursuant to this Section 6 at the time herein specified, then any right, title and interest in and to such unit, to the extent of such amount, including any right, title and interest under the Conditional Sale Agreement with respect to such unit, to the extent of such amount, which has been assigned, transferred or set over to the Assignee by such Manufacturer, shall automatically, and without further action on the part of the Assignee, be reassigned, transferred and set over back to such Manufacturer by the Assignee.

It is understood and agreed that the Assignee shall not be required to make (i) any payment in respect of any units of the Equipment excluded from the Conditional Sale Agreement pursuant to Section 2 thereof or (ii) any payment under this Section 6 at any time while an Event of Default, or any event which with the lapse of time and/or notice provided for in the Conditional Sale Agreement shall constitute an Event of Default, shall be subsisting under the Conditional Sale Agreement. It is also understood and agreed that, anything herein to the contrary notwithstanding, the Assignee hereunder shall not be obligated to make payment to any Manufacturer except out of funds furnished to it pursuant to the Finance Agreement.

SECTION 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payment due or to become due to it from the Railroad thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder. The address of the Assignee for purposes of notices and payments is 1 Chase Manhattan Plaza, New York, New York 10081, Attention: Land Transportation Division or such other address as the Assignee shall have furnished in writing to the Railroad.

SECTION 8. Each Manufacturer hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the other Manufacturers and by the Railroad, the Conditional Sale Agreement is, in so far as such Manufacturer is concerned, a valid and existing agreement binding upon such Manufacturer and the Railroad in accordance with its terms and that it is now in force without amendment thereto; and

(b) covenants and agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

SECTION 9. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all of the parties so long as at least one counterpart is signed by each party hereto. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Railroad. Although this Assignment is dated for convenience as of October 1, 1979,

the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

SECTION 10. The terms of this Assignment and the rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by applicable federal law and such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Assignment, as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment shall be filed, recorded or deposited.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

FMC CORPORATION

[CORPORATE SEAL]

By /s/ B.R. VAN ECK
Title: Vice President

Attesting:

/s/ A.R. KIDSTON
Assistant Secretary

GENERAL ELECTRIC COMPANY

[CORPORATE SEAL]

By /s/ R. D. MOREY

Title: Manager-Marketing
Locomotive Marketing
Department

Attest:

/s/ J.T. HUGHES

Attesting Secretary

DIFCO, INC.

[CORPORATE SEAL]

By /s/ FRED F. FLOWERS
President

Attest:

/s/ MARY SCHINDLER
Assistant Secretary

THE CHASE MANHATTAN BANK
(NATIONAL ASSOCIATION), Agent

[CORPORATE SEAL]

By /s/ J. SCOTT SWENSEN
Second Vice President

Attest:

/s/ VICTOR R. SIMONE, JR.
Assistant Treasurer

STATE OF ILLINOIS)
:SS.:
COUNTY OF COOK)

On this 16th day of November, 1979, before me personally appeared B.R. van Eck , to me personally known, who, being by me duly sworn, says that he is a Vice President of FMC 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.

[Notarial Seal]

/s/ JUDITH A. ZEMAR
Notary Public

COMMONWEALTH OF PENNSYLVANIA)
:SS.:
COUNTY OF ERIE)

On this 19th day of November, 1979, before me personally appeared R. D. Morey, to me personally known, who, being by me duly sworn, says that he is a Manager-Marketing Locomotiv Marketing Department of GENERAL ELECTRIC COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

/s/ DORIS W. CHILCOTT
Notary Public

Lawrence Park TWP., Erie Co., PA.
MY Commission Expires Nov. 26, 1979

STATE OF OHIO)
:SS.:
COUNTY OF HANCOCK)

On this 16th day of November, 1979, before me personally appeared Fred F. Flowers, to me personally known, who, being by me duly sworn, says that he is a President of DIFCO, INC., 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.

[Notarial Seal]

/s/ DORTHA E. BUCKLAND
Notary Public
7-9-82

STATE OF NEW YORK)
:SS.:
COUNTY OF NEW YORK)

On this 15th day of November, 1979, before me personally appeared J. Scott Swensen, to me personally known, who, being by me duly sworn, says that he is a Second Vice President of THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION), 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.

[Notarial Seal]

/s/ STANLEY JENDRAS
Notary Public

Notary Public, State of New York
No. 24-4680456
Qualified in Kings County
Cert. filed in New York City Co.
Commission expires March 30, 1980

ACKNOWLEDGEMENT OF NOTICE OF ASSIGNMENT

Receipt of a signed copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged.

BURLINGTON NORTHERN INC.

By /s/ FRANK H. COYNE
Executive Vice President-
Finance and Administration

Dated November 19, 1979

SCHEDULE 1

BILL OF SALE

NO._____

_____ (hereinafter called the Manufacturer), in consideration of the sum of One Dollar ($1) and other good and valuable consideration paid by THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION) (hereinafter called the Assignee), Assignee under an Agreement and Assignment dated as of October 1, 1979 between the Manufacturer and the Assignee, by which the Manufacturer assigned to the Assignee certain rights of the Manufacturer under a Conditional Sale Agreement dated as of October 1, 1979, among the Manufacturer, BURLINGTON NORTHERN INC. (hereinafter called the Railroad) and certain other builders, at or before the execution and delivery of these presents, the receipt of which is hereby acknowledged, does hereby grant, the security interest of the Manufacturer in and to the following units of railroad equipment (hereinafter called the Equipment) which have been delivered by the Manufacturer to the Railroad pursuant to said Conditional Sale Agreement:

Description	Quantity	Railroad Nos.

To have and to hold all and singular the security title to the above described units of railroad Equipment to the Assignee, its successors and assigns, for its and their own use and behoof forever.

And the Manufacturer hereby warrants to the Assignee, its successors and assigns, and to the Railroad that at the time of delivery of each of the above-described units of railroad equipment to the Railroad under the above-mentioned Conditional Sale Agreement the Manufacturer had legal title thereto and good and lawful right to sell each

such unit and the title to each such unit was free and clear of all claims, liens, security interests and encumbrances of any nature except only the rights of the Railroad under said Conditional Sale Agreement; and the Manufacturer covenants that it will defend such title to the Equipment against the demands of all persons whomsoever based on claims originating prior to the delivery of the Equipment by the Manufacturer under the Conditional Sale Agreement.

IN WITNESS WHEREOF, the Manufacturer has caused this instrument to be executed in its name by a duly authorized officer and its corporate seal to be hereunto affixed, duly attested, the day of , 1980.

[Seal]

By_____
Title:

Attest:

_____
Assistant [Attesting] Secretary

SCHEDULE 2

CERTIFICATE OF ACCEPTANCE
UNDER CONDITIONAL SALE AGREEMENT

I, a duly appointed inspector and authorized representative of BURLINGTON NORTHERN INC. (the "Railroad"), do hereby certify that I have inspected, received, approved and accepted delivery on behalf of the Railroad under the Conditional Sale Agreement dated as of October 1, 1979 among FMC Corporation, General Electric Company and Difco, Inc. (the "Manufacturers") and the Railroad, of the following items of Equipment (the "Equipment"):

TYPE OF EQUIPMENT:

MANUFACTURER:

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF ITEMS:

NUMBERED:

I do further certify that the foregoing Equipment is in good order and condition, and conforms to the Specifications applicable thereto, and at the time of delivery to the Railroad there was plainly, distinctly, permanently and conspicuously marked in contrasting colors upon each side of the Item of Equipment the following legend in letters not less then one inch in height:

"Unit Subject to Security Interest of the Agent Bank under Conditional Sale Agreement Recorded with I.C.C."

The execution of this Certificate will in no way relieve or decrease the responsibility of the Vendor or the Manufacturer of the Equipment for warranties it has made with respect to the Equipment.

Date: , 1980

_____

Inspector and Authorized
Representative of Railroad

SCHEDULE 3

[Letterhead of Burlington Northern Counsel]

, 1979

The Chase Manhattan Bank
(National Association)
1 Chase Manhattan Plaza
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As attorney for Burlington Northern Inc. (hereinafter called the "Railroad"), I have examined and am familiar with (a) the Restated Certificate of Incorporation and By-laws of the Railroad; (b) the Conditional Sale Agreement dated as of October 1, 1979 (hereinafter called the "Conditional Sale Agreement"), among FMC Corporation, General Electric Company, Difco, Inc. and the Railroad covering railroad equipment therein referred to; (c) the Agreement and Assignment dated as of October 1, 1979 among FMC Corporation, General Electric Company and Difco, Inc. and you as Agent for the Investors under a Finance Agreement dated as of October 1, 1979; and (d) all corporate and other proceedings taken by the Railroad in connection with the execution and delivery of the Conditional Sale Agreement.

I have also examined originals, or copies certified or otherwise identified to my satisfaction, of such other documents and instruments as I have deemed necessary or appropriate for the purposes of this opinion.

As attorney for the Railroad, I am of the opinion that:

(i) The Railroad is a duly organized and validly existing corporation in good standing under the laws of the State of Delaware, its state of incorporation, and has the

power and authority to own its properties and to carry on its business as now conducted and is duly qualified to do business as a foreign corporation in all states where the character of its properties or the nature of its activities makes such qualification necessary;

(ii) The Conditional Sale Agreement has been duly authorized, executed and delivered by the Railroad and is a valid and binding instrument enforceable against the Railroad in accordance with its terms (subject, as to the enforcement of remedies, to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditor's rights generally from time to time in effect);

(iii) The execution and delivery and performance by the Railroad of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-Laws of the Railroad, or any indenture, agreement, or other instrument to which the Railroad is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Railroad;

(iv) No approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or the Agreement and Assignment;

(v) The Conditional Sale Agreement and the Agreement and Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 11303 of the Interstate Commerce Act and have been duly deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada (with notice of such deposit published in the Canada Gazette on November , 1979 in accordance with Section 86 of the Railway Act of Canada), the security interest created by said instruments has been duly perfected and is subject to no prior lien,

security interest or encumbrance and no other filing, recordation, depositing, giving of notice, refiling, rerecording, redepositing or regiving of notice is necessary for the protection of the rights of the Agent in any State of the United States of America or to make said instruments valid against all persons under Canadian law;

(vi) The Equipment is rolling stock under 11 U.S.C. §1168 and the Assignee is entitled to the rights of a secured party with a purchase-money equipment security interest in the Equipment thereunder;

(vii) The Equipment consists of railroad cars, locomotives or other rolling stock used or intended for use in connection with interstate commerce as required by 49 U.S.C. §11303; and

(viii) Upon delivery of each unit of Equipment to the Railroad and payment of its purchase price, the Assignee shall have a duly perfected purchase-money equipment security interest therein.

Very truly yours,

SCHEDULE 4

[Letterhead of Counsel to Manufacturer]

November , 1979

The Chase Manhattan Bank
(National Association)
1 Chase Manhattan Plaza
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As counsel for _____, a _____ corporation (the "Manufacturer"), I have examined counterparts of: (i) the Conditional Sale Agreement dated as of October 1, 1979 (the "Conditional Sale Agreement"), among the Manufacturer, Burlington Northern Inc. (the "Railroad") and certain other manufacturers; (ii) the Agreement and Assignment dated as of October 1, 1979 (the "Assignment"), among the Manufacturer, certain other manufacturers and The Chase Manhattan Bank (National Association), as Agent (the "Assignee"); and (iii) such other documents as I have deemed necessary to render the opinion set forth below.

Based upon the foregoing, I am of opinion that:

(i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the State of _____ and has the power and authority to own its properties and to carry on its business as now conducted;

(ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in

accordance with its terms, subject to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally;

(iii) the execution, delivery and performance by the Manufacturer of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Certificate of Incorporation or By-Laws of the Manufacturer, or any indenture, agreement or other instrument to which the Manufacturer is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Manufacturer;

(iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement;

(v) the Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, subject to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally; and

(vi) the Assignee is vested with all the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by the Manufacturer under the Assignment.

Very truly yours,

SCHEDULE 5

[Letterhead of Counsel to Manufacturer]

, 1980

The Chase Manhattan Bank
(National Association)
1 Chase Manhattan Plaza
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As counsel for _____, a _____ corporation (the "Manufacturer"), I have examined counterparts of: (i) the Conditional Sale Agreement dated as of October 1, 1979 (the "Conditional Sale Agreement"), among the Manufacturer, Burlington Northern Inc. (the "Railroad") and certain other manufacturers; (ii) the Agreement and Assignment dated as of October 1, 1979 (the "Assignment"), among the Manufacturer, certain other manufacturers and The Chase Manhattan Bank (National Association), as Agent (the "Assignee"); (iii) the Bill of Sale dated as of the date hereof (the "Bill of Sale") from the Manufacturer to the Assignee transferring to the Assignee the security title of the Manufacturer in the units of railroad equipment (the "Equipment") described therein; and (iv) such other documents as I have deemed necessary to render the opinion set forth below.

Based upon the foregoing, I am of opinion that:

(i) my opinion of counsel dated [date of opinion delivered in the form of Schedule 5 hereto] is true and correct as of the date hereof as if such opinion of counsel had been made on and as of such date and I hereby affirm such opinion of counsel; and

(ii) upon delivery of the Bill of Sale to the Assignee, security title to the Equipment will be validly vested in the Assignee, and each unit of the Equipment, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, was free of all claims, security interests, liens and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement.

Very truly yours,

SCHEDULE 6

Certificate

I, , Vice President of Burlington Northern Inc., a Delaware corporation (herein called the "Railroad"), HEREBY CERTIFY that:

1. Attached hereto as Exhibits A and B are true and complete copies of the Certificate of Incorporation and By-Laws, respectively, of the Railroad as in effect on [the date of corporate action authorizing the transaction] and at all subsequent times to and including the date hereof.

2. After due inquiry I know of no proceeding for the dissolution or liquidation or threatening the existence of the Railroad and to my knowledge the Railroad is in good standing in the State of Delaware.

3. All tax returns have been filed by the Railroad as required by law and all taxes have been paid except such taxes as are not yet due.

4. I am familiar with the terms of the Conditional Sale Agreement dated as of October 1, 1979 (herein called the "Conditional Sale Agreement") among FMC Corporation, General Electric Company, Difco, Inc. and the Railroad covering railroad equipment therein referred to and I am familiar with the terms and conditions of the various documents mentioned and described in the Conditional Sale Agreement. Terms defined in the Conditional Sale Agreement have the same meanings when used herein.

5. As to matters hereinbelow set forth, I have personal knowledge or have obtained information from officers or employees of the Railroad in whom I have confidence and whose duties require them to have personal knowledge thereof, and I make this certificate pursuant to the provisions of § 6(g) of an Agreement and Assignment dated as of October 1, 1979 among the Manufacturers and their Assignee thereunder with the intention that this

certificate shall be relied upon by the Assignee and certain Investors under a Finance Agreement dated as of October 1, 1979 as the basis for their execution and delivery of said Finance Agreement and said Agreement and Assignment on the date hereof.

6. The representations and warranties contained in the Conditional Sale Agreement are (except as affected by the transactions contemplated by the Conditional Sale Agreement) true on the date hereof with the same effect as though such representations and warranties had been made on and as of the date hereof, and no Event of Default specified in § 16 of the Conditional Sale Agreement and no event which, with the lapse of time or the notice and lapse of time specified in said § 16, would become such an Event of Default has occurred and is continuing.

7. Since December 31, 1978 there has been no material adverse change in the affairs or financial condition of the Railroad.

WITNESS my hand this _____ day of December, 1979

_____

SCHEDULE 7

BURLINGTON NORTHERN INC.

CERTIFICATE OF INCUMBENCY

I, G. F. Steinhibel, hereby certify that I am an Assistant Secretary of Burlington Northern Inc. (the Company); that as such Assistant Secretary I am one of the keepers of the records and corporate seal of the Company; that each of the persons named below is the duly elected or appointed incumbent of the office of the Company set opposite his name and has been duly qualified and acting as such officer of the Company at all times since the date of his election or appointment to and including the date and delivery of this Certificate; and that the genuine signatures of said officers are set opposite their names:

Office		
Executive Vice President-Finance and Administration	Frank H. Coyne	_____
Vice President and Treasurer	R.C. Burton, Jr.	_____
Assistant Secretary	G.F. Steinhibel	_____

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Company this day of November, 1979.

_____
Assistant Secretary

I, , of Burlington Northern Inc. (the Company), do hereby certify that G. F. Steinhibel is a duly appointed Assistant Secretary of the Company on the date hereof; that I am familiar with the signature of G. F. Steinhibel; and that the signature set opposite his name in the foregoing certificate is his genuine signature.

IN WITNESS WHEREOF, I have hereunto set my hand this day of November, 1979.

_____

SCHEDULE 8

RESOLUTIONS

OF

BURLINGTON NORTHERN INC.

I, _____, _____ of BURLINGTON NORTHERN INC., a Delaware corporation, HEREBY CERTIFY that the following resolutions were duly adopted at a meeting of the Board of Directors of said corporation duly called and held at , on , at which a quorum was present and acting throughout:

[Form of resolutions to be provided by the Railroad.]

I HEREBY FURTHER CERTIFY that said resolutions have not been modified and are still in full force and effect and that the form of said Conditional Sale Agreement submitted to said meeting was substantially the form in which it was executed.

IN WITNESS WHEREOF, I have signed this certificate this ____ day of November, 1979.

_____

SCHEDULE 9

CERTIFICATE

I, _____, Vice President of Burlington Northern Inc. (hereinafter called the "Railroad"), do hereby certify that (i) there has been no change in the Railroad's Restated Certificate of Incorporation or By-Laws subsequent to [the date of the Certificate exhibited in Schedule 7], (ii) after due inquiry I know of no proceeding for the dissolution or liquidation or threatening the existence of the Railroad and to my knowledge the Railroad is in good standing in the State of Delaware, (iii) all tax returns have been filed by the Railroad as required by law and all taxes have been paid except such taxes as are not yet due, (iv) the resolutions of the directors of the Railroad adopted on _____ have not been modified and are still in full force and effect, (v) each person duly elected or appointed incumbent of the office of the Railroad set opposite his name in the Certificate of Incumbency dated _____ is duly qualified and acting as such officer of the Railroad on the date hereof, (vi) the representations and warranties contained in the Conditional Sale Agreement (as mentioned below) are (except as affected by the transactions contemplated by said Conditional Sale Agreement) true on the date hereof with the same effect as though such representations and warranties had been made on and as of the date hereof, and no Event of Default specified in § 16 of the Conditional Sale Agreement and no event which, with the lapse of time or the notice and lapse of time specified in said § 16, would become such an Event of Default has occurred and is continuing, and (vii) since December 31, 1978 there has been no material adverse change in the affairs or financial condition of the Railroad.

I am familiar with the terms of the Conditional Sale Agreement dated as of October 1, 1979 (herein called the "Conditional Sale Agreement") among FMC Corporation, General Electric Company, Difco, Inc. and the Railroad covering railroad equipment therein referred to and I am familiar with the terms and conditions of the various documents mentioned and described in the Conditional Sale

Agreement. Terms defined in the Conditional Sale Agreement have the same meanings when used herein.

As to matters hereinbelow set forth, I have personal knowledge or have obtained information from officers or employees of the Railroad in whom I have confidence and whose duties require them to have personal knowledge thereof, and I make this certificate pursuant to the provisions of § 6(h) of an Agreement and Assignment dated as of October 1, 1979 among the Manufacturers and their Assignee thereunder with the intention that this certificate shall be relied upon by the Assignee and certain Investors under a Finance Agreement dated as of October 1, 1979 as the basis for their making certain payments to the Manufacturers for delivery of railroad equipment to the Railroad on the date hereof.

Dated: , 1980

_____

AGREEMENT AND ASSIGNMENT dated as of October 1, 1979 between TRANSPORTATION PRODUCTS COMPANY, an Illinois corporation (hereinafter called "TPC") (hereinafter called the "Manufacturer") and THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION), a national banking association organized under the laws of the United States of America, acting as Agent under a Finance Agreement dated as of the date hereof (hereinafter called the "Finance Agreement") (said bank so acting being hereinafter called the "Assignee").

WHEREAS, the Manufacturer and Burlington Northern Inc., a corporation duly organized and existing under the laws of the State of Delaware (hereinafter called the "Railroad"), have entered into a Conditional Sale Agreement, dated as of the date hereof (hereinafter called the "Conditional Sale Agreement"), covering the construction, sale and delivery, on the conditions therein set forth, by the Manufacturer and the purchase by the Railroad of the railroad equipment described in Schedules A and B to the Conditional Sale Agreement (said equipment being hereinafter called the "Equipment");

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Assignee to the Manufacturer, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. The Manufacturer hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) All the right, security title and interest of the Manufacturer in and to the Equipment and each unit thereof to be sold by the Manufacturer when and as severally delivered and accepted and upon payment by the Assignee to the Manufacturer of the amounts required to be paid under Section 6 hereof with respect to such unit;

(b) All the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement in respect of the Equipment to be sold by the Manufacturer thereunder (except the rights to deliver the Equipment to be sold by it and the right to receive the payments

specified in Sections 2.3 and 14.7 thereof and the right to reimbursement for taxes as provided in Section 7 of the Conditional Sale Agreement, and provided that the Manufacturer retains a right to indemnity as provided in Section 12.1 thereof notwithstanding assignment of such right hereunder), and in and to any and all amounts which may be or become due or owing to the Manufacturer under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) All of the Manufacturer's rights (except as herein provided), powers, privileges and remedies under the Conditional Sale Agreement (without any recourse, however, against the Manufacturer for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement); provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Manufacturer to cause to be sold by the Manufacturer in accordance with the Conditional Sale Agreement or relieve the Railroad from its obligations to the Manufacturer under the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Section 14 of the Conditional Sale Agreement, all obligations of the Manufacturer to the Railroad in respect of the Equipment shall be and remain enforceable by the Railroad, its successors and assigns, against and only against the Manufacturer. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Assignee in the Assignee's own name, in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Manufacturer to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Railroad with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at

the expense and liability and for the sole benefit of the Assignee.

The Manufacturer agrees that any amount payable to the Manufacturer by the Railroad, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien or charge on any of the units of Equipment.

SECTION 2. The Manufacturer covenants and agrees that it will cause the Equipment to be sold by the Manufacturer under the Conditional Sale Agreement to be constructed in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Railroad in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions to the Conditional Sale Agreement set forth to be performed and complied with by the Manufacturer. The Manufacturer further covenants and agrees that it will warrant to the Assignee and the Railroad that at the time of delivery of each unit of the Equipment to be sold by the Manufacturer it had legal title to such unit and good and lawful right to sell such unit and the title to such unit was free of all claims, security interests, liens and encumbrances of any nature except only the rights of the Railroad under the Conditional Sale Agreement; and the Manufacturer further covenants and agrees that it will defend such title against all claims and demands whatsoever. The Manufacturer will not deliver any of the Equipment to be sold by the Manufacturer to the Railroad until the filings and recordations referred to in Section 20 of the Conditional Sale Agreement have been effected.

SECTION 3. The Manufacturer covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any amount which may be due or owing by the Railroad on account of its indebtedness in respect of the aggregate Purchase Price of the Equipment and interest thereon, and any other sums becoming due under the Conditional Sale Agreement, or to enforce any provision of the Conditional Sale Agreement, the Manufacturer will save, indemnify, defend and keep harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense,

setoff, counterclaim or recoupment whatsoever of the Railroad arising out of a breach by the Manufacturer of any obligation in respect of the Equipment, or the delivery or warranty thereof, or under Sections 12 and 13 of, or Schedules A or B to, the Conditional Sale Agreement, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Manufacturer. Any and all such obligations shall be and remain enforceable by the Railroad against and only against the Manufacturer and shall not be enforceable against the Assignee or any party or parties in whom security title to the Equipment, or any unit thereof, or any of the rights of the Manufacturer under the Conditional Sale Agreement shall vest by reason of this Assignment or of successive assignments or transfers. The Manufacturer shall have no liability under the foregoing provisions of this Section 3 unless (a) the Assignee, in any such suit, proceeding or action by the Assignee, hereinabove described, promptly moves or takes other appropriate action on the basis of Section 14.4 of the Conditional Sale Agreement, to strike any such defense, setoff, counterclaim or recoupment asserted by the Railroad, and the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, and (b) upon any such denial and acceptance, the Assignee promptly notifies the Manufacturer of any such defense, setoff, counterclaim or recoupment asserted by the Railroad and the Manufacturer is given the right by the Assignee to compromise, settle or defend against, at its expense, such defense, setoff, counterclaim or recoupment.

SECTION 4. The Manufacturer will cause to be plainly, distinctly, permanently and conspicuously marked on each side of each unit of the Equipment, to be sold by the Manufacturer, at the time of delivery thereof to the Railroad, in letters not less than one inch in height, the following legend:

UNIT SUBJECT TO SECURITY INTEREST OF
THE AGENT BANK UNDER CONDITIONAL SALE
AGREEMENT RECORDED WITH THE I.C.C.

SECTION 5. Upon request of the Assignee, its successors and assigns, the Manufacturer will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Manufacturer therein or in the Equipment.

SECTION 6. Subject to timely receipt by the Assignee of funds sufficient for the purpose, the Assignee, on each Closing Date as provided in Section 3 of the Conditional Sale Agreement with respect to a Group of Equipment (as defined in said Section 3) or as otherwise hereinafter set forth, shall pay to the Manufacturer an amount equal to the Purchase Price of the units of Equipment, provided that there shall have been delivered to the Assignee, as provided in the Conditional Sale Agreement, the following documents, in such number of counterparts or copies as may reasonably be requested, in form and substance satisfactory to it and to the special counsel for the Agent hereinafter mentioned:

(a) Bill or Bills of Sale from the manufacturer of the units of Equipment in the Group to the Manufacturer dated as of such Closing Date and in the form of Schedule 1 hereto, transferring to the Manufacturer title to such units and warranting to the Manufacturer that at the time of delivery thereof to the Railroad under the Conditional Sale Agreement the Manufacturer had legal title to such units and good and lawful right to sell such units, and title to such units was free of all claims, security interests, liens and encumbrances of any nature except only the rights of the Manufacturer to receive payment of its invoice price thereof;

(b) Bill or Bills of Sale from the Manufacturer to the Assignee dated as of such Closing Date and in the form of Schedule 2 hereto, transferring to the Assignee security title to the units of Equipment in the Group and warranting to the Assignee and to the Railroad that at the time of delivery thereof to the Railroad under the Conditional Sale Agreement the Manufacturer had legal title to such units and good and lawful right to sell such units, and title to such units was free of all claims, security interests, liens and encumbrances of

any nature except only the rights of the Railroad under the Conditional Sale Agreement;

(c) Certificate or Certificates of Acceptance signed by an authorized representative of the Railroad, dated the date of such acceptance and in the form of Schedule 3 hereto stating that the units of the Equipment in such Group have been inspected and accepted by him on behalf of the Railroad and further stating that there was plainly, distinctly, permanently and conspicuously marked on each side of each of such units at the time of its acceptance, in letters not less than one inch in height, the following legend:

UNIT SUBJECT TO SECURITY INTEREST OF THE AGENT BANK UNDER CONDITIONAL SALE AGREEMENT RECORDED WITH THE I.C.C.

(d) Invoice for the units of the Equipment in such Group accompanied by or having endorsed thereon a certification by the Railroad as to the correctness of the prices of such units as set forth in said invoice and that such price does not exceed the fair price of such units;

(e) Opinion of counsel for the Railroad, dated as of a date within 21 days after the date of execution and delivery of the Conditional Sale Agreement and this Assignment and substantially in the form of Schedule 4 hereto, to the effect that (i) the Railroad is a duly organized and existing corporation in good standing under the laws of Delaware, its state of incorporation, and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Railroad and is a valid instrument binding upon and enforceable against the Railroad in accordance with its terms, (iii) the execution, delivery and performance by the Railroad of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-Laws of the Railroad, or any indenture, agreement or other instrument to which the Railroad is a party or by which it, or any of its property, is bound, and will not be in conflict with,

result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Railroad, (iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or this Assignment, or, if any authority is necessary, that it has been duly obtained and is in full force and effect, (v) the Conditional Sale Agreement and this Assignment have been duly filed and recorded in accordance with Section 20 of the Conditional Sale Agreement, (vi) that the Equipment is rolling stock under 11 U.S.C. §1168 and the Assignee is entitled to the rights of a secured party with a purchase-money equipment security interest in the Equipment thereunder, (vii) that the Equipment consists of railroad cars, locomotives or other rolling stock used or intended for use in connection with interstate commerce as required by 49 U.S.C. §11303, and (viii) that upon delivery of each unit of Equipment to the Railroad and payment of its purchase price, the Assignee shall have a duly perfected purchase-money equipment security interest therein;

(f) In respect of the date (hereinafter called the "Initial Closing") of execution and delivery of the Conditional Sale Agreement and this Assignment an opinion of counsel for the Manufacturer, dated as of such date and substantially in the form of Schedule 5 hereto, stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the state of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duty authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, (iii) the execution, delivery and performance by the Manufacturer of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-Laws of the Manufacturer, or any

indenture, agreement or other instrument to which the Manufacturer is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Manufacturer, (iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or this Assignment, or, if any authority is necessary, that it has been duly obtained and is in full force and effect, (v) this Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, and (vi) the Assignee is vested with all the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date, an opinion of counsel for the Manufacturer of the Equipment in such Group, dated as of such Closing Date and substantially in the form of Schedule 6 hereto, reaffirming the opinion of such counsel delivered in respect of the initial Closing Date and stating that security title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, were free of all claims, security interests, liens and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement;

(g) In respect of the Initial Closing the opinion of Milbank, Tweed, Hadley & McCloy as to the due authorization, execution and delivery by (i) the Railroad and the Manufacturer of the Conditional Sale Agreement and (ii) the Manufacturer of this Assignment and the validity and binding nature as regards (x) the Railroad and the Manufacturer of the Conditional Sale Agreement and (y) the Manufacturer of this Assignment. For purposes of such opinion such counsel may rely (other than as to matters of New York or U.S. Federal law) upon the opinion of counsel for the Railroad and

for the Manufacturer, respectively, referred to above (and upon any opinions referred to in said opinion);

(h) In respect of each Closing Date an opinion of counsel for the manufacturer of the units of Equipment in the Group addressed to the Manufacturer and substantially in the form of Schedule 7 hereto, to the effect that the Bills of Sale referred to in clause (a) above, have been duly authorized, executed and delivered by said manufacturer and said Bills of Sale are valid and effective to transfer, and do transfer, good title to such Items to the Manufacturer, free and clear of all claims, security interests liens and encumbrances of any nature except only the right of said manufacturer to receive payment of its invoice price for such Items;

(i) In respect of the Initial Closing a certificate of a Vice President of the Railroad dated the date of the Initial Closing concerning the Railroad's Certificate of Incorporation and By-Laws, payment of taxes, good standing and to the effect that no Event of Default as specified in the Conditional Sale Agreement, or event which with the lapse of time and/or notice provided for in the Conditional Sale Agreement would constitute such an Event of Default, has occurred and is continuing, and to the effect that, since December 31, 1978, there has been no material adverse change in the affairs or financial condition of the Railroad in the form of Schedule 8 hereto, a Certificate of Incumbency in the form of Schedule 9 hereto and a Certificate of Resolutions in the form of Schedule 10 hereto;

(j) In respect of each Closing Date a certificate of a Vice President of the Railroad dated the date of such Closing Date and in the form of Schedule 11 hereto; and

(k) A letter agreement from the manufacturer of the units of Equipment in the Group pursuant to which said manufacturer warrants to the Assignee that such units will be free from defects in material or workmanship under normal use and service and indemnifies the Assignee and the Railroad against claims or liabilities based on patent infringements, all in form customarily provided by manufacturers of railroad

equipment and reasonably satisfactory to the Assignee, the Railroad and the Investors.

In giving the opinions specified in subparagraphs (e), (f), (g) and (h) of the first paragraph of this Section 6, counsel may qualify any opinion to the effect that any agreement is enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. In giving the opinion specified in the subparagraphs (e) and (f) of the first paragraph of this Section 6, counsel may rely as to the title to the units of Equipment upon the opinion of counsel for the manufacturer thereof. Any opinion delivered hereunder after the Closing Date relating to the initial settlement for Equipment under this Section 6 may state that counsel signing such opinion reaffirms any statement contained in any opinion of the same counsel theretofore delivered hereunder without repeating the substance of such earlier opinion.

The obligation of the Assignee hereunder to make payments on each Closing Date is hereby expressly conditioned upon the prior receipt by the Assignee, as provided in the Finance Agreement, of all the funds to be furnished to the Assignee by the various parties to the Finance Agreement with respect to such Closing Date, or, if any of such parties default in furnishing such funds, the prior receipt by the Assignee from the Railroad of such funds as provided in the Finance Agreement; and, in the event of failure of any such party to furnish any such funds with respect thereto, such Closing Date shall be postponed for four business days. To the extent that the Railroad shall pay or cause to be paid to the Assignee, in accordance with the Finance Agreement, any amount or amounts on account of the Purchase Price of the Equipment to be settled for on such Closing Date, the Railroad shall be relieved of its indebtedness in respect of the Purchase Price of the Equipment under Section 3.3 of the Conditional Sale Agreement to the extent of the amount or amounts so paid by the Railroad. By any such payment, however, the Railroad shall not acquire any rights under this Assignment. If the Assignee fails to pay the Manufacturer any amount required to be paid with respect to any unit of Equipment pursuant to this Section 6 at the time herein specified, then any right,

title and interest in and to such unit, to the extent of such amount, including any right, title and interest under the Conditional Sale Agreement with respect to such unit, to the extent of such amount, which has been assigned, transferred or set over to the Assignee by the Manufacturer, shall automatically, and without further action on the part of the Assignee, be reassigned, transferred and set over back to the Manufacturer by the Assignee.

It is understood and agreed that the Assignee shall not be required to make (i) any payment in respect of any units of the Equipment excluded from the Conditional Sale Agreement pursuant to Section 2 thereof or (ii) any payment under this Section 6 at any time while an Event of Default, or any event which with the lapse of time and/or notice provided for in the Conditional Sale Agreement shall constitute an Event of Default, shall be subsisting under the Conditional Sale Agreement. It is also understood and agreed that, anything herein to the contrary notwithstanding, the Assignee hereunder shall not be obligated to make payment to the Manufacturer except out of funds furnished to it pursuant to the Finance Agreement.

SECTION 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payment due or to become due to it from the Railroad thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder. The address of the Assignee for purposes of notices and payments is 1 Chase Manhattan Plaza, New York, New York 10081, Attention: Land Transportation Division or such other address as the Assignee shall have furnished in writing to the Railroad.

SECTION 8. The Manufacturer hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the Railroad, the Conditional Sale Agreement is, in so far as the Manufacturer is concerned, a valid and existing agreement binding upon the Manufacturer and

the Railroad in accordance with its terms and that it is now in force without amendment thereto; and

(b) covenants and agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

SECTION 9. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all of the parties so long as at least one counterpart is signed by each party hereto. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Railroad. Although this Assignment is dated for convenience as of October 1, 1979, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

SECTION 10. The terms of this Assignment and the rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by applicable federal law and such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Assignment, as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment shall be filed, recorded or deposited.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

TRANSPORTATION PRODUCTS COMPANY

[CORPORATE SEAL]

By /s/ WALTER J. DRANE
Vice President

Attest:

/s/ JOAN STUVELING
Assistant Secretary

THE CHASE MANHATTAN BANK
(NATIONAL ASSOCIATION), Agent

[CORPORATE SEAL]

By /s/ DONALD W. WHITHAM
Vice President

Attest:

/s/ STEPHEN J. VACCARO
Assistant Treasurer

STATE OF ILLINOIS)
: SS.:
COUNTY OF COOK ·)

On this 14th day of December, 1979, before me personally appeared Walter J. Drane, to me personally known, who, being by me duly sworn, says that he is a Vice President of TRANSPORTATION PRODUCTS COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

/s/ BERNICE STAGMAN
Notary Public

STATE OF NEW YORK)
:SS:
COUNTY OF NEW YORK)

On this 14th day of December, 1979, before me personally appeared Donald N. Whitham, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION), 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.

[Notarial Seal]

/s/ STANLEY HENDRAS
Notary Public

Notary Public, State of New York
No. 24-4680456
Qualified in Kings County
Cert. filed in New York City Co.
Commission expires March 30, 1980

ACKNOWLEDGEMENT OF NOTICE OF ASSIGNMENT

Receipt of a signed copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged.

BURLINGTON NORTHERN INC.

By /s/ FRANK H. COYNE
Executive Vice President-
Finance and Administration

Dated December 14, 1979

SCHEDULE 1

BILL OF SALE

_____
(hereinafter called the "manufacturer"), for valuable consideration, hereby sells to
_____ (hereinafter called the "Manufacturer") the following item of equipment:

Description	Quantity	Railroad Nos.

The manufacturer warrants to the Manufacturer that at the time of delivery of the above-described item of equipment to Burlington Northern Inc. under a Conditional Sale Agreement dated as of October 1, 1979, among the Manufacturer, certain other manufacturers, and Burlington Northern Inc., the Manufacturer had legal title to such unit[s] and good and lawful right to sell such unit[s], and title to such unit[s] was free of all claims, security interests, liens and encumbrances of any nature except only the rights of the Manufacturer to receive payment of its invoice price thereof.

IN WITNESS WHEREOF, Seller has caused this Bill of Sale to be executed in its name by the undersigned, duly authorized officer of the manufacturer and its corporate seal to be hereunto affixed, duly attested, the day of , 1980.

[Name of the manufacturer]

[Seal] By_____

ATTEST:

_____
Assistant Secretary

SCHEDULE 2

BILL OF SALE

NO._____

_____ (hereinafter called the Manufacturer), in consideration of the sum of One Dollar ($1) and other good and valuable consideration paid by THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION) (hereinafter called the Assignee), Assignee under an Agreement and Assignment dated as of October 1, 1979 between the Manufacturer and the Assignee, by which the Manufacturer assigned to the Assignee certain rights of the Manufacturer under a Conditional Sale Agreement dated as of October 1, 1979, among the Manufacturer, BURLINGTON NORTHERN INC. (hereinafter called the Railroad) and certain other manufacturers, at or before the execution and delivery of these presents, the receipt of which is hereby acknowledged, does hereby grant, the security interest of the Manufacturer in and to the following units of railroad equipment (hereinafter called the Equipment) which have been delivered by the Manufacturer to the Railroad pursuant to said Conditional Sale Agreement:

Description	Quantity	Railroad Nos.

To have and to hold all and singular the security title to the above described units of railroad equipment to the Assignee, its successors and assigns, for its and their own use and behoof forever.

And the Manufacturer hereby warrants to the Assignee, its successors and assigns, and to the Railroad that at the time of delivery of each of the above-described units of railroad equipment to the Railroad under the above-mentioned Conditional Sale Agreement the Manufacturer had legal title thereto and good and lawful right to sell each

such unit and the title to each such unit was free and clear of all claims, liens, security interests and encumbrances of any nature except only the rights of the Railroad under said Conditional Sale Agreement; and the Manufacturer covenants that it will defend such title to the Equipment against the demands of all persons whomsoever based on claims originating prior to the delivery of the Equipment by the Manufacturer under the Conditional Sale Agreement.

IN WITNESS WHEREOF, the Manufacturer has caused this instrument to be executed in its name by a duly authorized officer and its corporate seal to be hereunto affixed, duly attested, the day of , 1980.

[Seal] [Name of the Manufacturer]

By_____
Title:

Attest:

_____
Assistant Secretary

SCHEDULE 3

CERTIFICATE OF ACCEPTANCE
UNDER CONDITIONAL SALE AGREEMENT

I, a duly appointed inspector and authorized representative of BURLINGTON NORTHERN INC. (the "Railroad"), do hereby certify that I have inspected, received, approved and accepted delivery on behalf of the Railroad under the Conditional Sale Agreement dated as of October 1, 1979 between Transportation Products Company (the "Manufacturer") and the Railroad, of the following items of Equipment (the "Equipment"):

TYPE OF EQUIPMENT:

MANUFACTURER:

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF ITEMS:

NUMBERED:

I do further certify that the foregoing Equipment is in good order and condition, and conforms to the Specifications applicable thereto, and at the time of delivery to the Railroad there was plainly, distinctly, permanently and conspicuously marked in contrasting colors upon each side of the Item of Equipment the following legend in letters not less then one inch in height:

"Unit Subject to Security Interest of the Agent Bank under Conditional Sale Agreement Recorded with I.C.C."

The execution of this Certificate will in no way relieve or decrease the responsibility of the Vendor or the Manufacturer of the Equipment for warranties it has made with respect to the Equipment.

Date: , 1980

_____

Inspector and Authorized
Representative of Railroad

SCHEDULE 4

[Letterhead of Burlington Northern Counsel]

, 1979

The Chase Manhattan Bank
(National Association)
1 Chase Manhattan Plaza
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As attorney for Burlington Northern Inc. (hereinafter called the "Railroad"), I have examined and am familiar with (a) the Restated Certificate of Incorporation and By-laws of the Railroad; (b) the Conditional Sale Agreement dated as of October 1, 1979 (hereinafter called the "Conditional Sale Agreement"), between Transportation Products Company and the Railroad covering railroad equipment therein referred to; (c) the Agreement and Assignment dated as of October 1, 1979 between Transportation Products Company and you as Agent for the Investors under a Finance Agreement dated as of October 1, 1979; and (d) all corporate and other proceedings taken by the Railroad in connection with the execution and delivery of the Conditional Sale Agreement.

I have also examined originals, or copies certified or otherwise identified to my satisfaction, or such other documents and instruments as I have deemed necessary or appropriate for the purposes of this opinion.

As attorney for the Railroad, I am of the opinion that:

(i) The Railroad is a duly organized and validly existing corporation in good standing under the laws of the State of Delaware, its state of incorporation, and has the

power and authority to own its properties and to carry on its business as now conducted and is duly qualified to do business as a foreign corporation in all states where the character of its properties or the nature of its activities makes such qualification necessary;

(ii) The Conditional Sale Agreement has been duly authorized, executed and delivered by the Railroad and is a valid and binding instrument enforceable against the Railroad in accordance with its terms (subject, as to the enforcement of remedies, to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally from time to time in effect);

(iii) The execution and delivery and performance by the Railroad of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-Laws of the Railroad, or any indenture, agreement, or other instrument to which the Railroad is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Railroad;

(iv) No approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or the Agreement and Assignment;

(v) The Conditional Sale Agreement and the Agreement and Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 11303 of the Interstate Commerce Act and have been duly deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada (with notice of such deposit published in the Canada Gazette on November , 1979 in accordance with Section 86 of the Railway Act of Canada), the security interest created by said instruments has been duly perfected and is subject to no prior lien,

security interest or encumbrance and no other filing, recordation, depositing, giving of notice, refiling, rerecording, redepositing or regiving of notice is necessary for the protection of the rights of the Agent in any State of the United States of America or to make said instruments valid against all persons under Canadian law;

(vi) The Equipment is rolling stock under 11 U.S.C. §1168 and the Assignee is entitled to the rights of a secured party with a purchase-money equipment security interest in the Equipment thereunder;

(vii) The Equipment consists of railroad cars, locomotives or other rolling stock used or intended for use in connection with interstate commerce as required by 49 U.S.C. §11303; and

(viii) Upon delivery of each unit of Equipment to the Railroad and payment of its purchase price, the Assignee shall have a duly perfected purchase-money equipment security interest therein.

Very truly yours,

SCHEDULE 5

[Letterhead of Counsel to Manufacturer]

, 1980

The Chase Manhattan Bank
(National Association)
1 Chase Manhattan Plaza
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As counsel for _____, a _____ corporation (the "Manufacturer"), I have examined counterparts of: (i) the Conditional Sale Agreement dated as of October 1, 1979 (the "Conditional Sale Agreement"), between the Manufacturer and Burlington Northern Inc. (the "Railroad"); (ii) the Agreement and Assignment dated as of October 1, 1979 (the "Assignment"), between the Manufacturer and The Chase Manhattan Bank (National Association), as Agent (the "Assignee"); and (iii) such other documents as I have deemed necessary to render the opinion set forth below.

Based upon the foregoing, I am of opinion that:

(i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the State of Illinois and has the power and authority to own its properties and to carry on its business as now conducted;

(ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, subject to limitations

as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally;

(iii) the execution, delivery and performance by the Manufacturer of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Certificate of Incorporation or By-Laws of the Manufacturer, or any indenture, agreement or other instrument to which the Manufacturer is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Manufacturer;

(iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement;

(v) the Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, subject to limitations as to enforceabilty imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally; and

(vi) the Assignee is vested with all the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by the Manufacturer under the Assignment.

Very truly yours,

SCHEDULE 6

[Letterhead of Counsel to Manufacturer]

, 1980

The Chase Manhattan Bank
(National Association)
1 Chase Manhattan Plaza
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As counsel for _____, a _____ corporation (the "Manufacturer"), I have examined counterparts of: (i) the Conditional Sale Agreement dated as of October 1, 1979 (the "Conditional Sale Agreement"), between the Manufacturer and Burlington Northern Inc. (the "Railroad"); (ii) the Agreement and Assignment dated as of October 1, 1979 (the "Assignment"), between the Manufacturer and The Chase Manhattan Bank (National Association), as Agent (the "Assignee"); (iii) the Bill of Sale dated as of the date hereof (the "Bill of Sale") from the Manufacturer to the Assignee transferring to the Assignee the security title of the Manufacturer in the units of railroad equipment (the "Equipment") described therein; and (iv) such other documents as I have deemed necessary to render the opinion set forth below.

Based upon the foregoing, I am of opinion that:

(i) my opinion of counsel dated [date of opinion delivered in the form of Schedule 6 hereto] is true and correct as of the date hereof as if such opinion of counsel had been made on and as of such date and I hereby affirm such opinion of counsel; and

(ii) upon delivery of the Bill of Sale to the Assignee, security title to the Equipment will be validly vested in the Assignee, and each unit of the Equipment, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, was free of all claims, security interests, liens and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement.

Very truly yours,

SCHEDULE 7

[Letterhead of Counsel to the manufacturer]

, 1980

The Chase Manhattan Bank
(National Association)
1 Chase Manhattan Plaza
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As counsel for _____, a _____ corporation (the "manufacturer"), I have examined counterparts of: (i) the Conditional Sale Agreement dated as of October 1, 1979 (the "Conditional Sale Agreement"), between the Manufacturer and Burlington Northern Inc. (the "Railroad"); (ii) the Agreement and Assignment dated as of October 1, 1979 (the "Assignment"), between the Manufacturer and The Chase Manhattan Bank (National Association), as Agent (the "Assignee"); (iii) the Bill[s] of Sale dated as of the date hereof (the "Bill of Sale") from the manufacturer to the Manufacturer transferring to the Manufacturer the security title of the manufacturer in the unit[s] of railroad equipment (the "Equipment") described therein; and (iv) such other documents as I have deemed necessary to render the opinion set forth below.

Based upon the foregoing, I am of opinion that:

(i) the Bill of Sale has been duly authorized, executed and delivered by the manufacturer and is a valid instrument binding upon and enforceable against the manufacturer in accordance with its terms, subject to limitations as to enforceability imposed by bankruptcy,

insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally; and

(ii) the Bill of Sale is valid and effective to transfer, and does transfer, good title to the Equipment to the Manufacturer free of all claims, liens and encumbrances except only the rights of the manufacturer to receive payment of its invoice price for such Equipment.

Very truly yours,

SCHEDULE 8

Certificate

I, , Vice President of Burlington Northern Inc., a Delaware corporation (herein called the "Railraod"), HEREBY CERTIFY that:

1. Attached hereto as Exhibits A and B are true and complete copies of the Certificate of Incorporation and By-Laws, respectively, of the Railroad as in effect on [the date of corporate action authorizing the transaction] and at all subsequent times to and including the date hereof.

2. After due inquiry I know of no proceeding for the dissolution or liquidation or threatening the existence of the Railroad and to my knowledge the Railroad is in good standing in the State of Delaware.

3. All tax returns have been filed by the Railroad as required by law and all taxes have been paid except such taxes as are not due.

4. I am familiar with the terms of the Conditional Sale Agreement dated as of October 1, 1979 (herein called the "Conditional Sale Agreement") between Transportation Products Company and the Railroad covering railroad equipment therein referred to and I am familiar with the terms and conditions of the various documents mentioned and described in the Conditional Sale Agreement. Terms defined in the Conditional Sale Agreement have the same meanings when used herein.

5. As to matters hereinbelow set forth, I have personal knowledge or have obtained information from officers or employees of the Railroad in whom I have confidence and whose duties require them to have personal knowledge thereof, and I make this certificate pursuant to the provisions of § 6(i) of an Agreement and Assignment dated as of October 1, 1979 between the Manufacturer and their Assignee thereunder with the intention that this

certificate shall be relied upon by the Assignee and certain Investors under a Finance Agreement dated as of October 1, 1979 as the basis for their execution and delivery of said Finance Agreement and said Agreement and Assignment on the date hereof.

6. The representations and warranties contained in the Conditional Sale Agreement are (except as affected by the transactions contemplated by the Conditional Sale Agreement) true on the date hereof with the same effect as though such representations and warranties had been made on and as of the date hereof, and no Event of Default specified in § 16 of the Conditional Sale Agreement and no event which, with the lapse of time or the notice and lapse of time specified in said § 16, would become such an Event of Default has occurred and is continuing.

7. Since December 31, 1978 there has been no material adverse change in the affairs or financial condition of the Railroad.

WITNESS my hand this _____ day of _____, 1979

_____

SCHEDULE 9

BURLINGTON NORTHERN INC.

CERTIFICATE OF INCUMBENCY

I, G. F. Steinhibel, hereby certify that I am an Assistant Secretary of Burlington Northern Inc. (the Company); that as such Assistant Secretary I am one of the keepers of the records and corporate seal of the Company; that each of the persons named below is the duly elected or appointed incumbent of the office of the Company set opposite his name and has been duly qualified and acting as such officer of the Company at all times since the date of his election or appointment to and including the date and delivery of this Certificate; and that the genuine signatures of said officers are set opposite their names:

Office		
Executive Vice President-Finance and Administration	Frank H. Coyne	_____
Vice President and Treasurer	R.C. Burton, Jr.	_____
Assistant Secretary	G.F. Steinhibel	_____

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Company this day of , 1979.

_____
Assistant Secretary

I, , of Burlington Northern Inc. (the Company), do hereby certify that G. F. Steinhibel is a duly appointed Assistant Secretary of the Company on the date hereof; that I am familiar with the signature of G. F. Steinhibel; and that the signature set opposite his name in the foregoing certificate is his genuine signature.

IN WITNESS WHEREOF, I have hereunto set my hand this day of December, 1979.

_____

SCHEDULE 10

RESOLUTIONS

OF

BURLINGTON NORTHERN INC.

I, _____, _____ of BURLINGTON NORTHERN INC., a Delaware corporation, HERBY CERTIFY that the following resolutions were duly adopted at a meeting of the Board of Directors of said corporation duly called and held at , on , at which a quorum was present and acting throughout:

[Form of resolutions to be provided by the Railroad.]

I HEREBY FURTHER CERTIFY that said resolutions have not been modified and are still in full force and effect and that the form of said Conditional Sale Agreement submitted to said meeting was substantially the form in which it was executed.

IN WITNESS WHEREOF, I have signed this certificate this ____ day of December, 1979.

_____

SCHEDULE 11

CERTIFICATE

I, _____, Vice President of Burlington Northern Inc. (hereinafter caled the "Railroad"), do hereby certify that (i) there has been no change in the Railroad's Certificate of Incorporation or By-Laws subsequent to [the date of the Certificate exhibited in Schedule 8], (ii) after due inquiry I know of no proceeding for the dissolution or liquidation or threatening the existence of the Railroad and to my knowledge the Railroad is in good standing in the State of Delaware, (iii) all tax returns have been filed by the Railroad as required by law and all taxes have been paid except such taxes as are not yet due, (iv) the resolutions of the directors of the Railroad adopted on _____ have not been modified and are still in full force and effect, (v) each person duly elected or appointed incumbent of the office of the Railroad set opposite his name in the Certificate of Incumbency dated _____ is duly qualified and acting as such officer of the Railroad on the date hereof, (vi) the representations and warranties contained in the Conditional Sale Agreement (as mentioned below) are (except as affected by the transactions contemplated by said Conditional Sale Agreement) true on the date hereof with the same effect as though such representations and warranties had been made on and as of the date hereof, and no Event of Default specified in § 16 of the Conditional Sale Agreement and no event which, with the lapse of time or the notice and lapse of time specified in said § 16, would become such an Event of Default has occurred and is continuing, and (vii) since December 31, 1978 there has been no material adverse change in the affairs or financial condition of the Railroad.

I am familiar with the terms of the Conditional Sale Agreement dated as of October 1, 1979 (herein called the "Conditional Sale Agreement") between Transportation Products Company and the Railroad covering railroad equipment therein referred to and I am familiar with the terms and conditions of the various documents mentioned and described in the Conditional Sale Agreement. Terms defined

in the Conditional Sale Agreement have the same meanings when used herein.

As to matters hereinbelow set forth, I have personal knowledge or have obtained information from officers or employees of the Railroad in whom I have confidence and whose duties require them to have personal knowledge thereof, and I make this certificate pursuant to the provisions of § 6(i) of an Agreement and Assignment dated as of October 1, 1979 between the Manufacturer and its Assignee thereunder with the intention that this certificate shall be relied upon by the Assignee and certain Investors under a Finance Agreement dated as of October 1, 1979 as the basis for their making certain payments to the Manufacturer for delivery of railroad equipment to the Railroad on the date hereof.

Dated: , 1980

_____

[CS&M Ref. 1629-042]

AMENDED AND RESTATED FINANCE AGREEMENT
AND AMENDMENT
dated as of December 1, 1982,
among
BURLINGTON NORTHERN RAILROAD COMPANY,
Railroad,
THE CHASE MANHATTAN BANK
(NATIONAL ASSOCIATION),
Resigning Agent,
MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
Agent,
THE PARTIES NAMED IN SCHEDULE I HERETO,
Investors,
and
THE PARTIES NAMED IN SCHEDULE II HERETO,
Permanent Investors,

[Covering 996 Covered Hopper Cars, 40 Locomotives, 10 Air Dump Cars and 2 Locomotive Cranes]

$42,394,491 11-3/4% Series A CSA Indebtedness due December 15, 1987

$20,300,000 11-3/4% Series B CSA Indebtedness due December 15, 1989

$12,000,000 11-3/4% Series C CSA Indebtedness due December 15, 1989

[Amending and restating the Finance Agreement and amending the Conditional Sale Agreements, each dated as of October 1, 1979.]

AMENDED AND RESTATED FINANCE AGREEMENT AND AMENDMENT, dated as of December 1, 1982, among BURLINGTON NORTHERN RAILROAD COMPANY, a Delaware Corporation (formerly Burlington Northern Inc. "Railroad"), THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION) ("Resigning Agent"), MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a Maryland Corporation ("Agent"), the PARTIES NAMED IN SCHEDULE 1 HERETO (severally "Investor" and collectively, together with their successors and assigns including the Permanent Investors, "Investors") and the PARTIES NAMED IN SCHEDULE II HERETO (severally "Permanent Investor" and collectively, together with their successors and assigns, "Permanent Investors").

W I T N E S S E T H:

WHEREAS, the Railroad has entered into a Conditional Sale Agreement (a conformed copy of which is attached hereto as Exhibit A,"Conditional Sale Agreement No. 1") dated as of October 1, 1979, with FMC CORPORATION, a Delaware corporation, GENERAL ELECTRIC COMPANY, a New York corporation and DIFCO, INC., an Ohio corporation, covering the construction, sale and delivery on the conditions therein set forth by said manufacturers and the purchase by the Railroad of the railroad equipment described in Schedules A, B and C thereto; and

WHEREAS, the Railroad has entered into a Conditional Sale Agreement (a conformed copy of which is attached hereto as Exhibit A-1, "Conditional Sale Agreement No. 2") dated as of October 1, 1979, with TRANSPORTATION PRODUCTS COMPANY, an Illinois corporation, covering the sale and delivery on the conditions therein set forth by said corporation and the purchase by the Railroad of the railroad equipment described in Schedules A and B thereto; and

WHEREAS, said railroad equipment is hereinafter sometimes called the "Equipment", said manufacturers and corporation are hereinafter sometimes together called the "Manufacturers" and individually a "Manufacturer", and said Conditional Sale Agreements with the Manufacturers are hereinafter sometimes collectively called the "Conditional Sale Agreements"; and

WHEREAS, as more fully set forth therein, the Conditional Sale Agreements provide, among other things, for the payment by the Railroad to the Manufacturers of the purchase price of the Equipment (hereinafter called the

"Conditional Sale Indebtedness") plus interest on the unpaid balance thereof in installments; and

WHEREAS, the Resigning Agent has acquired the right, security title and interest of the Manufacturers in and to the Conditional Sale Agreements and the right, security title and interest in and to the Equipment covered thereby for a consideration equal to the Conditional Sale Indebtedness thereunder and upon other terms and conditions as set forth in the separate Agreement and Assignments, dated as of October 1, 1979 (conformed copies of which are attached hereto as Exhibits B and B-1,"Assignments"), between the Resigning Agent and each Manufacturer; and

WHEREAS, Conditional Sale Agreement No. 1 and its Assignment were filed with the Interstate Commerce Commission pursuant to 49 U.S.C. §11303 on November 21, 1979 at 10:45 a.m., Recordation No. 11075, and were deposited in the office of the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada on November 23, 1979; and

WHEREAS, Conditional Sale Agreement No. 2 and its Assignment were filed with the Interstate Commerce Commission pursuant to 49.U.S.C. §11303 on December 26, 1979 at 10:40 a.m., Recordation No. 11231, and were deposited in the office of the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada on December 31, 1979; and

WHEREAS, all the Equipment has heretofore been purchased under the Conditional Sale Agreements, the Manufacturers have been paid in full for their Equipment and the Railroad and the Resigning Agent, through the Assignments, are now the only parties in interest to the Conditional Sale Agreements; and

WHEREAS, on the Take Out Date hereinafter defined, the Investors will hold an aggregate of $74,694,491.35 of Conditional Sale Indebtedness (after receiving from the Railroad on the Take Out Date a pro rata prepayment of $168,701.48 in respect of four Casualty Occurrences) which they intend to sell to the Permanent Investors and which the Permanent Investors intend to purchase from the Investors on the Take-Out Date; and

WHEREAS, the Parties hereto desire to amend and restate the Finance Agreement and to amend the Conditional Sale Agreements, as herein set forth;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter contained, the parties hereto do hereby agree as follows:

1. The Resigning Agent has acquired from the Manufacturers their respective rights, security titles and interests in and to the Conditional Sale Agreements pursuant to the Assignments. From and after the Take Out Date the Agent shall succeed to all the rights and duties of the Resigning Agent in respect of the Equipment and under this Agreement, the Conditional Sale Agreements and the Assignments.

2. Subject to the terms and conditions hereof, (a) each Permanent Investor will pay to the Agent, in immediately available funds, not later than 11:00 a.m., Baltimore time, on December 20, 1982 ("Take Out Date"), an amount equal to the amount of the commitment set forth opposite such Permanent Investor's name in Schedule II hereto and (b) the Railroad will pay to the Agent, in immediately available funds, not later than 11:00 a.m. Baltimore time, on the Take Out Date an amount equal to the unpaid interest on the outstanding Conditional Sale Indebtedness accrued to the Take Out Date plus $168,701.48, representing the aggregate Depreciated Value (as defined in Section 6 of the Conditional Sale Agreements) of four Items of Equipment which have heretofore suffered Casualty Occurrences (as defined in Section 6 of the Conditional Sale Agreements).

In the event that the Agent does not in fact receive all the funds to be paid to it as provided in the preceding paragraph in a timely fashion on December 20, 1982, the Take Out Date may be postponed by the Agent for up to three Business days, in which case the Agent may invest all funds actually received in the Federal Funds Market or similar securities designated by the Railroad (any income therefrom and any loss therefrom to be for the account of the Railroad), but funds received from any Permanent Investor in a timely fashion on December 20, 1982, will bear interest from the date so received.

All payments to be made hereunder by the Permanent Investors and the Railroad to the Agent shall be wired to Mercantile-Safe Deposit and Trust Company, Baltimore, Maryland, for credit to its Corporate Trust Department Account No. 08246-5 with advice that the deposit is "Re: BN 12/1/82".

Subject to the terms and conditions hereof, upon payment to the Agent on the Take Out Date of the amount to

be paid by each Permanent Investor and by the Railroad pursuant to this Paragraph 2, on the Take Out Date the Agent will pay to each Investor an amount equal to the unpaid Conditional Sale Indebtedness held by such Investor (as shown on Schedule I hereto) plus accrued and unpaid interest thereon; and such Investor, simultaneously with the payment to it of such amount, will, without recourse, representation or warranty, surrender such certificates to the Agent for cancellation.

Upon payment to the Agent of the amount required to be paid by a Permanent Investor pursuant to this Paragraph 2 on the Take Out Date, the Agent will execute and deliver to such Permanent Investor (or, upon the written request of such Permanent Investor, to the nominee or nominees of such Permanent Investor), a certificate or certificates of interest with respect to such payment, substantially in the appropriate form annexed hereto as Schedule III, containing the appropriate information and dated the Take Out Date.

The parties hereto agree that, subject to the payment by the Permanent Investors and by the Railroad of the amounts to be paid pursuant to this Paragraph 2 and the receipt by each Investor of the amount due it pursuant to this Paragraph 2, from and after the Take Out Date (a) each Investor hereby transfers and assigns to the Permanent Investors all its right, title and interest in and to its Conditional Sale Indebtedness (but each Investor will retain any indemnification to which it is entitled under the Conditional Sale Agreements), (b) the Finance Agreement shall be amended and restated and each Conditional Sale Agreement shall be amended as set forth herein, (c) the Agent shall succeed to all the rights and duties of the Resigning Agent in respect of the Equipment and under this Agreement, the Conditional Sale Agreements and the Assignments, and the Resigning Agent shall be relieved of all such rights and duties (other than to provide such information to the Agent as the Agent shall reasonably require to succeed the Resigning Agent) and (d) unless the context otherwise requires, the terms "Conditional Sale Agreements" and "Assignments", as used in this Agreement, the Conditional Sale Agreements and the Assignments (collectively, "Finance Documents"), shall mean, respectively, the Conditional Sale Agreements and the Assignments, each as amended hereby, and the term "Finance Agreement" as used in any of the Finance Documents, other than this Agreement, shall mean this Agreement.

All transactions pursuant hereto which shall occur on the Take Out Date shall be deemed for purposes of this Agreement, the Conditional Sale Agreements and the Assignments to have occurred simultaneously.

3. The Agent will hold the rights under the Conditional Sale Agreements acquired under the Assignments and security title to the Equipment for the benefit of the Investors in accordance with their respective interests therein as such interests from time to time shall appear. Such respective interests of the Investors shall be in proportion to their respective unpaid investments hereunder, plus accrued and unpaid interest thereon, from time to time outstanding but without priority of one over the other. It is expressly understood and agreed that the obligations of the Agent hereunder, as holder of such rights and title and with respect to the payments to the Investors to be made by the Agent as provided herein are only those expressly set forth herein.

4. The Railroad represents and warrants to the Resigning Agent, the Agent, each Investor and each Permanent Investor as follows:

(a) The Railroad is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and is duly qualified to do business and is in good standing in such other jurisdictions in which the business and activities of the Railroad require such qualification.

(b) The Railroad has corporate power and authority and legal right to carry on its business as now conducted, and is duly authorized and empowered to execute and deliver this Agreement and to fulfill and comply with the terms, conditions and provisions of this Agreement and the Conditional Sale Agreements ("Railroad Documents"); the Railroad Documents have been duly authorized, and have been, or will be on or before the Take Out Date, duly executed and delivered by the Railroad, and, assuming due authorization, execution and delivery thereof by the other parties thereto, constitute or will then constitute legal, valid and binding agreements, enforceable against the Railroad in accordance with their terms.

(c) There are no actions, suits or proceedings, whether or not purportedly on behalf of the Railroad pending or (to the knowledge of the Railroad)

threatened against or affecting the Railroad or any property rights of the Railroad at law or in equity, or before any commission or other administrative agency, which, if determined adversely to the Railroad, would materially and adversely affect the condition, financial or otherwise, of the Railroad or its ability to perform its obligations under the Railroad Documents; and the Railroad is not in default with respect to any order or decree, of which it has knowledge, of any court or governmental commission, agency or instrumentality which would materially and adversely affect the condition, financial or otherwise, of the Railroad.

(d) Neither the execution and delivery of the Railroad Documents nor the consummation of the transactions therein contemplated nor the fulfillment of, nor compliance with, the terms and provisions thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of the charter or the by-laws of the Railroad or of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Railroad is a party or by which it or its property may be bound, or constitute (with or without the giving of notice or the passage of time or both) a default thereunder, or result in the creation or imposition of any lien, charge, security interest or other encumbrance of any nature whatsoever upon any property of the Railroad or upon the Equipment pursuant to the terms of any such agreement or instrument. The Railroad is not in default, and no event has occurred which, with the giving of notice or lapse of time or both, would be a default under any of the terms, conditions or provisions of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Railroad is a party or by which it or its property may be bound which would materially and adversely affect the Railroad's ability to perform its obligations under the Railroad Documents.

(e) Neither the execution and delivery by the Railroad of the Railroad Documents nor the consummation of the transactions therein contemplated nor the fulfillment of, nor compliance with, the terms and provisions thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of any law, or any regulation, order, injunction or decree of any court or governmental instrumentality.

(f) On or before the Take Out Date, this Agreement will have been duly filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 and deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and provision will have been made for publication of notice of such deposit in The Canada Gazette in accordance with said Section 86 and a Uniform Commercial Code financing statement will have been filed in the State of Minnesota and such filings and deposit will protect the Agent's interest in and to the Equipment and no other filing, recording or deposit (or giving of notice) with any other Federal, state or local government is necessary in order to protect the interests of the Agent under the Conditional Sale Agreements in and to the Equipment in the United States of America or in Canada.

(g) The Railroad is not entering into this Agreement or any other transaction contemplated hereby, directly or indirectly in connection with any arrangement or understanding by it in any way involving any employee benefit plan (other than a governmental plan) with respect to which it, any Permanent Investor or the Agent in its individual capacity is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974 ("ERISA").

(h) No authorization or approval from any governmental or public body or authority of the United States of America, or of any of the states thereof or the District of Columbia, or of Canada or any Province thereof is necessary in connection with the execution, delivery and performance of the Railroad Documents.

(i) The Railroad has not directly or indirectly offered or sold any of the Conditional Sale Indebtedness to, solicited offers to buy any of the Conditional Sale Indebtedness from, or otherwise approached or negotiated in respect of the purchase or sale or other disposition of any the Conditional Sale Indebtedness with, any person so as to require registration of the sale of the Conditional Sale Indebtedness in accordance with the provisions of the Securities Act of 1933, as amended, or to require the qualification of the Conditional Sale Agreements or any other instrument or agreement contemplated hereby or thereby under the Trust Indenture Act of 1939. The Railroad will not offer any Conditional Sale Indebtedness to, or solicit

any offer to buy any thereof from, any other person or approach or negotiate with any other person in respect thereof, so as to require registration of the sale of Conditional Sale Indebtedness in accordance with the provisions of sa d Securities Act.

(j) The Railroad has filed all Federal tax returns and all foreign, state and local tax returns which (to its knowledge) are required to be filed, and has paid or made provision for the payment of, all taxes which have or may become due pursuant to said returns or pursuant to any assessment received by it, other than taxes which are being contested in good faith as to which the Railroad has established adequate reserves.

(k) The Railroad has furnished to the Agent and each Permanent Investor audited consolidated balance sheets of the Railroad as of December 31, 1980, and December 31, 1981, and related statements of consolidated income, stockholders' equity and changes in financial position for the years then ended. Such financial statements are in accordance with the books and records of the Railroad and have been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods covered by the financial statements. The financial statements present fairly the financial condition of the Railroad at such dates and the results of its operations and changes in its financial position for such periods; and from the date of the last balance sheet there has not been any material adverse change in the business or financial condition of the Railroad, except to the extent, if any, disclosed in the Railroad's Quarterly Reports on Form 10-Q for the quarters ended March 31, 1982, June 30, 1982, and September 30, 1982, copies of which have been furnished to the Agent and each Permanent Investor. Neither this Agreement, nor any financial statement or other written material furnished to the Permanent Investors or the Agent by the Railroad concerning the Railroad in connection with the negotiation of the sale of the Conditional Sale Indebtedness contains any untrue statement of a material fact or omits a material fact necessary to make the information contained therein not misleading.

(l) Except for the four Items of Equipment which have heretofore suffered Casualty Occurrences as noted in the first paragraph of Paragraph 2 hereof, all the

Equipment is in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange and has been maintained as required by Section 9.2 of the Conditional Sale Agreements.

(m) The Equipment is rolling stock under 11 U.S.C. § 1168 and the Agent is entitled to the rights of a secured party with a purchase-money equipment security interest in the Equipment thereunder, except that this representation does not apply to the air dump cars or the locomotive cranes.

(n) The Equipment consists of railroad cars, locomotives or other rolling stock used or intended for use in connection with interstate commerce within the meaning of 49 U.S.C. § 11303, except that this representation does not apply to the air dump cars or the locomotive cranes.

5. Each Permanent Investor represents to the Railroad, the Agent, each Investor and each other Permanent Investor as follows:

(a) Such Permanent Investor is acquiring its interest in the aggregate Conditional Sale Indebtedness for its own account for investment or for one or more separate accounts maintained by it and not with a view to, or for sale in connection with, the distribution of the same, nor with any present intention of distributing or selling the same; provided, however, that the disposition of its property shall at all times be within its control.

(b) Either such Permanent Investor is acquiring its interest in the Conditional Sale Indebtedness with assets of a "governmental plan" or such Permanent Investor is not acquiring such interest directly or indirectly with assets drawn from any "separate account", all as defined in ERISA, unless such separate account is exempt from the prohibited transactions rules of ERISA.

(c) Such Permanent Investor represents that it has full power and authority to execute and deliver this Agreement and to carry out its terms.

Each Permanent Investor hereby agrees that any transfer or assignment of all or any part of such Investor's respective interest in the Conditional Sale Indebtedness

shall be to an institutional investor which has no interlocking directorates with the Railroad.

Each Permanent Investor hereby agrees that any transfer of all or any part of its interest in the Conditional Sale Indebtedness shall be upon the express condition that the transferee thereof shall be bound by the terms of this Agreement. Prior to any such transfer, such Permanent Investor shall notify the Agent in writing thereof; and the Agent shall cause to be promptly prepared and delivered to such Permanent Investor an appropriate agreement, to be entered into among such Permanent Investor, such transferee and the Agent, evidencing such transfer upon the terms hereof.

6. The obligation of each Permanent Investor to make payment to the Agent pursuant to Paragraph 2 hereof and the obligation of the Agent to make payment to each Investor on the Take Out Date pursuant to Paragraph 2 hereof shall be subject to the receipt by the Agent on or prior to the Take Out Date of the funds to be paid to it by the Railroad pursuant to Paragraph 2 hereof and of the following documents, dated on or not more than 10 days prior to the Take Out Date:

(a) A certificate of an officer of the Resigning Agent to the effect that there is attached thereto a complete and accurate set of all the closing documents (which may be photocopies) delivered at each Equipment closing pursuant to Section 6 of the Assignments.

(b) An opinion of Messrs. Cravath, Swaine & Moore, special counsel for the Permanent Investors and the Agent, to the effect that:

(i) this Agreement, assuming due authorization, execution and delivery by each Permanent Investor, has been duly authorized, executed and delivered and is a legal, valid and binding instrument;

(ii) the Conditional Sale Agreements have been duly authorized, executed and delivered and are legal, valid and binding instruments, enforceable in accordance with their terms;

(iii) the Assignments have been duly authorized, executed and delivered and each is a legal, valid and binding instrument;

(iv) the Agent is vested with all the rights, titles, interests, powers and privileges of the Manufacturers purported to be assigned to it by the Assignments and the Agent has a valid security interest in the Equipment;

(v) this Agreement, the Conditional Sale Agreements and the Assignments have been duly filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 and deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and provision has been made for publication of notice of such deposit in The Canada Gazette in accordance with said Section 86, and a Uniform Commercial Code financing statement has been filed in the State of Minnesota, and no other filing, recording or deposit (or giving of notice) with any other Federal, state or local government is necessary in order to protect the rights of Agent therein or in the Equipment in any state of the United States of America or in Canada;

(vi) no authorization or approval from any governmental or public body or authority of the United States of America, or of any of the states thereof or the District of Columbia is, to the knowledge of said counsel, necessary in connection with the execution, delivery and performance of this Agreement, the Conditional Sale Agreements and the Assignments;

(vii) under the circumstances contemplated by this Agreement it is not necessary to register the Conditional Sale Agreements, the Assignments or any certificate of interest delivered pursuant hereto under the Securities Act of 1933, as in effect on the date of such opinion, or to qualify the Conditional Sale Agreements or any other instrument or agreement contemplated hereby or thereby under the Trust Indenture Act of 1939, as in effect on the date of such opinion;

(viii) the Equipment (other than the air dump cars and the locomotive cranes, as to which no opinion is expressed) is rolling stock under 11 U.S.C. § 1168 and the Agent is entitled to the rights of a secured party with a purchase-money

equipment security interest in the Equipment under 11 U.S.C. § 1168;

(ix) the legal opinion referred to in subparagraph (c) of this Paragraph 6 is satisfactory in form and scope to said special counsel and that in their opinion the Permanent Investors, the Agent and they are justified in relying thereon;

and as to such other matters incident to the transactions contemplated by this Agreement as the Permanent Investors may reasonably request.

(c) An opinion of counsel for the Railroad, to the effect set forth in subparagraphs (a), (b), (c), (e), (f), (h), (i) (as to first sentence), (m) and (n) of Paragraph 4 and to the further effect that:

(i) other than liens and encumbrances which might attach and will be subject and subordinate to the right, title and interest of the Agent, no mortgage, deed of trust or other lien of any nature whatsoever which now covers or affects any property or interest therein of the Railroad, now attaches or hereafter will attach to the Equipment or in any manner affects or will affect adversely the right, title and interest of the Agent therein; and

(ii) neither the execution and delivery of the Railroad Documents, nor the consummation of the transactions therein contemplated nor the fulfillment of, nor compliance with, the terms and provisions thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Railroad is a party or by which it or its property may be bound, or constitute (with the giving of notice or the passage of time or both) a default thereunder, or result in the creation or imposition of any lien, charge, security interest or other encumbrance of any nature whatsoever upon any property of the Railroad or upon the Equipment pursuant to the terms of any such agreement or instrument.

(d) A Certificate of an officer of the Railroad to the effect that the Railroad's representations and warranties contained in this Agreement are true on and as of the Take Out Date, with the same effect as though made on such date, that the Railroad is not currently in default nor does a condition exist nor has an event occurred which with the lapse of time and/or the giving of notice would constitute a default under this Agreement or the Conditional Sale Agreements and that there has been no material adverse change in the business or financial condition of the Lessee from that shown in the last audited financial statement referred to in paragraph 4(k) hereof, except to the extent, if any, disclosed in the Railroad's Quarterly Reports on Form 10-Q for the quarters ended March 31, 1982, June 30, 1982 and September 30, 1982.

(e) Certificates of an appropriate officer of the Railroad in the forms of Schedules 8, 9 and 10 to Exhibit B-1 hereto, in each case appropriately adapted to refer to the terms and conditions of this Agreement.

In giving the opinions specified in this Paragraph 6, counsel may qualify its opinion to the effect that any agreement is enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. In giving the opinion specified in subparagraph (b) of this Paragraph 6, counsel may rely (i) as to authorization, execution and delivery by the Manufacturers of the documents executed by the Manufacturers and, as to title of the Manufacturer to its Equipment, on the opinions of counsel for the Manufacturers contained in the set of closing documents referred to in subparagraph (a) of this Paragraph 6 and (ii) as to any matter governed by the law of any jurisdiction other than the State of New York or the United States, on the opinions of counsel for the Manufacturers or the Railroad or of Messrs. McCarthy & McCarthy, special Canadian counsel for the Permanent Investors and the Agent, as to such matter. In giving the opinion specified in subparagraph (c) of this Paragraph 6, counsel may assume as to any matter governed by the law of any jurisdiction other than the State of Minnesota or the United States that the law of such other jurisdiction is the same as the law of the State of Minnesota, except that, in the case of Canadian law, such counsel may rely on the opinion of special Canadian counsel.

The Take Out Date closing hereunder shall take place at the offices of Messrs. Cravath, Swaine & Moore, in New York, New York.

7. Subject to Paragraphs 9 and 10 hereof, the Agent will accept payments made to it by the Railroad pursuant to the Conditional Sale Agreements and the Assignments on account of the principal of and interest on the Conditional Sale Indebtedness, and, so long as, to the knowledge of the Agent, no Event of Default under either of the Conditional Sale Agreements shall have occurred and be continuing, will apply such payments on the same day that the Agent receives such payment, to the payment pro rata, in immediately available funds, to the Investors, first, of interest payable to them, respectively, on their respective interests in the installments of the Conditional Sale Indebtedness, and second, of their respective interests in the principal installments of the Conditional Sale Indebtedness, in the order of the maturity thereof, until the same shall have been paid in full, except that moneys paid by the Railroad pursuant to Section 6.2 of the Conditional Sale Agreements in respect of Casualty Occurrences shall be applied as set forth in said Section 6.2, pro rata, to the Investors in accordance with their respective interests in the installments of Conditional Sale Indebtedness being prepaid.

8. No certificate of interest shall have any priority over any other certificate of interest. Each Investor, upon payment to it of all amounts payable under any certificate of interest delivered to it pursuant hereto, will surrender such certificate of interest to the Agent.

9. The Agent will accept all sums paid to it pursuant to Section 6 of either of the Conditional Sale Agreements with respect to Casualty Occurrences (as therein defined) and, so long as, to the knowledge of the Agent, no Event of Default under either of the Conditional Sale Agreements shall have occurred and be continuing, will apply such sums in accordance with the terms of said Section 6.

10. If, to the knowledge of the Agent, an Event of Default under either of the Conditional Sale Agreements shall have occurred and be continuing, all moneys held by or coming into the possession of the Agent, which, under the provisions of the Conditional Sale Agreements, are applicable to the payment of Conditional Sale Indebtedness or interest thereon (including, without limitation, the net

proceeds of any repossession and sale or lease of any of the Equipment after deduction of all expenses, including reasonable counsel fees, incurred by the Agent in connection with such repossession and sale or lease and otherwise hereunder in connection with the Conditional Sale Agreements and the Assignments which shall not theretofore have been reimbursed to the Agent by the Railroad pursuant to the Conditional Sale Agreements) shall be distributed, pro rata, among the Investors in accordance with their respective interests in the aggregate amount of the Conditional Sale Indebtedness at the time of such distribution.

11. So long as the Agent shall have no actual knowledge that an Event of Default under either Conditional Sale Agreement shall have occurred and be continuing, the Agent shall be entitled to use its discretion with respect to exercising or refraining from exercising any rights or taking or refraining from taking any action which may be vested in it or which it may be entitled to assert or take under the Conditional Sale Agreements, except as otherwise specifically provided herein or therein. The Agent shall incur no liability hereunder in acting upon any notice, certificate, warrant or other paper or instrument believed by it to be genuine and signed by the proper party or parties or with respect to anything which it may do or refrain from doing in the exercise of its best judgment or which may seem to it to be necessary or desirable, except liability resulting from its willful misconduct or negligence; provided, however, that in case the Agent shall have actual knowledge of the occurrence of an Event of Default under either Conditional Sale Agreement, the Agent shall promptly notify the Investors thereof and shall take such action and assert such rights under the Conditional Sale Agreement as shall be agreed upon by Investors holding interests totaling more than 50% of the aggregate Conditional Sale Indebtedness then outstanding ("Majority Investors"). In case the Agent is required to take action hereunder, it shall be indemnified by the Investors in proportion to their respective interests in the aggregate Conditional Sale Indebtedness then outstanding against any liability or expense, including reasonable counsel fees, in connection with taking such action or asserting such rights.

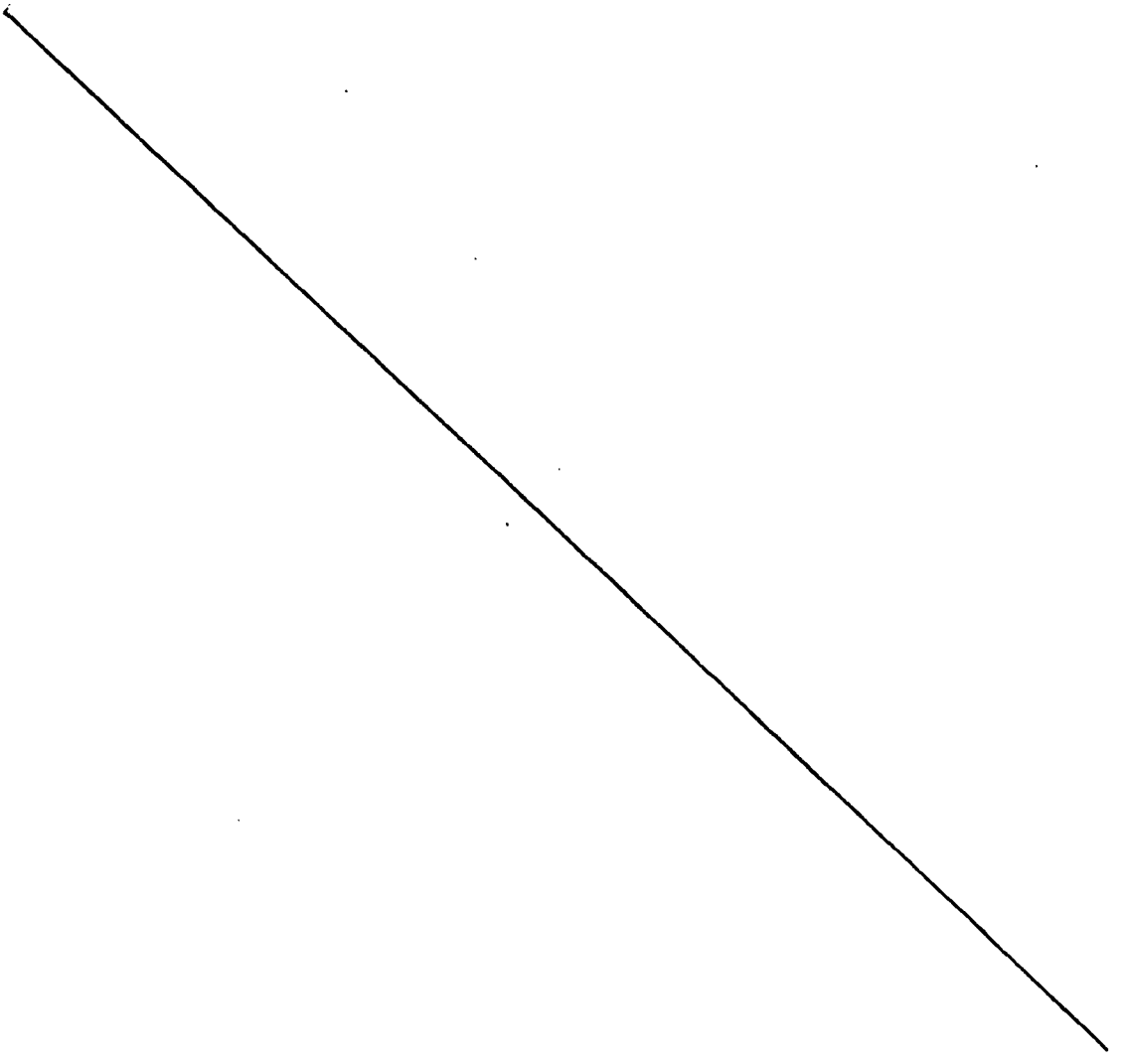
The Agent may consult with independent legal counsel of its own choice and acceptable to the Majority Investors and the Agent shall be under no liability for any action taken or not taken in good faith by it in accordance with the opinion of such counsel.

Notwithstanding anything to the contrary contained in this Paragraph 11, the Railroad agrees that, in the case of an Event of Default pursuant to clause (a) of Section 16.1 of either Conditional Sale Agreement, the Railroad will on demand of any Permanent Investor pay to such Permanent Investor an amount equal to such Permanent Investor's interest in the amount in default, and accrued interest thereon at the overdue interest rate within five (5) business days of receipt of such demand . If the Railroad fails to make such payment, such Permanent Investor may bring suit for such Permanent Investor's entire interest in the unpaid principal amount of the Conditional Sale Indebtedness under both Conditional Sale Agreements and accrued interest thereon. Such Permanent Investor will not invoke pre-judgment attachment or sequestration (or other comparable pre-judgment remedies) against the Equipment, will not take or demand possession of the Equipment pursuant to the Conditional Sale Agreements, and will not institute or prosecute such suit if and to the extent that the institution or prosecution thereof or the entry of judgment thereon would, under applicable law, result in the surrender, encumbrance, waiver or loss of the security provided by such Conditional Sale Agreements and the Assignments thereof or prohibit the exercise by the Agent of its rights and remedies under such Conditional Sale Agreements and such Assignments. Neither the entry of a money judgment in the amount set forth above, nor the existence of an unsatisfied money judgment, nor the enforcement of such judgment by such Permanent Investor by means of postjudgment remedies available to all judgment creditors under applicable law (other than levy upon the Equipment while the Agent retains an interest therein) shall by itself constitute surrender, encumbrance, waiver or loss of security. Any Permanent Investor which exercises any rights under this paragraph shall give prompt notice thereof to each other Permanent Investor.

12. The Railroad will pay or cause to be paid (i) the reasonable fees and disbursements of Messrs. Cravath, Swaine & Moore, as special counsel for the Permanent Investors and the Agent, and the cost of producing and reproducing the Finance Agreement, this amendment and restatement thereof, the Conditional Sale Agreements and the Assignments, (ii) the fee payable to the placing agent in connection with the placement of the Conditional Sale Indebtedness with the Permanent Investors, (iii) the reasonable routine and ordinary fees, costs and disbursements of the Agent, (iv) the costs of filing, recording and giving

public notice or publication as to such filing and recording of this Agreement, the Conditional Sale Agreements, the Assignments and any amendments or supplements thereto with the Interstate Commerce Commission and with the Registrar General of Canada, (v) the reasonable fees and disbursements of special Canadian counsel for the Permanent Investor and the Agent and (vi) the costs of producing and reproducing any amendments or supplements and the reasonable fees and disbursements of Messrs. Cravath, Swaine & Moore in connection therewith. The Investors, the Permanent Investors, the Resigning Agent and the Agent shall have no liability for any of the aforesaid fees, costs, disbursements and expenses.

13. The Agent will promptly mail or deliver one counterpart or copy of all notices, statements or documents



received by it from the Railroad pursuant to the Conditional Sales Agreements or the Assignments to each Investor.

14. All notices, instructions, directions and approvals to be delivered hereunder to the Agent by any Investor shall be in writing signed by an officer, assistant officer, manager or assistant manager of such Investor, and the Agent may rely on any notice, instruction, direction or approval so signed.

15. In the event of any dispute with respect to the delivery or ownership or right to possession of funds or documents at any time held by the Agent hereunder, or with respect to title to any of the Equipment, the Agent is hereby authorized and directed to retain, without liability to anyone, all or any of such funds or documents and title to such Equipment until such dispute shall have been settled either by mutual agreement of the Investors concerned or by final order, decree or judgment of a court of competent jurisdiction. During such period of retention the Agent agrees to invest such funds in the Federal Funds Market or similar investments and to pay the interest received thereon pro rata to the Investors.

16. All documents deliverable hereunder to the Agent shall be delivered or mailed to it at its address at P. O. Box 2258 (2 Hopkins Plaza, if by hand), Baltimore, Maryland 21203, or such other address as it may furnish in writing.

All documents deliverable hereunder to the Railroad shall be delivered or mailed to it at its address c/o Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, Minnesota, 55101, Attention of Vice President and Controller, or such other address as it may furnish in writing.

All documents and funds deliverable hereunder to the Permanent Investors shall be delivered or mailed to them at their respective addresses set forth in Schedule II hereto or as otherwise furnished in writing.

All documents deliverable hereunder to Messrs. Cravath, Swaine & Moore shall be delivered or mailed to them at 1 Chase Manhattan Plaza, New York, New York 10005.

17. The terms of this Agreement and all rights and obligations of the parties hereto hereunder shall be

governed by the laws of the State of New York. Such terms, rights and obligations may not be changed orally, but may be changed only by an agreement in writing signed by the Majority Investors.

18. The Agent shall be entitled to terminate its duties and responsibilities hereunder by giving written notice to each of the Investors that it desires to terminate such duties and responsibilities on a date (at least 30 days subsequent to the giving of such notice) stated in said notice. If, prior to the date stated in said notice, Investors holding interests totaling more than 50% of the aggregate amount of the Conditional Sale Indebtedness then outstanding shall have requested in writing that the Agent assign to a person or institution designated by such Investors all right, title and interest of the Agent under the Conditional Sale Agreements and the Assignments, and in and to the Equipment, the Agent shall comply with such request. In the event that such request is not received by the Agent on or before the date designated in said notice, the Agent shall be entitled to appoint a successor to act hereunder (which successor shall be a bank or trust company, having a capital and surplus in excess of $150,000,000) and to assign to such successor, subject to the provisions of this Agreement, all such right, title and interest of the Agent. Upon such assignment by the Agent to a person or institution designated by such Investors or, in the absence of such designation, to a successor appointed by the Agent, the Agent shall thereafter be relieved of all further duties and responsibilities hereunder and all such duties and responsibilities shall be assumed by such successor to the Agent.

Any corporation resulting from any merger or consolidation to which the Agent or any successor to it shall be a party, or any corporation in any manner succeeding to all or substantially all of the business of the Agent or any successor Agent, provided such corporation shall be a bank or a trust company and shall have a capital and surplus aggregating in excess of $150,000,000, shall be the successor agent hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

19. The Railroad and the Agent, as successor assignee of the Manufacturers under the Assignments, agree that, subject to the payment of the amount to be paid by the Permanent Investors and by the Railroad pursuant to

Paragraph 2 hereof, the Conditional Sale Agreements shall be amended as follows:

(a) Section 3.3 of Conditional Sale Agreement No. 1 is deleted and the following is substituted therefor:

"3.3. The Railroad hereby acknowledges itself to be indebted to the respective Manufacturers in the amount of, and hereby promises to pay to the respective Manufacturers at such bank or trust company in the United States as each of the Manufacturers or its assignee shall designate for payment to it in funds immediately available at such place of payment, the Purchase Price of the Equipment ($73,617,104.05, ~~hereinafter~~ sometimes referred to as the "Conditional Sale Indebtedness" of which ~~$41,782,996.68~~ represents Series A Conditional Sale Indebtedness, ~~$20,007,194~~.22 represents Series B Conditional Sale Indebtedness, and $11,826,913.15 represents Series C Conditional Sale Indebtedness) in installments as follows:

(a) on June 15, 1983, and on each June 15 and December 15 thereafter, an installment of interest accrued on the unpaid portion of the Conditional Sale Indebtedness from time to time outstanding until the same shall have become due and payable, at the rate of 11-3/4% per annum;

(b) on December 15, 1987, an installment equal to the entire outstanding principal amount of the Series A Conditional Sale Indebtedness;

(c) on December 15, 1989, an installment equal to the entire outstanding principal amount of Series B Conditional Sale Indebtedness; and

(d) on each December 15, commencing December 15, 1985, and ending December 15, 1989, an installment equal to 20% of the principal amount of Series C Conditional Sale Indebtedness outstanding as of December 15, 1982 (subject to reduction in the event of prepayments in respect of Casualty Occurrences)."

(b) Section 3.3 of Conditional Sale Agreement No. 2 is deleted and the following is substituted therefor:

"3.3. The Railroad hereby acknowledges itself to be indebted to the Manufacturer in the amount of, and hereby promises to pay to the Manufacturer at such bank or trust company in the United States as the Manufacturer or its assignee shall designate for payment to it in funds immediately available at such place of payment, the Purchase Price of the Equipment ($1,077,387.30, hereinafter sometimes referred to as the "Conditional Sale Indebtedness" of which ~~$611,494.71~~ represents Series A Conditional Sale Indebtedness, ~~$292,805.56~~ represents Series B Conditional Sale Indebtedness and $173,087.03 represents Series C Conditional Sale Indebtedness) in installments as follows:

(a) on June 15, 1983, and on each June 15 and December 15 thereafter, an installment of interest accrued on the unpaid portion of the Conditional Sale Indebtedness from time to time outstanding until the same shall have become due and payable, at the rate of 11-3/4% per annum;

(b) on December 15, 1987, an installment equal to the entire outstanding principal amount of the Series A Conditional Sale Indebtedness;

(c) on December 15, 1989, an installment equal to the entire outstanding principal amount of the Series B Conditional Sale Indebtedness; and

(d) on each December 15, commencing December 15, 1985, and ending December 15, 1989, an installment equal to 20% of the principal amount of Series C Conditional Sale Indebtedness outstanding as of December 15, 1982 (subject to reduction in the event of prepayments in respect of Casualty Occurrences)."

(c) Section 3.6 of each Conditional Sale Agreement is deleted and the following is substituted therefor:

"3.6. Interest under this Agreement shall be determined on a basis of a 360-day year of twelve 30-day months."

(d) Section 3.7 of each Conditional Sale Agreement is deleted and the following is substituted therefor:

"3.7. The Railroad will pay interest, payable on demand, on all unpaid balances of indebtedness, after the same shall have become due and payable pursuant to the terms hereof (whether at stated maturity, by acceleration or otherwise), at 13-3/4% per annum."

(e) Section 3.9 of each Conditional Sale Agreement is deleted and the following is substituted therefor:

"3.9. The Railroad may not prepay the Conditional Sale Indebtedness in whole or in part except pursuant to Section 6 hereof in respect of a Casualty Occurrence."

(f) Section 6.1 of each Conditional Sale Agreement is amended to delete the proviso at the end of the second sentence thereof.

(g) Section 6.2 of each Conditional Sale Agreement is amended to delete the last sentence thereof and to delete the first and second sentences thereof and the following is substituted therefor:

"6.2. Any money paid to the Manufacturers pursuant to Section 6.1 hereof shall, so long as no Event of Default shall have occurred and be continuing, be applied, in whole or in part, as the Railroad shall direct in a written instrument filed with the Manufacturers, either (i) to prepay indebtedness in respect of the Purchase Price of the Equipment hereunder or under the Other Agreement or (ii) to or toward the cost of an Item or Items of Equipment of new standard gauge railroad rolling stock excluding work and passenger equipment to replace such Item of Equipment having suffered a Casualty Occurrence and which new Item or Items of Equipment shall be of a quality and have a value and utility at least equal to such Item of Equipment having suffered a Casualty Occurrence. In case any such money shall be applied to prepay indebtedness, it shall be so applied, on such date as the Railroad shall specify in such written direction, to prepay without penalty or premium the unpaid balance of the principal installments of the Purchase Price of the Equipment hereunder and under the Other Agreement thereafter falling due pro rata among such installments and ratably as between such installments due hereunder and under the Other Agreement."

(h) Section 6.3 of each Conditional Sale Agreement is amended to delete the second sentence thereof and the following is substituted therefor:

"For the purpose of computing the Depreciated Value of any Item of Equipment which has suffered a Casualty Occurrence, such Depreciated Value shall be deemed to be that amount which bears the same ratio to the portion of the Purchase Price attributable thereto as the unpaid Conditional Sale Indebtedness hereunder and under the Other Agreement (without giving effect to any prepayments then or theretofore made in respect of Casualty Occurrences) as of the date payment is made with respect to such Casualty Occurrence bears to the original Conditional Sale Indebtedness hereunder and under the Other Agreement."

(i) Section 6.4 of each Conditional Sale Agreement is amended to delete the following therefrom:

"repurchase agreements fully secured by any one or more of the obligations referred to in clause (i) above, or (v)"

(j) Section 6.6 of each Conditional Sale Agreement is amended in its entirety to read as follows:

"6.6. Whenever the Railroad shall file with the Manufacturers, pursuant to the foregoing provisions of this Section 6, a written direction to apply money to or toward the cost of a replacing Item of new standard gauge railroad equipment, the Railroad shall file with the Manufacturers in such number of counterparts as may reasonably be requested:

(a) a certificate of a Vice President or Chief Accounting Officer of the Railroad, authorized to make such a certification, certifying: that such Item is new standard gauge railroad rolling stock (other than work or passenger equipment) and has been plated or marked as required by the provisions of this Section 6 and certifying the cost of such replacing Item, the amount which such replacing Item would have cost if acquired on the earliest date when any such money was paid to the Manufacturers and that the cost thereof does not exceed the fair value of such Item and that such replacing Item have a

quality and value and utility at least equal to the Item or Items replaced;

(b) an opinion of counsel for the Railroad that title to each replacing Item is vested in the Manufacturers free and clear of all liens and encumbrances, and that such Item has come under and become subject to this Agreement and the security interest of the Agent hereunder;

(c) a bill of sale in favor of the Manufacturers or their assignee covering such replacement Item from, if a new Item, the manufacturer thereof or, if a used Item, the Railroad.

(k) Section 6.10 of each Conditional Sale Agreement is deleted.

(l) Section 8.2 of each Conditional Sale Agreement is amended so that the references in clauses (i) and (ii) to the Railroad will refer instead to its parent, Burlington Northern Inc.

(m) Section 14.4 of each Conditional Sale Agreement is amended to change the reference to The Chase Manhattan Bank as Agent to refer to Mercantile-Safe Deposit and Trust Company as Agent.

(n) Schedule A of Conditional Sale Agreement No. 1. is amended to delete four covered hopper cars bearing identifying numbers BN 460841, 460938, 461000 and 461175, which have suffered casualty occurrences with an aggregate Depreciated Value of $168,701.48.

(o) Pursuant to Section 14.3 of the Conditional Sale Agreements, the Railroad acknowledges the assignment of the Conditional Sale Agreements to the Agent and agrees to make all payments thereunder to the Agent in the manner described in the second paragraph of Paragraph 2 hereof.

20. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by applicable Federal law and such additional rights arising out of the filing, recording or depositing hereof as shall be conferred

by the laws of the several jurisdictions in which this Agreement shall be filed, recorded or deposited.

21. This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all of the parties so long as at least one counterpart is signed by each party hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written.

[Corporate Seal]

Attest:

by _____
Assistant Secretary

BURLINGTON NORTHERN RAILROAD COMPANY,

by

_____
Vice President

THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION), Individually and as Resigning Agent,

by

_____
Second Vice President

[Corporate Seal]

Attest:

by _____
Assistant Corporate
Trust Officer

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY, as Agent
as aforesaid,

by _____
Assistant Vice President

Investors

MORGAN GUARANTY TRUST COMPANY
OF NEW YORK,

by

_____
Vice President

CITIBANK, N.A.,

by

_____
Vice President

THE TORONTO-DOMINION BANK,
San Francisco Agency,

by

_____
Senior Manager

SECURITY PACIFIC NATIONAL BANK,

by

_____
Vice President

BANK OF AMERICA NATIONAL TRUST & SAVINGS ASSOCIATION,

by

_____

Vice President

BANKERS TRUST COMPANY,

by

_____

Assistant Treasurer

MANUFACTURERS HANOVER TRUST COMPANY,

by

_____

Vice President

CHEMICAL BANK,

by

_____

Vice President

WELLS FARGO BANK NATIONAL ASSOCIATION,

by

_____

Corporate Banking Officer

SEATTLE-FIRST NATIONAL BANK,

by

_____

Vice President

FIRST INTERSTATE BANK OF OREGON, N.A. (formerly FIRST NATIONAL BANK OF OREGON),

by

_____

Vice President

Permanent Investors

NEW YORK LIFE INSURANCE COMPANY,

by

_____

AETNA LIFE INSURANCE COMPANY,

by

_____

THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES,

by

_____

ZURICH INSURANCE COMPANY,

by

_____

UNION MUTUAL LIFE INSURANCE COMPANY,

by

_____

UNIONMUTUAL PENSION & INSURANCE CORPORATION,

by

_____

THE MINNESOTA MUTUAL LIFE INSURANCE COMPANY,

by

_____

SUN LIFE ASSURANCE COMPANY OF CANADA (U.S.),

by

_____

TRANSAMERICA LIFE INSURANCE AND ANNUITY COMPANY,

by

_____

INVESTORS SYNDICATE OF AMERICA, INC.,
by

_____

PRESBYTERIAN MINISTERS' FUND,

by

_____

GENERAL REASSURANCE
CORPORATION,

by

_____

AMERICAN GUARANTEE &
LIABILITY INSURANCE COMPANY,

by

_____

MUTUAL SERVICE LIFE INSURANCE
COMPANY,

by

_____

UNIVERSAL UNDERWRITERS
INSURANCE COMPANY,

by

_____

STATE OF WASHINGTON)
) ss:
COUNTY OF KING)

On this day of December, 1982, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of BURLINGTON NORTHERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notorial Seal]

My Commission expires

STATE OF MARYLAND)
) ss:
CITY OF BALTIMORE)

On this 16th day of December, 1982, before me personally appeared R. E. Schreiber , to me personally known, who, being by me duly sworn, says that he is an ASSISTANT VICE PRESIDENT of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and 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.

Patricia A. Conn
Notary Public

[Notorial Seal]

My Commission expires 7-1-86

SCHEDULE I

INVESTORS

Name and Address of Investors	Principal Amount of Conditional Sale Indebtedness Held as of Take Out Date
The Chase Manhattan Bank (National Association) One Chase Manhattan Plaza New York, N.Y. 10081 Attn: Land Transportation Division	$ 23,362,497.87
Citibank, N.A. 399 Park Avenue, 12th Floor New York, N.Y. 10043 Attn: Mr. Peter A. Darbee Account Officer Surface Transportation & Process Industries Department	14,855,969.69
Morgan Guaranty Trust Company of New York 23 Wall Street New York, N.Y. 10015 Attn: Mr. L. L. Chamberlin Vice President	14,855,969.69
The Toronto-Dominion Bank, San Francisco Agency 114 Sansome Street (Suite 700) San Francisco, California 94104 Attn: Senior Manager	3,961,591.92

with copy to:

Vice President & General Manager
North American Accounts Group
The Toronto-Dominion Bank
P.O. Box 1
Toronto Dominion Bank
Toronto, Ontario Canada M5K 1A2

Name and Address of Investors	Principal Amount of Conditional Sale Indebtedness Held as of Take Out Date
Bank of America National Trust & Savings Association North America Division Service Center - South 1000 West Temple Street Los Angeles, California 90012 with copy to: 233 South Wacker Drive Chicago, IL 60606 Attn: Mr. Bruce E. Wilson Vice President	$ 2,971,193.92
Security Pacific National Bank Security Plaza 333 South Hope Street Los Angeles, California 90071 Attn: Mr. R. Bruce Owen Vice President Corporate Banking	2,971,193.92
Bankers Trust Company 280 Park Avenue, 5th Floor New York, N.Y. 10017 Attn: Mr. Steven Gordon Assistant Treasurer	1,980,795.97
Chemical Bank 20 Pine Street New York, N.Y. 10005 Attn: Mr. John S. Garnett Assistant Vice President	1,980,795.97
First Interstate Bank of Oregon, N.A. P.O. Box 3131 Portland, Oregon 97208 Attn: Mr. Daniel Durkin Senior Vice President	1,980,795.97
Manufacturers Hanover Trust Company 350 Park Avenue New York, N.Y. 10022 Attn: Mr. Salvatore J. Bommarito Vice President	1,980,795.97

Name and Address of Investors	Principal Amount of Conditional Sale Indebtedness Held as of Take Out Date
Seattle-First National Bank P.O. Box 3586 Seattle, Washington 98124 Attn: Mr. Timothy M. Crow Vice President U.S. Department	$ 1,980,795.97
Wells Fargo National Association 420 Montgomery Street San Francisco, California 94144 Attn: Mr. Steven T. Huntley Corporate Banking Officer	1,980,795.97
Total	$74,863,192.83*

* Of which $168,701.48 will be paid out of funds advanced by the Railroad and the balance will be paid out of funds deposited by the Permanent Investors.

SCHEDULE II

CONDITIONAL SALE INDEBTEDNESS

Permanent Investors	Series A	Series B	Series C	Total
New York Life Insurance Company 51 Madison Avenue New York, N.Y. 10010 Attention of Investment Department, Room 203 All communications to or with New York Life Insurance Company, other than payments on account of the Certificates made in accordance with the terms of this Agreement, shall be made to the above address. Such payments shall be made by wire or intra-bank transfer of immediately available funds for credit to the account of New York Life Insurance Company, General Account No. 003-0000-95 in Chemical Bank, New York, N.Y., with sufficient information (including interest rate and maturity) to identify the source and application of such payments.	$20,000,000			$20,000,000

Permanent Investors	Series A	Series B	Series C	Total
Aetna Life Insurance Company 151 Farmington Avenue Hartford, Connecticut 06156 Attention of Bond Investment Department A611 Payments of principal and interest should be made by crediting for the account of certain separate accounts maintained by it, each of which shall, for the purposes of this Agreement, be deemed a separate holder of the Conditional Sale Indebtedness, by wire transfer of Federal funds to Account No. 000-45-808 in care of Morgan Guaranty Trust Company of New York, 23 Wall Street, New York, New York 10015, Attention of Money Transfer Department with sufficient information to identify the source and application of such funds. All notices in respect to payment and all responses to requests for confirmation of outstanding balances should be addressed to 151 Farmington Avenue, Hartford, Connecticut 06156, Attention of Treasurer/Securities Operation, Bond Settlement Unit, D101. All other correspondence, statements and notices should be addressed as specified above.			$10,000,000	$10,000,000

Permanent Investors	Series A	Series B	Series C	Total
The Equitable Life Assurance Society of the United States 1285 Avenue of the Americas New York, N.Y. 10019 Attention of Corporate Finance Department. Two Certificates: (i) $8,000,000 and (ii) $1,394,491.35. All payments on account of the Certificates shall be made by wire transfer of immediately available funds to Account No. 037-1-000233 at the Chase Manhattan Bank, N.A., 110 West 52nd Street, New York, N.Y. 10019, with instructions to give advice of payment by telephone to the Banking Division, Treasurer's Department, The Equitable Life Assurance Society of the United States, New York, N.Y. Notices in respect of payment shall be sent to the first address above, Attention of Securities Custody Division, Treasurer's Department. Address all other communications to the first address above.	$9,394,491.35			$9,394,491.35

Permanent Investors	Series A	Series B	Series C	Total
Zurich Insurance Company 231 North Martingale Road Schaumburg, Illinois 60196 Attention of Mr. Stuart Olin, Assistant U.S. Manager. Certificate of Interest to be issued in the name of Boehm & Co. Payments shall be made by wire transfer of immediately available funds to Boehm & Co., in care of Bankers Trust Company, Personal Trust, One Bankers Trust Plaza (25th Fl.), attention of Income Collection (interest payments only) (attention of Reorganization for payments other than interest) for Zurich Insurance Company, Account number 61558, New York, N.Y., 10005, with sufficient information to identify the source and application of funds.		$6,000,000		$6,000,000
Union Mutual Life Insurance Company, 2211 Congress Street, Portland, Maine 04122. Attention of Bond Investment Department. Payment of principal and/or interest to be made by bank wire transfer of Federal Funds to Maine National Bank, 400 Congress Street, Portland, Maine 04112 for credit to Account No. 00-0062-0, with sufficient information to identify the source and application of funds.		$5,000,000		$5,000,000

Permanent Investors	Series A	Series B	Series C	Total
Unionmutual Pension & Insurance Corporation, 2211 Congress Street, Portland, Maine 04122. Attention of Bond Investment Department. Payment of principal and/or interest to be made by bank wire transfer of Federal Funds to Maine National Bank, 400 Congress Street, Portland, Maine 04112 for credit to Account No. 005-3796-9, with sufficient information to identify the source and application of funds.			$1,000,000	$1,000,000
The Minnesota Mutual Life Insurance Company 400 North Robert Street, St. Paul, Minnesota 55101 Attention of Investment Department. Payments by wire transfer of immediately available funds to the Federal Reserve Bank of Minneapolis for the account of The First National Bank of St. Paul, 332 Minnesota Street, St. Paul, Minnesota 55101, attention of Wire Transfer Department, for credit to The Minnesota Mutual Life Insurance Company, Account No. 10-00600 (with sufficient information to identify the source and application of funds).	$5,000,000			$5,000,000

Permanent Investors	Series A	Series B	Series C	Total
Sun Life Assurance Company of Canada (U.S.) One Sun Life Executive Park Wellesley Hills, Massachusetts 02181 Attention of Investment Department, Private Placement Section. Payments by wire transfer of immediately available funds to Manufacturers Hanover Trust Company, 40 Wall Street, New York, N.Y. 10015, for deposit into the account of Sun Life Assurance Company of Canada (U.S.), Account No. 144-0-53101. Notice in respect of payment to be sent to One Sun Life Executive Park, Wellesley Hills, Massachusetts 02181, Attention of Investment Accounting.	$5,000,000			$5,000,000
Transamerica Life Insurance and Annuity Company P.O. Box 60033, Terminal Annex, Los Angeles, California 90060 Attention of Transamerica Investment Services. Payments to be made by bank wire or interbank transfer of immediately available funds for credit the account Transamerica Life Insurance and Annuity Company, Account No. 12353-04395 Bank of America, Corporate Services Center, 1000 West Temple, Los Angeles, California 90080.		$4,000,000		$4,000,000

Permanent Investors	Series A	Series B	Series C	Total
Investors Syndicate of America, Inc. 3100 IDS Tower Minneapolis, Minnesota 55402 Attention of Director, Senior Securities Research. Certificate to be registered to "ISACO". Certificate of Interest to be delivered to F&M Marquette National Bank, 777 Marquette Avenue, Minneapolis, Minnesota 55402, attention of Pat Collis (612-370-2197). Payment to be made by bank wire or interbank transfer of immediately available funds for credit to the account of Investors Syndicate of America, Inc. # 1087-0723, at F&M Marquette National Bank, Minneapolis, Minnesota, with phone advice by said bank to Ms. A. Cummings at 612-372-2032.	$3,000,000			$3,000,000
Presbyterian Ministers' Fund 1809 Walnut Street Philadelphia, Pennsylvania 19103 Attention of Investment Department. All notices and other communications to be addressed to the address listed above. All payments by wire transfer of immediately available funds to Central Penn National Bank, Five Penn Center Plaza, Philadelphia, Pennsylvania 19101, Attention of Trust Department, for credit to Presbyterian Ministers' Fund, Account No. 87050, with notice of each payment to Presbyterian Ministers' Fund at the address listed above.		$2,000,000		$2,000,000

Permanent Investors	Series A	Series B	Series C	Total
General Reassurance Corporation 430 Park Avenue, 17th Floor New York, N.Y. 10022 Attention of Ms. Miriam Molk. Payments by wire transfer of immediately available funds to Connecticut National Bank (formerly Hartford National Bank), Federal Boston, Routing Number 011900445, with sufficient information to identify the source and application of funds. Certificate of Interest to be issued in the name of Agnew & Co., and mailed to Putnam Trust Company, 10 Mason Street, Greenwich, Connecticut 06830, attention of Mrs. Betsy Bianco, Custody Account Administrator.		$1,300,000		$1,300,000
American Guarantee & Liability Insurance Company 231 North Martingale Road Schaumburg, Illinois 60196 Attention of Mr. Stuart Olin, Assistant U.S. Manager. Certificate of Interest to be issued in the name of Boehm & Co. Payments shall be made by wire transfer of immediately available funds to Boehm & Co., in care of Bankers Trust Company, Personal Trust, One Bankers Trust Plaza (25th Fl.), attention of Income Collection (interest payments only) (attention of Reorganization for payments other than interest), for American Guarantee & Liability Insurance Company, Account number 61565, Tax I.D. # 366071400, New York, N.Y. 10005, with sufficient information to identify the source and application of funds.		$1,000,000		$1,000,000

Permanent Investors	Series A	Series B	Series C	Total
Mutual Service Life Insurance Company P.O. Box 43035 St. Paul, Minnesota 55164 Attention of Investment Department. Payments by wire transfer of immediately available funds to the First National Bank of Minneapolis, First Bank Place East, Minneapolis, Minnesota 55480, Attention of Corporate Trust Services Department, Agency-Custody, Daryl H. Moritko, for credit to Mutual Service Life Insurance Company's Account No. 3271-965, with sufficient information to identify source and application of funds.			$1,000,000	$1,000,000
Universal Underwriters Insurance Company 5115 Oak Street Kansas City, Missouri 64112 Attention of G. B. Martin, Vice President and Treasurer. Certificate of interest to be issued in the name of UUVEST. Payments of principal shall be made by wire transfer of immediately available funds to UUVEST, in care of United Missouri Bank, 10th and Grand Street, Kansas City, Missouri 64141, for Universal Underwriters Insurance Company, Account number 000-738-2., tax I.D. No. 431266724, with sufficient information to identify the source and application of funds. Payments of interest shall be sent to Universal Underwriters Insurance Company, 5115 Oak Street, Kansas City, Missouri 64112,		$1,000,000		$1,000,000

Permanent Investors	Series A	Series B	Series C	Total
attention of Investments, with sufficient information to identify the source and application of funds.				
	$42,394,491.35	$20,300,000	$12,000,000	$74,694,491.35

Schedule III-A
to
Finance Agreement

[CS&M Ref. 1629-042]

Conditional Sale Agreements dated as of October 1, 1979
Interest Rate: 11-3/4%

SERIES A
CERTIFICATE OF INTEREST

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY ("Agent") hereby acknowledges receipt from

("Investor") of ($), such sum having been paid by the Investor under and pursuant to the terms and conditions of an Amended and Restated Finance Agreement and Amendment dated as of December 1, 1982 ("Finance Agreement"), among Burlington Northern Railroad Company ("Railroad"), The Chase Manhattan Bank (National Association) ("Resigning Agent") the Agent, the parties named in Schedule I thereto ("Interim Investors"), the Investor and the parties named in Schedule II thereto ("Investors"). By reason of such payment the Investor has an interest in a principal amount equal to such sum in the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreements hereinafter mentioned) and in and to (i) the Conditional Sale Agreement dated as of October 1, 1979 ("CSA No. 1") among FMC Corporation, General Electric Company, Difco, Inc., ("Builders") and the Railroad and the railroad equipment covered by CSA No.1, (ii) the Agreement and Assignment dated as of October 1, 1979, between the Builders and the Resigning Agent, (iii) the Conditional Sale Agreement dated as of October 1, 1979 ("CSA No. 2"), between Transportation Products Company ("Manufacturer"), and the Railroad and the railroad equipment covered by CSA No. 2, (iv) the Agreement and Assignment dated as of October 1, 1979, between the Manufacturer and the Resigning Agent and (v) all cash and other property from time to time held by the Agent under the Finance Agreement, except to the extent that installments of such principal amount shall have been paid.

Under the terms of the CSA No. 1 and the CSA No. 2 (subject to the rights of prepayment contained therein in the event of a Casualty Occurrence as defined therein) and the Finance Agreement (i) such principal amount is payable in one installment on December 15, 1987, (ii) such principal amount bears interest from the date hereof on the unpaid portion thereof from time to time outstanding on each

June 15 and December 15 commencing on June 15, 1983, until such principal amount shall have been paid in full, at 11-3/4% per annum, (iii) all such principal and interest remaining unpaid after the same shall have become due and payable bears interest at 13-3/4% per annum. All payments received by the Agent in accordance with the terms of the Finance Agreement and CSA No. 1 and CSA No. 2 shall be disbursed by the Agent in accordance with the terms and conditions of the Finance Agreement.

The interests of the Investor referred to in this Certificate of Interest may not be transferred except in the manner provided for in Paragraph 5 of the Finance Agreement and subject to the terms, conditions and limitations provided therein.

Dated:

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
as Agent under the Finance Agreement,

by_____
Authorized Officer

INQUIRY SHOULD BE MADE TO THE AGENT IF CERTIFICATION AS TO BALANCE DUE HEREUNDER IS REQUIRED.

Schedule III-B
to
Finance Agreement

[CS&M Ref. 1629-042]

Conditional Sale Agreements dated as of October 1, 1979
Interest Rate: 11-3/4%

SERIES B
CERTIFICATE OF INTEREST

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY ("Agent") hereby acknowledges receipt from

("Investor") of ($), such sum having been paid by the Investor under and pursuant to the terms and conditions of an Amended and Restated Finance Agreement and Amendment dated as of December 1, 1982 ("Finance Agreement"), among Burlington Northern Railroad Company ("Railroad"), The Chase Manhattan Bank (National Association) ("Resigning Agent") the Agent, the parties named in Schedule I thereto ("Interim Investors"), the Investor and the parties named in Schedule II thereto ("Investors"). By reason of such payment the Investor has an interest in a principal amount equal to such sum in the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreements hereinafter mentioned) and in and to (i) the Conditional Sale Agreement dated as of October 1, 1979 ("CSA No. 1") among FMC Corporation, General Electric Company, Difco, Inc., ("Builders") and the Railroad and the railroad equipment covered by CSA No.1, (ii) the Agreement and Assignment dated as of October 1, 1979, between the Builders and the Resigning Agent, (iii) the Conditional Sale Agreement dated as of October 1, 1979 ("CSA No. 2"), between Transportation Products Company ("Manufacturer"), and the Railroad and the railroad equipment covered by CSA No. 2, (iv) the Agreement and Assignment dated as of October 1, 1979, between the Manufacturer and the Resigning Agent and (v) all cash and other property from time to time held by the Agent under the Finance Agreement, except to the extent that installments of such principal amount shall have been paid.

Under the terms of the CSA No. 1 and the CSA No. 2 (subject to the rights of prepayment contained therein in the event of a Casualty Occurrence as defined therein) and the Finance Agreement (i) such principal amount is payable in one installment on December 15, 1989, (ii) such principal amount bears interest from the date hereof on the unpaid portion thereof from time to time outstanding on each

June 15 and December 15 commencing on June 15, 1983, until such principal amount shall have been paid in full, at 11-3/4% per annum, (iii) all such principal and interest remaining unpaid after the same shall have become due and payable bears interest at 13-3/4% per annum. All payments received by the Agent in accordance with the terms of the Finance Agreement and CSA No. 1 and CSA No. 2 shall be disbursed by the Agent in accordance with the terms and conditions of the Finance Agreement.

The interests of the Investor referred to in this Certificate of Interest may not be transferred except in the manner provided for in Paragraph 5 of the Finance Agreement and subject to the terms, conditions and limitations provided therein.

Dated:

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
as Agent under the Finance Agreement,

by_____
Authorized Officer

INQUIRY SHOULD BE MADE TO THE AGENT IF CERTIFICATION AS TO BALANCE DUE HEREUNDER IS REQUIRED.

Schedule III-C
to
Finance Agreement

[CS&M Ref. 1629-042]

Conditional Sale Agreements dated as of October 1, 1979
Interest Rate: 11-3/4%

SERIES C
CERTIFICATE OF INTEREST

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY ("Agent") hereby acknowledges receipt from

("Investor") of ($), such sum having been paid by the Investor under and pursuant to the terms and conditions of an Amended and Restated Finance Agreement and Amendment dated as of December 1, 1982 ("Finance Agreement"), among Burlington Northern Railroad Company ("Railroad"), The Chase Manhattan Bank (National Association) ("Resigning Agent") the Agent, the parties named in Schedule I thereto ("Interim Investors"), the Investor and the parties named in Schedule II thereto ("Investor"). By reason of such payment the Investor has an interest in a principal amount equal to such sum in the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreements hereinafter mentioned) and in and to (i) the Conditional Sale Agreement dated as of October 1, 1979 ("CSA No. 1") among FMC Corporation, General Electric Company, Difco, Inc., ("Builders") and the Railroad and the railroad equipment covered by CSA No.1, (ii) the Agreement and Assignment dated as of October 1, 1979, between the Builders and the Resigning Agent, (iii) the Conditional Sale Agreement dated as of October 1, 1979 ("CSA No. 2"), between Transportation Products Company ("Manufacturer"), and the Railroad and the railroad equipment covered by CSA No. 2, (iv) the Agreement and Assignment dated as of October 1, 1979, between the Manufacturer and the Resigning Agent and (v) all cash and other property from time to time held by the Agent under the Finance Agreement, except to the extent that installments of such principal amount shall have been paid.

Under the terms of the CSA No. 1 and the CSA No. 2 (subject to the rights of prepayment contained therein in the event of a Casualty Occurrence as defined therein) and the Finance Agreement (i) such principal amount is payable in equal annual installments on December 15 of 1985, 1986, 1987, 1988 and 1989 (subject to reduction in the event of prepayments in respect of Casualty Occurrences), (ii) such

principal amount bears interest from the date hereof on the unpaid portion thereof from time to time outstanding on each June 15 and December 15 commencing on June 15, 1983, until such principal amount shall have been paid in full, at 11-3/4% per annum, (iii) all such principal and interest remaining unpaid after the same shall have become due and payable bears interest at 13-3/4% per annum. All payments received by the Agent in accordance with the terms of the Finance Agreement and CSA No. 1 and CSA No. 2 shall be disbursed by the Agent in accordance with the terms and conditions of the Finance Agreement.

The interests of the Investor referred to in this Certificate of Interest may not be transferred except in the manner provided for in Paragraph 5 of the Finance Agreement and subject to the terms, conditions and limitations provided therein.

Dated:

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
as Agent under the Finance Agreement,

by_____
Authorized Officer

INQUIRY SHOULD BE MADE TO THE AGENT IF CERTIFICATION AS TO BALANCE DUE HEREUNDER IS REQUIRED.

For reference purposes, the following pages consist of composite conformed copies of the two Conditional Sale Agreements and the two Assignments.

The black markings in the Conditional Sale Agreements identify provisions which have been amended by the Amended and Restated Finance Agreement and Amendment.

Recordation No. 11075 Filed 1425
November 21, 1979 - 10:45 A.M.
Interstate Commerce Commission
Deposited, Registrar General of Canada
November 23, 1979

10237A
EXHIBIT A

CONDITIONAL SALE AGREEMENT

CONDITIONAL SALE AGREEMENT dated as of October 1, 1979 among FMC Corporation, a Delaware corporation (hereinafter called "FMC"), GENERAL ELECTRIC COMPANY, a New York corporation (hereinafter called "General Electric", and DIFCO, INC. an Ohio corporation (hereinafter called "DIFCO"), (the foregoing companies being hereinafter collectively called the "Manufacturers", or severally, a "Manufacturer") and BURLINGTON NORTHERN INC., a Delaware corporation (hereinafter called the "Railroad").

WHEREAS, each Manufacturer is willing to construct, sell and deliver to the Railroad, and the Railroad is willing to purchase, the railroad equipment to be built by such Manufacturer as described in Schedules A, B and C attached hereto (collectively called the "Equipment" or "Items" and individually called the "Item of Equipment" or the "Item"); and

WHEREAS, except as otherwise provided in Section 3.1 hereof, each Manufacturer and the Railroad have agreed that this Agreement shall exclusively and completely state the rights of such Manufacturer and the Railroad with respect to the Equipment and shall supersede all other agreements, oral or written, with respect to the Equipment; and

WHEREAS, it is proposed that certain other companies enter into a Conditional Sale Agreement dated as of the date hereof (such Conditional Sale Agreement, when and if signed, being hereinafter called the "Other Agreement") with the Railroad covering railroad equipment as described in the Schedules attached thereto;

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

SECTION 1. CONSTRUCTION AND SALE.

Each Manufacturer will construct, sell and deliver to the Railroad, and the Railroad will purchase from such Manufacturer and accept delivery of and pay for as hereinafter provided, those Items of Equipment which are indicated on Schedules A, B and C attached hereto to be constructed and sold by such Manufacturer, each Item of which shall be constructed in accordance with the applicable specifications referred to in said Schedules A, B and C with such modifications thereof as may be agreed upon in writing by the Railroad and the Manufacturer thereof (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design and quality of equipment and material used in the manufacture of such Items shall conform to all Department of Transportation and Interstate Commerce Commission requirements and specifications for new equipment in effect on the date such Items are delivered hereunder, and to all Rules of the Association of American Railroads, applicable to new railroad equipment of the character of such Items as of the date of this Agreement.

SECTION 2. DELIVERY.

2.1. Each Manufacturer will deliver the various Items of Equipment to be manufactured by it to the Railroad in accordance with the delivery schedule set forth in Schedules A, B and C attached hereto; provided, however, that the Manufacturers shall have no obligation to deliver any Item of Equipment hereunder if an Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute an Event of Default, has occurred and is continuing.

2.2. Each Manufacturer's obligation as to time of delivery is subject, however, to delays resulting from causes beyond such Manufacturer's reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riots or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, or delays in receiving necessary materials.

2.3 Notwithstanding the foregoing provisions, any Item of Equipment not delivered and accepted on or before

the outside delivery date provided therefor in Schedules A, B and C hereto, shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement. In the event of any such exclusion the Manufacturer of such excluded Item of Equipment shall remain obligated to construct, sell and deliver to the Railroad, and the Railroad shall remain obligated to purchase from such Manufacturer, accept delivery of and pay for, any such Item of Equipment thus excluded from this Agreement, and the Railroad and such Manufacturer shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not excluded herefrom, and such Manufacturer and the Railroad shall further execute a separate agreement providing for the sale of such excluded Equipment by such Manufacturer to the Railroad upon the same terms and conditions as those contained herein, modified only to the extent necessary to provide for payment in cash upon delivery of the Equipment, either directly or indirectly by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Railroad may determine and as may be reasonably satisfactory to such Manufacturer.

2.4. The Equipment during construction shall be subject to inspection by one or more inspectors or other authorized representatives of the Railroad. Upon completion of each Item of Equipment by the Manufacturer thereof, it shall be presented to such inspectors or representatives for inspection at the place designated herein for delivery of such Item of Equipment, and, if such Item of Equipment conforms to the Specifications applicable thereto, such inspectors or representatives shall execute and deliver to such Manufacturer a certificate or certificates of acceptance (hereinafter called the "Certificate of Acceptance") stating that such Item of Equipment has been inspected and is accepted by them on behalf of the Railroad and is marked in accordance with Section 5.1 hereof. Any Certificate of Acceptance may cover any number of Items of Equipment. Such Certificate of Acceptance shall be conclusive evidence that the Items of Equipment covered thereby have been delivered to the Railroad and conform to the Specifications and are acceptable to the Railroad in all details; provided, however, that the Manufacturer of such Items of Equipment shall not be relieved of its warranties.

2.5. The Manufacturer of each Item of Equipment shall bear the risk of loss of each Item of Equipment or damage thereto until delivery (at such place as specified in

such Manufacturer's Schedule attached hereto) to and acceptance by the Railroad. Upon such delivery to and acceptance by the Railroad of each such Item of Equipment the Railroad shall bear the risk of loss of or damage to such Item.

SECTION 3. PURCHASE PRICE AND PAYMENT.

3.1 The base price per Item of Equipment, including freight charges, if any, to place of destination, but exclusive of interest and all other charges, is as set forth in Schedules A, B and C attached hereto. The base price per Item of Equipment shall be subject to increase or decrease (a) as may have been agreed to by the Manufacturer thereof and the Railroad in accordance with agreements, if any, providing for price escalations heretofore entered into, which agreements shall remain in effect for the limited purpose of determining the price of the Equipment between the Railroad and the Manufacturer under this Section 3.1 or (b) as may be agreed to in writing by the Manufacturer thereof and the Railroad, and the term "Purchase Price" as used herein shall mean the base price as so increased or decreased.

3.2. For the purpose of making settlement for the Equipment, the Equipment hereunder and under the Other Agreement shall be divided into not more than 20 groups of Items of Equipment, or such other number as shall be agreed to by the parties hereto (each such group of Items being hereinafter called a "Group").

3.3. The Railroad hereby acknowledges itself to be indebted to the respective Manufacturers in the amount of, and hereby promises to pay to the respective Manufacturers at such bank or trust company in the United States as each of the Manufacturers or its assignee shall designate for payment to it in funds immediately available at such place of payment, the Purchase Price of the Equipment (hereinafter sometimes referred as to the "Conditional Sale Indebtedness") in installments as follows:

(a) On April 1, 1980 and on each April 1 and October 1 thereafter, an installment of interest accrued on the unpaid portion of the Conditional Sale Indebtedness from time to time outstanding until the same shall have become due and payable, at a rate per annum (i) from January 1, 1980 through September 30,

1983 equal to the Prime Rate (as defined below), (ii) from October 1, 1983 through September 30, 1986 equal to 103% of said Prime Rate and (iii) from October 1, 1986 through September 30, 1988 equal to 106% of said Prime Rate;

(b) On October 1, 1983 and on each October 1 thereafter to and including October 1, 1987, in addition to the installment of interest then payable, an installment equal to $9,800,000; provided, however, that in no event shall an installment made under this subsection (b) be in excess of the entire principal balance remaining unpaid as of the date of such installment;

(c) On October 1, 1988, in addition to the installment of interest then payable, an installment equal to the entire principal balance, if any, remaining unpaid as of said date.

As used herein the term "Prime Rate" shall mean the prime commercial lending rate per annum announced by The Chase Manhattan Bank (National Association) at its principal office in New York City from time to time, each change in such announced rate to be effective for purposes of this Agreement on the day on which such change is effective.

3.4. The term "Closing Date" with respect to each Group shall mean such date not later than December 31, 1980 which is not more than twenty business days following presentation, by the Manufacturers of the Items of Equipment included in such Group, to the Railroad of the invoice, or invoices, and the Certificate or Certificates of Acceptance with respect to such Group, as shall be fixed by the Railroad by written or telegraphic notice delivered to such Manufacturer or Manufacturers and any assignee thereof at least five business days prior to the Closing Date designated therein.

3.5. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and holidays on which banks in the State of New York are authorized or required to close. If any date on which a payment is to be made hereunder is not a business day, the amount otherwise payable on such date shall be payable on the next succeeding business day, and no interest on such amount shall accrue for the period from and after the nominal date for payment thereof to such next succeeding business day.

3.6. Interest under this Agreement shall be determined on a basis of a year of 365 or 366 days, as the case may be, for the actual number of days (including the first day but excluding the last day) elapsed.

3.7. The Railroad will pay interest, payable on demand, on all unpaid balances of indebtedness, after the same shall have become due and payable pursuant to the terms hereof (whether at stated maturity, by acceleration or otherwise), at a rate per annum equal at all times to one percent per annum above (i) the Prime Rate from January 1, 1980 through September 30, 1983, (ii) 103% of the Prime Rate from October 1, 1983 through September 30, 1986 and (iii) 106% of the Prime Rate from October 1, 1986 through September 30, 1988 and thereafter, provided, however, that the parties hereto may specify a different interest rate to be applicable to any refinancing hereunder.

3.8. All payments provided for in this Agreement shall be made by the Railroad 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 by 1 p.m. New York City time on the day any such payments are due.

3.9. The Railroad may, upon at least five business days' notice to the Manufacturers, prepay the Conditional Sale Indebtedness in whole or in part with accrued interest to the date of such prepayment on the amount prepaid, provided that each partial prepayment shall be in an amount (exclusive of interest) equal to $100,000 or an integral multiple thereof and shall be applied to the installments in the inverse order of their maturities.

3.10. If this Agreement shall be assigned as contemplated by Section 14.4, the Railroad agrees to pay to the Agent a commitment fee at the rate of 1/2 of 1% per annum on the unused portion of the aggregate $75,589,000 commitment arranged by the Agent to finance the purchase of the Equipment hereunder and under the Other Agreement, computed from November 15, 1979 to the later of the final Closing Date hereunder or the final Closing Date under the Other Agreement (hereinafter called the "Ultimate Closing Date"), payable April 1, 1980, October 1, 1980 and on the Ultimate Closing Date. The Railroad agrees to pay the Agent a commitment fee at the rate of 1/2 of 1% per annum upon the additional $1,000,000 over and above said $75,589,000 commitment computed from the date of the Railroad's notice

to the Agent that such additional amount shall be required to the Closing Date upon which such amount is drawn down and payable at such Closing Date.

SECTION 4. TITLE TO THE EQUIPMENT.

4.1. Each Manufacturer shall and hereby does retain the full legal title to and property in the Equipment built by it until the Railroad shall have made all of the payments hereunder and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as herein provided. 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 terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

4.2. When and only when the Manufacturers shall have been paid in full the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon and all other payments as herein provided, and all the Railroad's other obligations herein contained shall have been performed, 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 Manufacturers except that each Manufacturer, if requested by the Railroad so to do, will execute a bill or bills of sale of the Equipment transferring such Manufacturer's title thereto and property therein to the Railroad or upon its order free of all liens and encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address specified in Section 21 hereof, and will execute in the same manner and deliver at the same place, for filing, registering, recording or depositing 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 the title of the Railroad to the Equipment, and will pay to the Railroad any money paid to such Manufacturer pursuant to Section 6 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 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 to file such certificate within a reasonable time after written demand by the Railroad.

SECTION 5. MARKING OF EQUIPMENT.

5.1. The Railroad will cause each Item of Equipment to be kept numbered with its road number as set forth in Schedules A, B and C hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon both sides of each Item of Equipment in letters not less than one inch in height, the words "Unit Subject to Security Interest of the Agent Bank under Conditional Sale Agreement Recorded with the I.C.C.", with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Manufacturer thereof to such Item of Equipment, its rights under this Agreement and the rights of any assignee under Section 14 hereof. The Railroad will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced, obliterated or destroyed. The Railroad will not change the road number of any Item of Equipment except with the consent of the Manufacturer thereof and any assignee pursuant to Section 14 hereof and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed, recorded or deposited in all public offices where this Agreement shall have been filed, recorded or deposited.

5.2. Except as above provided, the Railroad will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Railroad or its affiliates on railroad equipment used by it of the same or a similar type for convenience of idenfication of the right of the Railroad to use the Equipment under this Agreement.

SECTION 6. CASUALTY OCCURRENCES.

6.1. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or irreparably damaged, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise or rendered permanently unfit for use from any cause whatsoever (each such occurrence, except for any requisition which by its terms is indefinite or does not exceed the original term of this Agreement, being hereinafter called a "Casualty Occurrence"), prior to the payment of the indebtedness in respect of the Purchase Price of such Item, together with interest thereon and all other payments required hereby, the Railroad shall, within 30 days after a responsible officer of the Railroad shall have received notice that such Item of Equipment has suffered a Casualty Occurrence, but in no event later than 180 days after such Item of Equipment has suffered a Casualty Occurrence, fully inform the Manufacturers in regard thereto. Whenever from time to time the total Depreciated Value (as defined in Section 6.3) of Items of Equipment hereunder and under the Other Agreement which have suffered a Casualty Occurrence (exclusive of Items of Equipment having suffered a Casualty Occurrence with respect to which payments or replacements shall have been made to the Manufacturers pursuant to this Section 6 or Section 6 of the Other Agreement) shall exceed $500,000 (or such lesser amount as the Railroad shall elect), the Railroad shall, within 30 days of such event, pay the Manufacturers and the Manufacturers under the Other Agreement a sum equal to the aggregate Depreciated Value, as of such date of payment, of such Items of Equipment under this Agreement and under the Other Agreement; provided, however, that if prior to the date such payment is required to be made the Railroad, at its election, shall have transferred, in accordance with Section 6.6, to the Manufacturers hereunder or under the Other Agreement, title to a replacement Item or Items of Equipment meeting the requirements of clause (iii) of Section 6.2, then, in such case, there shall be deducted from the amount of such payment an amount equal to the aggregate Depreciated Value, as of such date of payment, of all such replacement Items of Equipment. The Railroad shall file with the Manufacturers a certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad setting forth the Depreciated Value, as of such date of payment, of each Item of Equipment suffering a Casualty Occurrence.

6.2. Any money paid to the Manufacturers pursuant to Section 6.1 hereof shall, so long as no Event of Default shall have occurred and be continuing, be applied, in whole or in part, as the Railroad shall direct in a written instrument filed with the Manufacturers, either (i) to prepay indebtedness in respect of the Purchase Price of the Equipment hereunder or under the Other Agreement, (ii) to or toward the cost of an Item or Items of Equipment of new standard gauge railroad equipment excluding passenger equipment to replace such Item of Equipment having suffered a Casualty Occurrence and which new Item or Items of Equipment shall be of a quality and have a value and utility at least equal to such Item of Equipment having suffered a Casualty Occurrence or (iii) to be released to the Railroad against transfer, in accordance with Section 6.6, to the Manufacturers of title to an Item or Items of used standard gauge railroad equipment which shall be free of all liens and charges except as permitted by Section 10 and shall be of the same character as the Equipment described in Schedules A, B and C hereto (or of such other character as may be acceptable to the Manufacturers) to replace such Item or Items of Equipment having suffered a Casualty Occurrence. In case any such money shall be applied to prepay indebtedness, it shall be so applied, on such date as the Railroad shall specify in such written direction, to prepay without penalty or premium, the unpaid balance of the principal installments of the Purchase Price of the Equipment hereunder and under the Other Agreement thereafter falling due in the inverse order of the maturity of such installments and ratably as between such installments due hereunder and under the Other Agreement. In case of replacement pursuant to clause (ii) of the first sentence of this Section 6.2, the amount to be paid by the Manufacturers in respect of any replacing Item shall not exceed the lesser of the cost of such Item or the amount which such Item would have cost if acquired on the earliest date when any of such money was paid to the Manufacturers, and the Railroad shall pay any additional cost of such Item. Under no circumstance shall Manufacturers be required under this Section 6.2 to make prepayments or to pay for replacements except out of funds paid to Manufacturers pursuant to Section 6.1 hereof. In the case of any replacement pursuant to clause (ii) of the first sentence of this Section 6.2, the Purchase Price of such replacing Item shall for the purpose of this Agreement be the amount of money advanced by the Manufacturers in payment therefor, but shall not include any portion of the cost thereof paid by the Railroad. The amount which any such replacing Item would have cost if

acquired on the earliest date when any of such money was paid to the Manufacturers shall be conclusively determined by the certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad to be filed as hereinafter provided. In the case of each release of money to the Railroad pursuant to clause (iii) of the first sentence of this Section 6.2, the amount of money so released shall be equal to the Depreciated Value, as of the date such money was paid to the Manufacturers pursuant to Section 6.1, of the used replacement Item or Items transferred to the Manufacturers pursuant to said clause (iii), as the amount of such Depreciated Value shall be certified to by the Railroad in connection with such release as provided in Section 6.6.

6.3. The "Depreciated Value" as of any date of determination of any original or replacement Item of Equipment shall mean the purchase price paid for such Item when new depreciated to such date of determination on a straight line basis from the date such Item was originally delivered by the manufacturer thereof to a residual value of zero, computed at the rate of 6.667% of such purchase price per year pro rated on a daily basis. For the purpose of computing the Depreciated Value of any Item of Equipment which has suffered a Casualty Occurrence, such Depreciated Value shall be computed on a daily basis to the date of the occurrence of such Casualty Occurrence.

6.4. So long as no Event of Default shall have occurred and be continuing, any money paid to the Manufacturers pursuant to this Section 6 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in (i) such direct obligations of the United States of America or any agency or instrumentality thereof, or other obligations for which the faith of the United States is pledged to provide for the payment of principal and interest or (ii) commercial paper or finance company paper rated "A-1" or "P-1" or their equivalent by Standard & Poor's Corporation or a comparable national rating agency or (iii) obligations issued or guaranteed by any state of the United States or the District of Columbia or any political subdivision of any such state or district rated "AA" or better by a national rating service, or (iv) repurchase agreements fully secured by any one or more of the obligations referred to in clause (i) above, or (v) certificates of deposit issued by or bankers' acceptances drawn on and accepted by commercial banks in the United States of America which are members of the Federal

Reserve System having total assets aggregating at least $200,000,000, in each case maturing in not more than one year from the date of such investment (all such investments being hereinafter called "Investments"), as may be specified in such written direction. Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest or earned discount received by the Manufacturers on any Investments shall be held by the Manufacturers and applied as herein provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus any interest received by the Manufacturers thereon, up to the cost (including accrued interest or earned discount) thereof, shall be held by the Manufacturers for application pursuant to this Section 6, and any excess shall be paid to the Railroad. If such proceeds (plus such interest or earned discount) shall be less than such cost, the Railroad will promptly pay to the Manufacturers an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Manufacturers in connection with the purchase and sale of Investments.

6.5. The Railroad will cause any replacing Item to be plated or marked as provided in Section 5.1 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all of the 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 replacements shall be free and clear of all liens and encumbrances and shall be taken initially and shall remain in the name of the Manufacturers subject to the provisions hereof, and the Railroad shall promptly execute, acknowledge, deliver, file and record all such documents (including the filing with the Interstate Commerce Commission in accordance with applicable law and the deposit with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and publication of notice of such deposit in The Canada Gazette in accordance with said Section 86 of an appropriate supplemental agreement describing such replacements) and do any and all such acts as may be necessary to cause such replacements to come under and be subject to this Agreement and to protect the title of the Manufacturers to such replacements. All such replacements shall be warranted in like manner as the Items replaced, and the vendor of the replacements shall if other than the Manufacturers, duly consent to the subjection thereof to this Agreement and agree to be bound by all the

terms and provisions contained herein in respect of such replacements in the like manner as the Manufacturers are in respect of the original Equipment delivered hereunder.

6.6. Whenever the Railroad shall file with the Manufacturers, pursuant to the foregoing provisions of this Section 6, a written direction to apply money to or toward the cost of a replacing Item of new standard gauge railroad equipment or to release money to the Railroad against transfer of title to the Manufacturers of a replacing Item of used standard gauge railroad equipment, or whenever the Railroad shall transfer title to the Manufacturers of such a replacing Item of used standard gauge railroad equipment pursuant to Section 6.1, the Railroad shall file with the Manufacturers in such number of counterparts as may reasonably be requested:

(a) a certificate of a Vice President or Chief Accounting Officer of the Railroad, authorized to make such a certification, certifying: (i) if such replacing Item is a new, unused Item, that such Item is new standard gauge railroad equipment (other than work or passenger equipment) and has been plated or marked as required by the provisions of this Section 6 and certifying the cost of such replacing Item, the amount which such replacing Item would have cost if acquired on the earliest date when any such money was paid to the Manufacturers and that the cost thereof does not exceed the fair value of such Item and that such replacing Item have a quality and value and utility at least equal to the Item or Items replaced; and (ii) if such replacing Item is a used Item, that such Item is used standard gauge railroad equipment (other than work or passenger equipment) and has been plated and marked as required by the provisions of this Section 6 and certifying the Depreciated Value of such Item, as of the earliest date any such money was paid to the Manufacturers, and that such replacing Item is of the character required by the terms of clause (iii) of the first sentence of Section 5.2;

(b) an opinion of counsel for the Railroad that title to each replacing Item is vested in the Manufacturers free and clear of all liens and encumbrances, and that such Item has come under and become subject to this Agreement and the security interest of the Agent hereunder;

(c) a bill of sale in favor of the Manufacturers or their assignee covering such replacement Item from, if a new Item, the manufacturer thereof or, if a used Item, the Railroad; and

(d) copies of financing statements filed in accordance with the Uniform Commercial Code where such replacing Item is not rolling stock.

6.7. In the event that any moneys paid to, or held by, the Manufacturers pursuant to this Section 6 are applied to the prepayment of indebtedness in respect of the Purchase Price, the Railroad will pay to the Manufacturers on the date of such application interest then accrued and unpaid on the indebtedness so prepaid.

If an Event of Default shall have occurred and be continuing, then so long as such Event of Default shall continue all money then held by the Manufacturers pursuant to this Section 6 shall be applied by the Manufacturers as if such money were money received upon the sale of Equipment pursuant to Section 16 hereof.

6.8. In order to facilitate the sale, or other disposition of any Equipment suffering a Casualty Occurrence, the Manufacturers shall upon request of the Railroad, provided the Railroad shall then be in compliance with the terms of this Section 6, 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 the terms and scope of this Conditional Sale Agreement, in such form as may be reasonably requested by the Railroad.

6.9. In the event that prior to the expiration of the term of this Agreement, the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period ending on or before said date, the Railroad's duty to pay the indebtedness in respect of the Purchase Price thereof shall continue for the duration of such requisitioning or taking. The Railroad shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

6.10. The Railroad represents and warrants that not more than $3,000,000 in aggregate Purchase Price of Items of Equipment under this Agreement and under the Other Agreement constitutes Equipment which is not operable on railroad tracks; and the Railroad agrees that no purchase of new Equipment or replacement of used Equipment under this Section 6 or Section 6 of the Other Agreement will at any time result in a greater proportion of all Equipment hereunder and under the Other Agreement (computed on the basis of Depreciated Value as of such time) constituting Equipment not operable on railroad tracks than the ratio of $3,000,000 to $75,589,000.

SECTION 7. TAXES.

All payments to be made by the Railroad hereunder will be free of expense to the Manufacturers for collection or other charges and will be free of expense to the Manufacturers in respect of the amount of any local, state or federal taxes, license and registration fees, assessments, charges, fines, penalties, sales, use and property taxes, gross receipts taxes arising out of receipts from use or operation of the Equipment, and other taxes, fees and governmental charges similar or dissimilar to the foregoing (other than net income, excess profits and similar taxes) hereafter levied or imposed upon, or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which expenses, taxes and licenses the Railroad assumes and agrees to pay on demand in addition to the other amounts payable by it pursuant to this Agreement. The Railroad will also pay promptly all taxes and assessments which may be imposed upon the Equipment or for the use or operation thereof by the Railroad or upon the earnings arising therefrom or upon the Manufacturers solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all taxes and assessments which might in any way affect the title of the Manufacturers or result in a lien upon any Item of Equipment; provided, however, that the Railroad shall be under no obligation to pay any taxes, assessments, licenses, charges, fines or penalties of any kind so long as it is contesting in good faith and by appropriate legal proceedings such taxes, assessments, licenses, charges, fines or penalties and the nonpayment thereof does not, in the opinion of the Manufacturers, adversely affect the property or rights of the Manufacturers hereunder. If any such expenses, taxes, assessments,

licenses, charges, fines or penalties shall have been charged or levied against the Manufacturers directly and paid by the Manufacturers, the Railroad shall reimburse the Manufacturers on presentation of an invoice therefor; provided, however, that the Railroad shall not be obligated to reimburse the Manufacturers for any expenses, taxes, assessments, licenses, charges, fines or penalties so paid unless the Manufacturers shall have submitted notice in writing to the Railroad at least one business day in advance of payment thereof.

SECTION 8. REPORTS AND INSPECTIONS.

8.1. On or before April 1 in each year, commencing with the year 1981, the Railroad will furnish to the Manufacturers an accurate statement, as of the preceding December 31, (a) showing the amount, description and road numbers of the Items of Equipment then subject to this Agreement, the amount, description and road numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the Manufacturers may reasonably request, and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the markings required by Section 5.1 hereof shall have been preserved or replaced.

8.2. In addition to the statements described in Section 8.1 above, the Railroad will furnish to the Manufacturers: (i) as soon as available and in any event within 120 days after the end of each fiscal year of the Railroad, a copy of the annual report for such year for the Railroad, containing financial statements for such year certified in a manner acceptable to the Manufacturers by independent public accountants acceptable to the Manufacturers; (ii) promptly after the sending or filing thereof, copies of all reports which the Railroad sends to any of its security holders, and copies of all reports and registration statements which the Railroad files with the Securities and Exchange Commission or any national securities exchange; (iii) as soon as possible and in any event within 30 days after a Casualty Occurrence, a statement showing the amount, description and road numbers of all Items of Equipment that suffered such Casualty Occurrence; and (iv) such other information respecting the

condition or operations, financial or otherwise, of the Railroad as the Manufacturers may from time to time reasonably request.

8.3. The Manufacturers shall have the right, at their sole cost and expense by their authorized representative, to inspect the Equipment and the Railroad's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Manufacturers the existence and proper maintenance thereof during the continuance of this Agrement.

SECTION 9. POSSESSION, USE AND MAINTENANCE.

9.1. The Railroad, so long as no Event of Default has occurred and is continuing under this Agreement, shall have absolute right, from and after delivery of the Equipment by the Manufacturers to the Railroad, to the possession of the Equipment and the use thereof upon the railroad lines owned or operated by it either alone or jointly with another and whether under lease or otherwise, or upon the railroad lines owned or operated by any railroad company controlled by or controlling the Railroad, or over which it has trackage rights, and the Equipment may also be used upon connecting and other railroads in the usual interchange of traffic or leased to other railroads, from and after delivery of the Equipment by the Manufacturers to the Railroad; provided, however, that such use and lease shall be subject to all the terms and conditions of this Agreement and that the Railroad shall not assign or permit the assignment of any Item of Equipment to service involving the regular operation and maintenance thereof outside the continental United States. The Railroad agrees that it will not permit at any time more than 2% in aggregate Depreciated Value, as of such time, of the Items of Equipment hereunder and under the Other Agreement to be located in Mexico.

9.2. The Railroad shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Railroad shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange. The Railroad shall not modify any Item of Equipment without the written authority and approval of the Manufacturers which approval shall not be unreasonably withheld, provided that no such approval shall be necessary if and to the extent

such modification is required by Section 11 hereof. Any parts (except communications, signal and automatic control equipment and devices having a similar use which are added to any Item of Equipment by the Railroad, the cost of which is not included in the Purchase Price of such Item and which are not required for the operation or use of such Item by the Interstate Commerce Commission, the Department of Transportation or any other regulatory body) installed or replacements made by the Railroad upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Manufacturers, without cost or expense to the Manufacturers.

SECTION 10. PROHIBITION AGAINST LIENS.

10.1. The Railroad will pay or satisfy and discharge any and all sums claimed by any party by, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien or a charge upon any Item of Equipment equal or superior to the security title of the Manufacturers, and any liens, encumbrances or charges which might be levied against or imposed upon any Item of Equipment as a result of the failure of the Railroad to perform or observe any of its covenants or agreements under this Agreement, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested by the Railroad in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Manufacturers, adversely affect the property or rights of the Manufacturers hereunder.

10.2. The covenant of Section 10.1 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 or other liens arising in the ordinary course of business and mechanics', workmen's, repairmen's or other liens arising in the ordinary course of business and, in each case, not delinquent (such liens being herein called "permitted liens").

SECTION 11. COMPLIANCE WITH RULES, LAWS AND REGULATIONS.

During the term of this Agreement the Railroad will 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 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 operation or use of the Equipment; and in the event that such laws or rules require the alteration of the Equipment, the Railroad will conform therewith at its expense, and will maintain the same in proper condition for operation under such laws and rules; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Manufacturers, adversely affect the property or rights of the Manufacturers hereunder.

SECTION 12. INDEMNITIES.

12.1. The Railroad agrees to indemnify, protect and hold harmless the Manufacturers against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including claims for strict liability in tort and counsel fees, arising out of retention by the Manufacturers of security title to the Equipment, or out of the use and operation thereof during the period when security title thereto remains in the Manufacturers. This covenant of indemnity shall continue in full force and effect notwithstanding payment in full of the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and the conveyance of the Equipment, as provided in Section 4.2 hereof, or the termination or assignment of this Agreement in any manner whatsoever; provided, that any assignee under Section 14 hereof shall receive the full benefit of this Section 12.1 notwithstanding the retention by the Manufacturers of their rights hereunder.

12.2 The Railroad, after delivery to and acceptance by the Railroad pursuant to Section 2.5 hereof of each Item of Equipment, will bear the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such Item of Equipment.

12.3. The warranties of each Manufacturer with respect to defects in material or workmanship of the Items of Equipment to be built by such Manufacturer are set forth in Schedules A, B and C hereto.

SECTION 13. PATENT INDEMNITIES.

13.1. Except in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by a Manufacturer, and articles and materials specified by the Railroad and not manufactured by a Manufacturer, each Manufacturer agrees to indemnify, protect and hold harmless the Railroad from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Railroad because of the use in or about the construction or operation of any Item of Equipment to be built by such Manufacturer, of any design, article or material which infringes or is claimed to infringe on or to constitute contributory infringement with respect to any patent or other right. The Railroad likewise will indemnify, protect and hold harmless each Manufacturer from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against such Manufacturer because of the use in or about the construction or operation of any Item of Equipment to be built by such Manufacturer, of any design, systems, processes, formulae and combinations specified by the Railroad and not developed or purported to be developed by the Manufacturer, or any article or material specified by the Railroad and not manufactured by the Manufacturer, which infringes or is claimed to infringe on or to constitute contributory infringement with respect to any patent or other right. In case any Item of Equipment is held to constitute infringement of any patent or any similar right in respect of which liability may be charged against a Manufacturer, and the use of any Item of Equipment to be built by such Manufacturer is enjoined, such Manufacturer shall, at its own expense and at its option, either procure for the Railroad the right to continue using such Item of Equipment or replace the same with noninfringing, or remove the infringing portion of such Item of Equipment and refund the purchase price and the transportation and installation costs of such portion but in each case without impairing the operational capability of such equipment. Without intending

any limitation of the foregoing, each Manufacturer agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to the Railroad every claim, right and cause of action which such Manufacturer has or hereafter shall have against the originator of any design or against the seller or sellers of any designs or articles or materials purchased or otherwise acquired by such Manufacturer for use in or about the construction or operation of the Items of Equipment to be built by such Manufacturer on the ground that any such design, article or material or operation thereof infringes or is claimed to infringe on or to constitute contributory infringement with respect to any patent or other right and each Manufacturer further agrees to execute and deliver to the Railroad all and every such further assurance as may be reasonably requested by the Railroad, more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. Each Manufacturer will give notice to the Railroad of any claim known to such Manufacturer from which liability may be charged against the Railroad hereunder and the Railroad will give notice to each Manufacturer of any claim known to it from which liability may be charged against such Manufacturer hereunder.

13.2. The patent indemnity set forth in Section 13.1 shall not be applicable to General Electric, and the following patent indemnity shall be applicable instead: Except in cases of designs specified by the Railroad and not developed or purported to be developed by General Electric, and articles and materials specified by the Railroad and not manufactured by General Electric, General Electric warrants for itself that Equipment furnished hereunder, and any part thereof, shall be delivered free of any rightful claim of any third party for infringement of any United States patent. If notified promptly in writing and given authority, information and assistance, General Electric shall defend, or may settle, at its expense, any suit or proceeding against the Railroad so far as based on a claimed infringement which would result in a breach of this warranty and General Electric shall pay all damages and costs awarded therein against the Railroad due to such breach. In case any Equipment or part thereof is in such suit or proceeding found to constitute such an infringement and the use of such Equipment or part thereof is enjoined, General Electric shall, at its expense and option, either procure for the Railroad the right to continue using said Equipment or part thereof, or replace same within six months of such

injunction with non-infringing Equipment or part thereof acceptable to the Railroad, or modify same so it becomes non-infringing, or remove the Equipment or part thereof and refund the Purchase Price (less reasonable depreciation for any period of use) and any transportation costs separately paid by the Railroad but in each case without impairing the operational capability of such Equipment. The preceding shall not apply to the use of any Equipment or part thereof furnished hereunder in conjunction with any other product in a combination not furnished by General Electric as a part of this transaction. As to any such combination, General Electric assumes no liability whatsoever for patent infringement and the Railroad will hold General Electric harmless against any infringement claims arising therefrom. General Electric will give notice to the Railroad of any claim known to General Electric from which liability may be charged against the Railroad hereunder and the Railroad will give notice to General Electric of any claim known to them from which liability may be charged against General Electric hereunder.

13.3 The term "design" wherever used in this Agreement or in any assignment of this Agreement shall be deemed to include formulae, systems, processes, and combinations.

SECTION 14. ASSIGNMENTS.

14.1 Except as otherwise provided in Section 9.1 hereof, the Railroad, to the extent that it may effectively do so under applicable law, covenants not to sell, assign, transfer or otherwise dispose of all or any of its rights under this Agreement or transfer the right to possession of any Item of Equipment without first obtaining the written consent of the Manufacturers. An assignment or transfer to a railroad company or other purchaser (including a successor corporation by consolidation or merger) which shall acquire all or substantially all the railroad lines of the Railroad, and which by execution of any appropriate instrument satisfactory to the Manufacturers shall assume and agree to perform each and all of the obligations and covenants of the Railroad hereunder, shall not be deemed a breach of this covenant. A lease of any or part of the Equipment to a subsidiary at least 80% directly or indirectly owned by the Railroad shall not be deemed to be a breach of this covenant, provided that the Railroad shall continue to be obligated under all the terms of this Agreement.

14.2. All or any of the rights, benefits and advantages of the Manufacturers under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Manufacturers and reassigned by an assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve any Manufacturer from, any of the obligations of such Manufacturer to construct and deliver the Equipment in accordance with Sections 1 and 2.1 hereof, or to respond to its warranties and indemnities contained in Sections 12.3 (subject always to any DISCLAIMER OR IMPLIED WARRANTIES and limitation of remedies) and 13 hereof, or relieve the Railroad of its obligations to the Manufacturers hereunder or any other obligation which, according to its terms and context, is intended to survive an assignment.

14.3. Upon any such assignment, 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 of the Manufacturers' right, security title and interest in and to the Equipment 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 and notices thereafter to be made by the Railroad hereunder shall, to the extent so assigned, be made to the assignee at the address of the assignee specified in the aforesaid notice.

14.4. The Railroad hereby acknowledges that, concurrently with the execution and delivery of this Agreement and in accordance with the custom of railroad equipment manufacturers, the Railroad has made arrangements for and the Manufacturers are executing and delivering an Agreement and Assignment dated as of the date hereof (hereinafter called the "Assignment") among the Manufacturers and The Chase Manhattan Bank (National Association), as agent and assignee (hereinafter called the "Agent"), pursuant to which the Manufacturers are assigning certain of their respective rights and interests hereunder. The Railroad expressly acknowledges and agrees with the Agent and its successors and assigns, for the purpose of inducing the execution and delivery of the Assignment by the Agent and its advance to the Manufacturers in consideration therefor of an amount equal to the aggregate Purchase Price of the Equipment, that the rights of the Agent and its successors

and assigns to the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, or any part thereof as so assigned, as well as all other rights hereunder so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever, whether arising out of any breach of any obligation of any Manufacturer in respect of the Equipment or the manufacture, construction, delivery or warranty thereof or with respect to any indemnity herein contained or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, at any time owing to the Railroad by any Manufacturer or to any other person, firm or corporation or to any governmental authority, or for any cause whatsoever, it being the intent hereof that, except in the case of an intentionally wrongful act on the part of the Agent or its successors and assigns, the Railroad shall be unconditionally and absolutely obligated to pay the Agent the entire unpaid balance or the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, all in the manner and upon the dates set forth in Section 3 hereof. Any and all such obligations, if any and howsoever arising, shall be and remain enforceable by the Railroad against and only against the Manufacturers. Nothing contained in this Section 14.4 is intended to expand the scope of the Manufacturers' warranties which are always subject to the DISCLAIMERS OF IMPLIED WARRANTIES and limitations of remedy set forth therein.

14.5. In the event of any such assignment, or successive assignment, by the Manufacturers of security titled to the Equipment and of the Manufacturers' rights hereunder with respect thereto, the Railroad will, whenever requested by such assignee, change the names and word or words to be marked on each side of each Item of Equipment so as to indicate the security title of such assignee to the Equipment with such names and word or words as shall be specified by such assignee, subject to the requirements of the laws of the jurisdictions in which the Equipment shall be operated relating to such names and word or words for use on equipment covered by conditional sale agreements with respect to railroad equipment. The cost of marking such names and word or words with respect to the Agent (or to any successor assignee of the Agent) shall be borne by the

Railroad. The cost of marking such names and word or words in connection with any subsequent assignment (other than to a successor agent or trustee of the Agent) will be borne by the subsequent assignee.

14.6. In the event of any such assignment prior to the completion of delivery of the Equipment, the Railroad will, in connection with settlement for the Group subsequent to such assignment, deliver to the assignee, at the time of delivery by the Railroad of notice fixing the Closing Date with respect to such Group, all documents required by the terms of such assignment to be delivered to the assignee in connection with such settlement, in such number of counterparts as may reasonably be requested, except for any opinion of counsel for the assignee.

14.7. If this Agreement shall have been assigned by any of the Manufacturers or all of the Manufacturers (hereafter collectively called the "Assigning Manufacturers" and severally called an "Assigning Manufacturer"), and the assignee shall not, whether by reason of an insufficiency of funds or otherwise, make payment to an Assigning Manufacturer on the Closing Date with respect to any Item of Equipment manufactured by such Assigning Manufacturer and designated for settlement on such Closing Date of an amount equal to that portion of the Purchase Price of such Item of Equipment as provided in the instrument of assignment, such Assigning Manufacturer will promptly notify the Railroad of such event, such Item of Equipment shall be excluded from settlement on such Closing Date but fully preserving such Assigning Manufacturer's security title to such Item in a manner acceptable to such Assigning Manufacturer and the Railroad shall not later than 60 days after such Closing Date pay or cause to be paid to such Assigning Manufacturer the Purchase Price of all such Items of Equipment, or the portion thereof unpaid by the assignee, such payment to be in cash, together with interest for the period from and including the Closing Date on which settlement was to have been made to but not including the deferred date of payment of the Purchase Price under this Section 14.7 at a rate per annum equal to the Prime Rate, or, if such Assigning Manufacturer and the Railroad shall mutually agree, by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Railroad shall determine and as may be reasonably satisfactory to such Assigning Manufacturer.

SECTION 15. APPLICATION OF PROVISIONS OF SECTION 16, "EVENTS OF DEFAULT", AND SECTION 17, "REMEDIES".

It is contemplated that each Manufacturer will assign certain of its rights under this Agreement, and all its respective right, security title and interest in and to the Equipment, to the Agent. It is desired by the parties hereto that the Agent should upon such assignment be entitled to enforce all of the assigned rights, powers, privileges and remedies of the respective Manufacturers under this Agreement, including but not limited to the enforcement of any remedies in case of an Event of Default under this Agreement. Accordingly, on the assumption that such assignments to the Agent will be made by each Manufacturer, the Events of Default and the remedies therefor as set forth in Sections 16 and 17 hereof are set forth as if there were but a single Manufacturer.

SECTION 16. EVENTS OF DEFAULT.

16.1 In the event that any one or more of the following events of default ("Events of Default") shall occur and be continuing, to-wit:

(a) The Railroad shall fail to pay in full any sum payable by the Railroad when payment thereof shall be due under Section 3 or 6 hereof and such default shall continue for ten days; or

(b) The Railroad shall fail or refuse to comply with any covenant, agreement, term or provision of this Agreement on its part to be kept and performed or to make provision satisfactory to the Manufacturer for such compliance for more than 30 days after written notice from the Manufacturer specifying the default and demanding the same to be remedied; or

(c) Any representation or warranty made by the Railroad herein or in any statement or certificate furnished to the Manufacturer or any assignee of the Manufacturer pursuant to or in connection with this Agreement proves untrue in any material respect as of the date of issuance or making thereof; or

(d) A case shall be commenced under subchapter IV of chapter 11 of Public Law 95-598, 11 U.S.C. 1161 et seq. (as said Law may be amended from time to time) by

or against the Railroad and (unless such case shall within 30 days from the commencement thereof be dismissed, nullified, stayed or otherwise rendered ineffective, but then only so long as such stay shall continue in force or such ineffectiveness shall continue) either (i) the trustee or trustees in such proceeding, with the approval of the court having jurisdiction, shall not have agreed in writing, within the period specified in section 1168(a)(1) of said Law, to perform all obligations of the Railroad under this Agreement and with the court's approval confirmed that such obligations shall have the same status as obligations incurred by such trustee or trustees or (ii) any Event of Default (other than under this paragraph (d)) occurring prior to or at any time after the commencement of such case shall not have been duly cured within the respective period specified in section 1168(a)(2) of said Law; or

(e) Any other proceedings shall be commenced by or against the Railroad for any relief under any bankruptcy or insolvency laws, or laws 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 duly assumed in writing, pursuant to a court order or decree, by trustee or trustees or receiver or receivers appointed for the Railroad or for the property of the Railroad in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(f) The Railroad shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right or possession of any Item of Equipment; or

(g) Any Event of Default as defined in the Other Agreement shall occur and be continuing;

then at any time after the occurrence and during the continuance of such an Event of Default the Manufacturer may, upon written notice to the Railroad and upon compliance with any legal requirements then in force and applicable to such action by the Manufacturer, declare the entire indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness), together with the interest thereon then accrued and unpaid, and all other amounts payable by the Railroad under this Agreement, immediately due and payable, without further demand, and the Manufacturer shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated.

16.2. The Manufacturer may waive any such Event of Default and its consequences and rescind and annul any such declaration by notice to the Railroad in writing to that effect. Upon any such waiver the respective rights of the parties shall be as they would have been if no such Event of Default had existed and no such declaration had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

SECTION 17. REMEDIES.

17.1. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such default, the Manufacturer may, upon such further notice, if any, as may be required for compliance with any mandatory requirements of law then in force and applicable to the action to be taken by the Manufacturer, take or cause to be taken by its agent or agents immediate possession of the Equipment, or any Item thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Section 17 expressly provided, and may

remove the same from possession and use of the Railroad and for such purpose may enter upon the premises of the Railroad or where the Equipment may be located and may 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, with or without process of law.

17.2. In case the Manufacturer shall rightfully demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the lines of the Railroad for the delivery of the Equipment to the Manufacturer, the Railroad shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points as shall be reasonably designated by the Manufacturer and shall there deliver the Equipment or cause it to be delivered to the Manufacturer; and, at the option of the Manufacturer, the Manufacturer may keep the Equipment on any of the railroad lines or premises of the Railroad until the Manufacturer 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 Manufacturer reasonably convenient. The agreement to deliver the Equipment as hereinbefore provided is of the essence of this Agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Manufacturer shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Manufacturer and its agent or agents for damages of whatever nature in connection with any retaking of any Item of Equipment in any reasonable manner.

17.3. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time thereafter during the continuance of such Event of Default and after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided (unless such declaration has been rescinded and annulled as provided in Section 16.2 hereof), the Manufacturer (after retaking possession of the Equipment as hereinbefore in this Section 17 provided) may at its election and upon such notice as is hereinafter set forth retain the Equipment in satisfaction of the entire unpaid indebtedness in respect of the Purchase Price thereof, together with interest thereon and all other payments due hereunder and make such disposition thereof as

the Manufacturer shall deem fit. Written notice of the Manufacturer's election to retain the Equipment shall be given to the Railroad by telegram or registered mail, addressed as provided in Section 21 hereof, and to any other persons to whom the law may require notice, within 30 days after the indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable by the Manufacturer as above provided. In the event that the Manufacturer should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all of the Railroad's rights in the Equipment shall thereupon terminate and all payments made by the Railroad may be retained by the Manufacturer as compensation for the use of the Equipment; 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 Manufacturer the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness), together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of title to any 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 17.3 object in writing to the Manufacturer within 30 days from the receipt of notice of the Manufacturer's election to retain the Equipment, then the Manufacturer may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold the Equipment pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Manufacturer shall not have given 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 this Section 17.

17.4. Any sale hereunder may be held or conducted at such place or places and at such time or times as the Manufacturer 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 Manufacturer may determine, provided that the Railroad shall be given written notice of such sale not less then 30 days prior thereto, by mail addressed as provided herein. If such sale shall be a private sale, it

shall be subject to the rights of the Railroad to purchase or provide a purchaser, within 30 days after notice of the proposed sale price, at the same price offered in writing by the intending purchaser or a better price. In the event that the Railroad does not exercise said right to purchase or provide a purchaser for the Equipment, the Manufacturer may bid for and become the purchaser of the Equipment, or any Item thereof, so offered for sale without accountability to the Railroad (except to the extent of surplus money received as hereinafter provided in this Section 17), and in payment of the Purchase Price therefor the Manufacturer shall be entitled to have credited on account thereof all sums due to the Manufacturer from the Railroad hereunder.

17.5. Each and every power and remedy hereby specifically given to the Manufacturer 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 Manufacturer. 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 Manufacturer 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.

17.6. All sums of money realized by the Manufacturer under the remedies herein provided shall be applied, first to the payment of the expenses and liabilities of the Manufacturer herein undertaken to be paid, second to the payment of interest on the indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the Conditional Sale Indebtedness), third to the payment, ratably in accordance with the unpaid balance of each installment, of the installments of indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the Conditional Sale Indebtedness) accrued and unpaid, and fourth to any unpaid commitment fee due hereunder. If, after applying as aforesaid all sums of money realized by the Manufacturer, there shall remain any amount due to it under the provisions of this Agreement, the Manufacturer 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 Manufacturer, there

shall remain a surplus in the possession of the Manufacturer, such surplus shall be paid without interest to the Railroad.

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

17.8. The foregoing provisions of this Section are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

SECTION 18. APPLICABLE STATE LAWS.

18.1. Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an agreement of conditional sale, shall not modify the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale agreement and enforced as such.

18.2. 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, notice of intention to take possession of or to sell the Equipment, or any Item thereof, and any other requirements as to the time, place and terms of sale thereof, and other requirements with respect to the enforcement of the Manufacturers' rights hereunder and any and all rights of redemption.

SECTION 19. EXTENSION NOT A WAIVER.

No delay or omission in the exercise of any power or remedy herein provided or otherwise available to the Manufacturers shall impair or affect the Manufacturers'

right thereafter to exercise the same. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Manufacturers' rights or the obligations of the Railroad hereunder. The Manufacturers' 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 Manufacturers' rights hereunder with respect to any subsequent payments or Events of Default.

SECTION 20. RECORDING.

The Railroad at its expense will cause this Agreement, any assignment hereof and any supplements hereto and thereto to be filed, recorded or deposited and re-filed, re-recorded or re-deposited, if necessary, with the Interstate Commerce Commission and the Registrar General of Canada (with notice of such deposit to be published in The Canada Gazette in accordance with Section 86 of the Railway Act of Canada), and otherwise as may be required by law or reasonably requested by the Manufacturers (including, without limitation, in accordance with the laws of Mexico) for the purpose of proper protection, to the satisfaction of counsel for the Manufacturers, of their security title to the Equipment and their rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Manufacturers certificates or other evidences of such filing, recording or depositing, and an opinion or opinions of counsel for the Railroad with respect thereto, satisfactory to the Manufacturers.

SECTION 21. NOTICE.

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

(a) to the Railroad:

Burlington Northern Inc.
Burlington Northern Building
176 East Fifth Street
St. Paul, MN 55101
Attention: Vice President and Treasurer

(b) to FMC:

FMC Corporation
4700 Northwest Front Ave.
Box 3616
Portland, OR 97208
Attention: Mr. William Galbraith

(c) to General Electric:

General Electric Company
2901 East Lake Road,
Bldg. 14-4
Erie, PA 16531
Attention: Manager, Financing and
Sales Accounting

(d) to DIFCO:
Difco, Inc.
1501 North Main Street
Findlay, OH 45850
Attention: Mr. Fred Flowers

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

SECTION 22. HEADINGS

All section headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement.

SECTION 23. EFFECT AND MODIFICATION OF AGREEMENTS.

Except as provided in Section 3.1 hereof, this Agreement and the Schedules relating hereto exclusively and completely state the rights and agreements of the

Manufacturers and the Railroad with respect to the Equipment and supersede all other agreements, oral or written, with respect to the Equipment. No variation of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and duly executed on behalf of the Manufacturers and the Railroad.

SECTION 24. LAW GOVERNING.

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by applicable federal law and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

SECTION 25. DEFINITIONS.

The term "Manufacturers", whenever used in this Agreement, means, before any assignment of any of their rights hereunder, FMC, General Electric, and DIFCO and any successor or successors for the time being to the properties and business of each, respectively, and, after any such assignment, 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 and excluded from any assignment. The rights and undertakings of each Manufacturer and the rights and obligations of the Railroad with respect to each Manufacturer hereunder are several and not joint.

SECTION 26. PAYMENT OF EXPENSES.

The Railroad will pay all stamp or other taxes and all reasonable costs and expenses incident to this Agreement, the Assignment, and the first assignment of this Agreement, and any instrument supplemental or related thereto, including but not limited to all fees and expenses of the first assignee of this Agreement and 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. For the purposes of this Section 26, if the first assignee is the Agent, then any successor agent to the Agent shall also be considered the first assignee.

SECTION 27. CONSOLIDATION OR MERGER.

In case of any consolidation or merger to which the Railroad or any Manufacturer shall be a party, or in case of any sale of all or substantially all of the assets of the Railroad or any Manufacturer, the corporation resulting from such consolidation or merger (if other than the Railroad or such Manufacturer), or the corporation which shall acquire such assets, shall expressly assume all obligations hereunder not then performed by the Railroad or such Manufacturer, as the case may be, and shall become entitled to all rights hereunder of the Railroad or such Manufacturer, as the case may be.

SECTION 28. EXECUTION.

This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all of the parties so long as at least one counterpart is signed by each party hereto. Although this Agreement is dated for convenience as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

[Corporate Seal]

Attest:

/s/ A. R. Kidston
Assistant Secretary

FMC CORPORATION

By /s/ B. R. van Eck
Vice President

[Corporate Seal]

Attest:

/s/ J. T. Hughes
Attesting Secretary

GENERAL ELECTRIC COMPANY

By /s/ R. D. Morey
Title: Manager-Marketing
Locomotive Marketing
Department

[Corporate Seal]

Attest:

/s/ Mary Schindler
Assistant Secretary

DIFCO, INC.

By /s/ Fred F. Flowers
President

[Corporate Seal]

Attest:

By /s/ Garrett F. Steinhibel
Assistant Secretary

BURLINGTON NORTHERN INC.

By /s/ Frank H. Coyne
Executive Vice President-
Finance and Administration

STATE OF ILLINOIS)
: ss.:
COUNTY OF COOK)

On this 16th day of November, 1979, before me personally appeared B.R. Van Eck, to me personally known, who, being by me duly sworn, says that he is a _____ of FMC 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.

(Seal)

/s/ Judith A. Zemar
Notary Public

COMMONWEALTH OF PENNSYLVANIA)
: ss.:
COUNTY OF ERIE)

On this 19th day of November, 1979, before me personally appeared R.D. Morey , to me personally known, who, being by me duly sworn, says that he is a Manager-Marketing Locomotive Marketing Department of GENERAL ELECTRIC COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Seal) /s/ Doris W. Chilcott
Notary Public

Doris W. Chilcott, Notary Public
Lawrence Park Twp., Erie Co., Pa.
My Commission Expires Nov. 26, 1979

STATE OF OHIO)
: ss.:
COUNTY OF HANCOCK)

On this 16th day of November, 1979, before me personally appeared Fred F. Flowers, to me personally known, who, being by me duly sworn, says that he is a President of DIFCO, INC., 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.

(Seal)

/s/ Dortha E. Buckland
Notary Public
Exp. 7-9-82

STATE OF MINNESOTA)
: ss:
COUNTY OF RAMSEY)

On this 15th day of November, 1979, before me personally appeared Frank H. Coyne, to me personally known, who, being by me duly sworn, says that he is the Executive Vice President-Finance and Administration of BURLINGTON NORTHERN INC., 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.

(Seal)

/s/ J. H. McCarthy
Notary Public

J.H. McCarthy
Notary Public-Minnesota
Ramsey County
My Comm. Expires Jan. 6, 1982

SCHEDULE A

(To Conditional Sale Agreement)

MANUFACTURER.	FMC Corporation
DESCRIPTION OF EQUIPMENT. . . .	1,000 100-ton, 4700 cu. ft. covered hopper cars bearing identifying numbers BN 460200 through BN 461199, both inclusive.
SPECIFICATIONS.	Per Burlington Northern Purchase Order DB-09368-9 dated August 1, 1979 and FMC Corporation specifications R9048-78 dated May 30, 1978
BASE PRICE.	$42,300 per Item ($42,300,000 for 1,000 Items).
DELIVER TO.	Burlington Northern Inc.
PLACE OF DELIVERY	FOB Manufacturer's Plant.
ESTIMATED DELIVERY DATES. . . .	February-May 1980.
OUTSIDE DELIVERY DATE.	December 31, 1980.
WARRANTY.	See Annex 1 attached hereto.
DISCLAIMER.	In no event shall FMC Corporation be liable for special, incidental or consequential damages or commercial loss.

ANNEX 1 TO SCHEDULE A

Warranty of FMC Corporation

FMC Corporation (the "Manufacturer") warrants that the Items of Equipment to be built by it will be built in accordance with the Specifications therefor and warrants that such Items of Equipment will be free from defects in material (except as to specialties incorporated therein and not manufactured by the Manufacturer, in respect of which the Manufacturer hereby appoints and constitutes the Railroad its agent and attorney-in-fact to assert and enforce from time to time in the name of the Manufacturer but for the account of the Railroad and in all cases at the sole cost and expense of the Railroad whatever claims and rights the Manufacturer may have against the manufacturer of the specialty) or workmanship under normal use and service, the Manufacturer's obligation under this warranty being limited to repairing or replacing at its plant any part or parts of any such Item of Equipment, which shall, within one year after the delivery of such Item of Equipment to the Railroad, be returned to the Manufacturer with transportation charges prepaid and which the Manufacturer's examination shall disclose to its satisfaction to have been thus defective; provided, however, that this warranty shall not apply to (i) any components which shall have been repaired or altered unless repaired or altered by the Manufacturer or its authorized service representatives, if, in its judgment, such repairs or alterations affect the reliability of any such Item of Equipment or (ii) any such Item of Equipment which has been subject to misuse, negligence or accident. Any claim by the Railroad for breach of the foregoing warranty shall be deemed waived unless submitted in writing to the Manufacturer within ten (10) days from the date the Railroad discovered, or by reasonable inspection should have discovered, the breach. Any cause of action for breach of this warranty must be brought within one year from the date the alleged breach occurs. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE MANUFACTURER, EXCEPT FOR ITS OBLIGATION HEREUNDER AS LIMITED HEREBY, AND THE MANUFACTURER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY

OF THE EQUIPMENT EXCEPT AS AFORESAID AND EXCEPT FOR PATENT INDEMNITIES CONTAINED IN SECTION 13 HEREOF. IN NO EVENT SHALL FMC CORPORATION BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR COMMERCIAL LOSS. The Manufacturer reserves the right to make changes in the design of, or add any improvements to, any Items of Equipment to be built by it at any time with the approval of the Railroad without incurring any obligation to make similar changes or additions with respect of other equipment previously delivered to the Railroad. The Manufacturer further agrees with the Railroad that acceptance of any Items of Equipment under Section 2.4 hereof shall not be deemed a waiver by the Railroad of any of its rights under Section 12.3 hereof.

SCHEDULE B

(To Conditional Sale Agreement)

MANUFACTURER.	General Electric Company
DESCRIPTION OF EQUIPMENT. . . .	3,000 h.p. Model C-30-7 diesel-electric locomotive bearing identifying nos. BN 5047-5086.
SPECIFICATIONS.	Per Burlington Northern Inc. Purchase Order DB-09362-9.
BASE PRICE.	$783,850 per Item ($31,354,000 for 40 Items).
DELIVER TO.	Burlington Northern Inc.
PLACE OF DELIVERY	FOB Erie, Pennsylvania.
ESTIMATED DELIVERY DATES. . . .	February-April, 1980.
OUTSIDE DELIVERY DATE.	December 31, 1980.
WARRANTY.	See Annex 1 attached hereto.

ANNEX 1 TO SCHEDULE B

Warranty of General Electric Company

GE warrants to the Railroad that each unit of Equipment manufactured by it hereunder will be free from defects in material, workmanship and title under normal use and service, and will be of the kind and quality designated or described in the Specifications referred to in Schedule B to which this Annex 1 is attached. The foregoing warranty is exclusive and in lieu of all other warranties, whether written, oral, implied or statutory (except as to title). NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR PURPOSE SHALL APPLY. If it appears within two (2) years from date of shipment by GE, or within 250,000 miles of operation, whichever event shall first occur, that the Equipment delivered by GE under this Agreement does not meet the warranties specified above, and the Railroad notifies GE promptly, GE, after verification as to condition and usage, shall correct any defect, including nonconformance with the Specifications, at its option, either by repairing any defective part or parts made available to GE, or by making available at GE's plant or warehouse, a repaired or replacement part. If requested by GE, the Railroad will ship the defective part or parts, with shipping charges prepaid, to the plant or warehouse designated by GE. The foregoing shall consitute the sole remedy of the Railroad and the sole liability of GE.

The liability of GE to the Railroad (except as to title) arising out of the supplying of any unit of Equipment hereunder, or its use, whether on warranty, contract or negligence, shall not in any case exceed the cost of correcting defects in the Equipment as herein provided, and upon the expiration of the warranty period specified above, all such liability shall terminate. GE shall have no liability for any unit of Equipment or part thereof which becomes defective by reason of improper storage or application, misuse, negligence, accident or improper operation, maintenance, repairs or alterations on the part of the Railroad or any third party other than GE. In no event, whether as a result of breach of contract, warranty, tort (including negligence) or otherwise, shall GE or its suppliers be liable for any special, consequential,

incidental or penal damages, including, but not limited to, loss of profits or revenues, loss of the use of the Equipment or any associated equipment, damage to the associated equipment, cost of capital, cost of substitute products, facilities, services or replacements, downtime costs or claims of customers of the Railroad for such damages.

It is understood that GE has the right to make any changes in design and add improvements to equipment at any time without incurring any obligations to install, at GE's expense, the same on other equipment sold by GE.

SCHEDULE C

(To Conditional Sale Agreement)

MANUFACTURER.	DIFCO, Inc.
DESCRIPTION OF EQUIPMENT. . . .	10 air dump cars bearing identifying numbers FW&D 963122 through FW&D 963131, inclusive.
SPECIFICATIONS.	Burlington Northern Inc. Letter of Intent dated September 24, 1979.
BASE PRICE.	$73,500 per Item ($735,000 for 10 Items).
PLACE OF DELIVERY	FOB Manufacturer's Plant.
ESTIMATED DELIVERY DATES. . . .	August and September, 1980
OUTSIDE DELIVERY DATE.	December 31, 1980
WARRANTY.	See Annex 1 attached hereto.

ANNEX 1 TO SCHEDULE C

Warranty of Difco Inc.

Difco, Inc. (the "Manufacturer") warrants that the Items of Equipment to be built by it will be built in accordance with the Specifications therefor and warrants that such Items of Equipment will be free from defects in material (except as to specialties incorporated therein specified by the Railroad and not manufactured by the Manufacturer, in respect of which the Manufacturer hereby appoints and constitutes the Railroad its agent and attorney-in-fact to assert and enforce from time to time in the name of the Manufacturer but for the account of the Railroad and in all cases at the sole cost and expense of the Railroad whatever claims and rights the Manufacturer may have against the manufacturer of the specialty) or workmanship under normal use and service, the Manufacturer's obligation under this warranty being limited to making good at its plant any part or parts of any such Item of Equipment, which shall, within two years after the delivery of such Item of Equipment to the Railroad, be returned to the Manufacturer with transportation charges prepaid and which the Manufacturer's examination shall disclose to its satisfaction to have been thus defective; provided, however, that this warranty shall not apply to (i) any components which shall have been repaired or altered unless repaired or altered by the Manufacturer or its authorized service representatives, if, in its judgment, such repairs or alterations affect the stability of any such Item of Equipment or (ii) any such Item of Equipment which has been subject to misuse, negligence or accident. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE MANUFACTURER, EXCEPT FOR ITS OBLIGATION HEREUNDER AS LIMITED HEREBY, THE MANUFACTURER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF THE EQUIPMENT EXCEPT AS AFORESAID AND EXCEPT FOR PATENT INDEMNITIES CONTAINED IN SECTION 13 HEREOF. IN NO EVENT SHALL THE MANUFACTURER BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGE OR COMMERCIAL LOSS. The Manufacturer reserves the right to make changes in the design of, or add any improvements to,

any Items of Equipment to be built by it at any time with approval of the Railroad. The Manufacturer further agrees with the Railroad that acceptance of any Items of Equipment under Section 2.4 hereof shall not be deemed a waiver by the Railroad of any of its rights under Section 12.3 hereof.

Recordation No. 11231 File 1425
December 26, 1979 - 10:40 A.M.
Interstate Commerce Commission
Deposited, Registrar General of Canada
December 31, 1979

EXHIBIT A-1

CONDITIONAL SALE AGREEMENT

CONDITIONAL SALE AGREEMENT dated as of October 1, 1979 between Transportation Products Company, an Illinois corporation (hereinafter called "TPC") (the foregoing company being hereinafter called the "Manufacturer") and BURLINGTON NORTHERN INC. (hereinafter called the "Railroad").

WHEREAS, the Manufacturer is willing to sell and deliver to the Railroad, and the Railroad is willing to purchase, the railroad equipment as described in Schedules A and B attached hereto (hereinafter collectively called the "Equipment" or "Items" and individually called the "Item of Equipment" or the "Item"); and

WHEREAS, the Manufacturer and the Railroad have agreed that this Agreement shall exclusively and completely state the rights of the Manufacturer and the Railroad with respect to the Equipment and shall supersede all other agreements, oral or written, with respect to the Equipment; and

WHEREAS, it is proposed that FMC Corporation, General Electric Company and Difco, Inc. enter into a Conditional Sale Agreement dated as of the date hereof (such Conditional Sale Agreement, when and if signed, being hereinafter called the "Other Agreement") with the Railroad covering railroad equipment as described in the Schedules attached thereto;

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

SECTION 1. CONSTRUCTION AND SALE.

The Manufacturer will sell and deliver to the Railroad, and the Railroad will purchase from the Manufacturer and accept delivery of and pay for as hereinafter provided, those Items of Equipment which are indicated on Schedules A and B attached hereto to be sold by the Manufacturer, each Item of which shall be constructed in accordance with the applicable specifications referred to in said Schedules A and B with such modifications thereof as may be agreed upon in writing by the Railroad and the Manufacturer (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design and quality of equipment and material used in the manufacture of such Items shall conform to all Department of Transportation and Interstate Commerce Commission requirements and specifications, if applicable, for new equipment in effect on the date such Items are delivered hereunder, and to all Rules of the Association of American Railroads, applicable to new railroad equipment of the character of such Items as of the date of this Agreement.

SECTION 2. DELIVERY.

2.1. The Manufacturer will deliver the various Items of Equipment to be sold by it to the Railroad in accordance with the delivery schedule set forth in Schedules A and B attached hereto; provided, however, that the Manufacturer shall have no obligation to deliver any Item of Equipment hereunder if an Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute an Event of Default, has occurred and is continuing.

2.2. The Manufacturer's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Manufacturer's reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riots or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, or delays in receiving necessary materials.

2.3. Notwithstanding the foregoing provisions, any Item of Equipment not delivered and accepted on or before the outside delivery date provided therefor in Schedules A and B hereto, shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement. In the event of any such exclusion the Manufacturer shall remain obligated to sell and deliver to the Railroad, and the Railroad shall remain obligated to purchase from the Manufacturer, accept delivery of and pay for, any such Item of Equipment thus excluded from this Agreement, and the Railroad and the Manufacturer shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not excluded herefrom, and the Manufacturer and the Railroad shall further execute a separate agreement providing for the sale of such excluded Equipment by the Manufacturer to the Railroad upon the same terms and conditions as those contained herein, modified only to the extent necessary to provide for payment in cash upon delivery of the Equipment either directly or indirectly by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Railroad may determine and as may be reasonably satisfactory to the Manufacturer.

2.4. The Equipment during construction shall be subject to inspection by one or more inspectors or other authorized representatives of the Railroad. Upon completion of each Item of Equipment, it shall be presented to such inspectors or representatives for inspection at the place designated herein for delivery of such Item of Equipment, and, if such Item of Equipment conforms to the Specifications applicable thereto, such inspectors or representatives shall execute and deliver to the Manufacturer a certificate or certificates of acceptance (hereinafter called the "Certificate of Acceptance") stating that such Item of Equipment has been inspected and is accepted by them on behalf of the Railroad and is marked in accordance with Section 5.1 hereof. Any Certificate of Acceptance may cover any number of Items of Equipment. Such Certificate of Acceptance shall be conclusive evidence that the Items of Equipment covered thereby have been delivered to the Railroad and conform to the Specifications and are acceptable to the Railroad in all details.

2.5. The Manufacturer shall bear the risk of loss of each Item of Equipment or damage thereto until delivery (at such place as specified in the Manufacturer's Schedule

attached hereto) to and acceptance by the Railroad. Upon such delivery to and acceptance by the Railroad of each such Item of Equipment the Railroad shall bear the risk of loss of or damage to such Item.

SECTION 3. PURCHASE PRICE AND PAYMENT

3.1. The base price per Item of Equipment, including freight charges, if any, to place of destination but exclusive of interest and all other charges, is as set forth in Schedules A and B attached hereto. The base price per Item of Equipment shall be subject to increase or decrease as may be agreed to in writing by the Manufacturer and the Railroad, and the term "Purchase Price" as used herein shall mean the base price as so increased or decreased.

3.2. For the purpose of making settlement for the Equipment, the Equipment hereunder and under the Other Agreement shall be divided into not more than 20 groups of Items of Equipment, or such other number as shall be agreed to by the parties hereto (each such group of Items being hereinafter called a "Group").

3.3. The Railroad hereby acknowledges itself to be indebted to the Manufacturer in the amount of, and hereby promises to pay to the Manufacturer at such bank or trust company in the United States as the Manufacturer or its assignee shall designate for payment to it in funds immediately available at such place of payment, the Purchase Price of the Equipment (hereinafter sometimes referred to as the "Conditional Sale Indebtedness") in installments as follows:

(a) On April 1, 1980 and on each April 1 and October 1 thereafter, an installment of interest accrued on the unpaid portion of the Conditional Sale Indebtedness from time to time outstanding until the same shall have become due and payable, at a rate per annum (i) from January 1, 1980 through September 30, 1983 equal to the Prime Rate (as defined below), (ii) from October 1, 1983 through September 30, 1986 equal to 103% of said Prime Rate and (iii) from October 1, 1986 through

September 30, 1988 equal to 106% of said Prime Rate;

(b) On October 1, 1983 and on each October 1 thereafter to and including October 1, 1987, in addition to the installment of interest then payable, an installment equal to $200,000; provided, however, that in no event shall an installment made under this subsection (b) be in excess of the entire principal balance remaining unpaid as of the date of such installment; and

(c) On October 1, 1988, in addition to the installment of interest then payable, an installment equal to the entire principal balance, if any, remaining unpaid as of said date.

As used herein the term "Prime Rate" shall mean the prime commercial lending rate per annum announced by The Chase Manhattan Bank (National Association) at its principal office in New York City from time to time, each change in such announced rate to be effective for purposes of this Agreement on the day on which such change is effective.

3.4. The term "Closing Date" with respect to each Group shall mean such date not later than December 31, 1980 which is not more than twenty business days following presentation, by the Manufacturer of the Items of Equipment included in such Group, to the Railroad of the invoice, or invoices, and the Certificate or Certificates of Acceptance with respect to such Group, as shall be fixed by the Railroad by written or telegraphic notice delivered to the Manufacturer and any assignee thereof at least five business days prior to the Closing Date designated therein.

3.5. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and holidays on which banks in the State of New York are authorized or required to close. If any date on which a payment is to be made hereunder is not a business day, the amount otherwise payable on such date shall be payable on the next succeeding business day, and no interest on such amount shall accrue for the period from and after the nominal date for payment thereof to such next succeeding business day.

3.6. Interest under this Agreement shall be determined on a basis of a year of 365 or 366 days, as the case may be, for the actual number of days (including the first day but excluding the last day) elapsed.

3.7. The Railroad will pay interest, payable on demand, on all unpaid balances of indebtedness, after the same shall have become due and payable pursuant to the terms hereof (whether at stated maturity, by acceleration or otherwise), at a rate per annum equal at all times to one percent per annum above (i) the Prime Rate from January 1, 1980 through September 30, 1983, (ii) 103% of the Prime Rate from October 1, 1983 through September 30, 1986 and (iii) 106% of the Prime Rate from October 1, 1986 through September 30, 1988 and thereafter, provided, however, that the parties hereto may specify a different interest rate to be applicable to any refinancing hereunder.

3.8. All payments provided for in this Agreement shall be made by the Railroad 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 by 1 p.m. New York City time on the day any such payments are due.

3.9. The Railroad may, upon at least five business days' notice to the Manufacturer, prepay the Conditional Sale Indebtedness in whole or in part with accrued interest to the date of such prepayment on the amount prepaid, provided that each partial prepayment shall be in an amount (exclusive of interest) equal to $100,000 or an integral multiple thereof and shall be applied to the installments in the inverse order of their maturities.

3.10. If this Agreement shall be assigned as contemplated by Section 14.4, the Railroad agrees to pay to the Agent a commitment fee at the rate of 1/2 of 1% per annum on the unused portion of the aggregate $75,589,000 commitment arranged by the Agent to finance the purchase of the Equipment hereunder and under the Other Agreement, computed from November 15, 1979 to the later of the final Closing Date hereunder or the final Closing Date under the Other Agreement (hereinafter called the "Ultimate Closing Date"), payable on April 1, 1980, October 1, 1980 and on the Ultimate Closing Date. The Railroad agrees to pay the Agent a commitment fee at the rate of 1/2 of 1% per annum upon the

additional $1,000,000 over and above said $75,589,000 commitment computed from the date of the Railroad's notice to the Agent that such additional amount shall be required to the Closing Date upon which such amount is drawn down and payable at such Closing Date.

SECTION 4. TITLE TO THE EQUIPMENT.

4.1. The Manufacturer shall and hereby does retain the full legal title to and property in the Equipment built by it until the Railroad shall have made all of the payments hereunder and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as herein provided. 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 terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

4.2. When and only when the Manufacturer shall have been paid in full the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon and all other payments as herein provided, and all the Railroad's other obligations herein contained shall have been performed, 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 Manufacturer except that the Manufacturer, if requested by the Railroad so to do, will execute a bill or bills of sale of the equipment transferring the Manufacturer's title thereto and property therein to the Railroad or upon its order free of all liens and encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address specified in Section 21 hereof, and will execute in the same manner and deliver at the same place, for filing, registering, recording or depositing 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 the title of the Railroad to the equipment, and will pay to the Railroad any money paid to the Manufacturer pursuant to Section 6 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 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 to file such certificate within a reasonable time after written demand by the Railroad.

SECTION 5. MARKING OF EQUIPMENT.

5.1. The Railroad will cause each Item of Equipment to be kept numbered with its road number, if applicable, as set forth in Schedules A and B hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon both sides of each Item of Equipment in letters not less than one inch in height, the words "Unit Subject to Security Interest of the Agent Bank under Conditional Sale Agreement Recorded with the I.C.C.", with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Manufacturer to such Item of Equipment, its rights under this Agreement and the rights of any assignee under Section 14 hereof. The Railroad will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced, obliterated or destroyed. The Railroad will not change the road number of any Item of Equipment except with the consent of the Manufacturer and any assignee pursuant to Section 14 hereof and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed, recorded or deposited in all public offices where this Agreement shall have been filed, recorded or deposited.

5.2. Except as above provided, the Railroad will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Railroad or its affiliates on railroad equipment used by it

of the same or a similar type for convenience of identification of the right of the Railroad to use the Equipment under this Agreement.

SECTION 6. CASUALTY OCCURRENCES.

6.1. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or irreparably damaged, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise or rendered permanently unfit for use from any cause whatsoever (each such occurrence, except for any requisition which by its terms is indefinite or does not exceed the original term of this Agreement, being hereinafter called a "Casualty Occurrence"), prior to the payment of the indebtedness in respect of the Purchase Price of such Item, together with interest thereon and all other payments required hereby, the Railroad shall, within 30 days after a responsible officer of the Railroad shall have received notice that such Item of Equipment has suffered a Casualty Occurrence, but in no event later than 180 days after such Item of Equipment has suffered a Casualty Occurrence, fully inform the Manufacturer in regard thereto. Whenever from time to time the total Depreciated Value (as defined in Section 6.3, of Items of Equipment hereunder and under the Other Agreement which have suffered a Casualty Occurrence (exclusive of Items of Equipment having suffered a Casualty Occurrence with respect to which payments or replacements shall have been made to the Manufacturers pursuant to this Section 6 or Section 6 of the Other Agreement) shall exceed $500,000 (or such lesser amount as the Railroad shall elect), the Railroad shall, within 30 days of such event, pay the Manufacturer and the Manufacturers under the Other Agreement a sum equal to the aggregate Depreciated Value, as of such date of payment, of such Items of Equipment under this Agreement and under the Other Agreement; provided, however, that if prior to the date such payment is required to be made the Railroad, at its election, shall have transferred, in accordance with Section 6.6, to the Manufacturer hereunder or the Manufacturers under the Other Agreement, title to a replacement Item or Items of Equipment meeting the requirements of clause (iii) of Section 6.2, then, in such case, there shall be deducted from the amount of such payment an amount equal to the aggregate Depreciated Value,

as of such date of payment, of all such replacement Items of Equipment. The Railroad shall file with the Manufacturer a certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad setting forth the Depreciated Value, as of such date of payment, of each Item of Equipment suffering a Casualty Occurrence.

6.2. Any money paid to the Manufacturer pursuant to Section 6.1 hereof shall, so long as no Event of Default shall have occurred and be continuing, be applied, in whole or in part, as the Railroad shall direct in a written instrument filed with the Manufacturer, either (i) to prepay indebtedness in respect of the Purchase Price of the Equipment hereunder or under the Other Agreement, (ii) to or toward the cost of an Item or Items of Equipment of new standard gauge (if applicable) railroad equipment excluding passenger equipment to replace such Item of Equipment having suffered a Casualty Occurrence and which new Item or Items of Equipment shall be of a quality and have a value and utility at least equal to such Item of Equipment having suffered a Casualty Occurrence or (iii) to be released to the Railroad against transfer, in accordance with Section 6.6, to the Manufacturer of title to an Item or Items of used standard gauge (if applicable) railroad equipment which shall be free of all liens and charges except as permitted by Section 10 and shall be of the same character as the Equipment described in Schedules A and B hereto (or of such other character as may be acceptable to the Manufacturer) to replace such Item or Items of Equipment having suffered a Casualty Occurrence. In case any such money shall be applied to prepay indebtedness, it shall be so applied, on such date as the Railroad shall specify in such written direction, to prepay without penalty or premium the unpaid balance of the principal installments of the Purchase Price of the Equipment hereunder and under the Other Agreement thereafter falling due in the inverse order of the maturity of such installments and ratably as between such installments due hereunder and under the Other Agreement. In case of replacement pursuant to clause (ii) of the first sentence of this Section 6.2, the amount to be paid by the Manufacturer in respect of any replacing Item shall not exceed the lesser of the cost of such Item or the amount which such Item would have cost if acquired on the earliest date when any of such money was paid to the Manufacturer, and the Railroad shall pay any additional cost of such Item. Under no circumstance shall the Manufacturer be required

under this Section 6.2 to make prepayments or to pay for replacements except out of funds paid to the Manufacturer pursuant to Section 6.1 hereof. In the case of any replacement pursuant to clause (ii) of the first sentence of this Section 6.2, the Purchase Price of such replacing Item shall for the purpose of this Agreement be the amount of money advanced by the Manufacturer in payment therefor, but shall not include any portion of the cost thereof paid by the Railroad. The amount which any such replacing Item would have cost if acquired on the earliest date when any of such money was paid to the Manufacturer shall be conclusively determined by the certificate of a Vice President or the Comptroller or other Chief Accounting Officer of the Railroad to be filed as hereinafter provided. In the case of each release of money to the Railroad pursuant to clause (iii) of the first sentence of this Section 6.2, the amount of money so released shall be equal to the Depreciated Value, as of the date such money was paid to the Manufacturer pursuant to Section 6.1, of the used replacement Item or Items transferred to the Manufacturer pursuant to said clause (iii), as the amount of such Depreciated Value shall be certified to by the Railroad in connection with such release as provided in Section 6.6.

6.3. The "Depreciated Value" as of any date of determination of any original or replacement Item of Equipment shall mean the purchase price paid for such Item when new depreciated to such date of determination on a straight line basis from the date such Item was originally delivered by the manufacturer thereof to a residual value of zero, computed at the rate of 6.667% of such purchase price per year pro rated on a daily basis. For the purpose of computing the Depreciated Value of any Item of Equipment which has suffered a Casualty Occurrence, such Depreciated Value shall be computed on a daily basis to the date of the occurrence of such Casualty Occurrence.

6.4. So long as no Event of Default shall have occurred and be continuing, any money paid to the Manufacturer pursuant to this Section 6 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, in (i) such direct obligations of the United States of America or any agency or instrumentality thereof, or other obligations for which the faith of the United States is pledged to provide for the payment of principal and interest or (ii) commercial paper

or finance company paper rated "A-1" or "P-1" or their equivalent by Standard & Poors Corporation or a comparable national rating agency or (iii) obligations issued or guaranteed by any state of the United States or the District of Columbia or any political subdivision of any such state or district rated "AA" or better by a national rating service, or (iv) repurchase agreements fully secured by any one or more of the obligations referred to in clause (i) above, or (v) certificates of deposit issued by or bankers acceptances drawn on and accepted by commercial banks in the United States of America which are members of the Federal Reserve System having total assets aggregating at least $200,000,000, in each case maturing in not more than one year from the date of such investment (all such investments being hereafter called "Investments"), as may be specified in such written direction. Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest or earned discount received by the Manufacturer on any Investments shall be held by the Manufacturer and applied as herein provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus interest received by the Manufacturer thereon, up to the cost (including accrued interest or earned discount) thereof, shall be held by the Manufacturer for application pursuant to this Section 6, and any excess shall be paid to the Railroad. If such proceeds (plus such interest or earned discount) shall be less than such cost, the Railroad will promptly pay to the Manufacturer an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Manufacturer in connection with the purchase and sale of Investments.

6.5. The Railroad will cause any replacing Item to be plated or marked as provided in Section 5.1 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all of the 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 replacements shall be free and clear of all liens and encumbrances and shall be taken initially and shall remain in the name of the Manufacturer subject to the provisions hereof, and the Railroad shall promptly execute, acknowledge, deliver, file and record all such documents (including the filing with the Interstate Commerce

Commission in accordance with applicable law and the deposit with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and publication of notice of such deposit in The Canada Gazette in accordance with said Section 86 of an appropriate supplemental agreement describing such replacements) and do any and all such acts as may be necessary to cause such replacements to come under and be subject to this Agreement and to protect the title of the Manufacturer to such replacements. All such replacements shall be warranted in like manner as the Items replaced, and the vendor of the replacements shall, if other than the Manufacturer, duly consent to the subjection thereof to this Agreement and agree to be bound by all the terms and provisions contained herein in respect of such replacements in the like manner as the Manufacturer is in respect of the original Equipment delivered hereunder.

6.6. Whenever the Railroad shall file with the Manufacturer, pursuant to the foregoing provisions of this Section 6, a written direction to apply money to or toward the cost of a replacing Item of new standard gauge (if applicable) railroad equipment or to release money to the Railroad against transfer of title to the Manufacturer of a replacing Item of used standard gauge (if applicable) railroad equipment, or whenever the Railroad shall transfer title to the Manufacturer of such a replacing Item of used standard gauge (if applicable) railroad equipment pursuant to Section 6.1, the Railroad shall file with the Manufacturer in such number of counterparts as may reasonably be requested:

(a) a certificate of a Vice President or Chief Accounting Officer of the Railroad, authorized to make such a certification, certifying: (i) if such replacing Item is a new, unused Item, that such Item is new standard gauge (if applicable) railroad equipment (other than passenger equipment) and has been plated or marked as required by the provisions of this Section 6 and certifying the cost of such replacing Item, the amount which such replacing Item would have cost if acquired on the earliest date when any such money was paid to the Manufacturer and that the cost thereof does not exceed the fair value of such Item and that such replacing Item has a quality and value and utility at least equal to the Item or Items replaced; and (ii) if such replacing Item is a used Item, that such Item is used standard

guage (if applicable) railroad equipment (other than passenger equipment) and has been plated and marked as required by the provisions of this Section 6 and certifying the Depreciated Value of such Item, as of the earliest date any such money was paid to the Manufacturer, and that such replacing Item is of the character required by the terms of clause (iii) of the first sentence of Section 6.2;

(b) an opinion of counsel for the Railroad that title to each replacing Item is vested in the Manufacturer free and clear of all liens and encumbrances, and that such Item has come under and become subject to this Agreement and the security interest of the Agent hereunder;

(c) a bill of sale in favor of the Manufacturer or its assignee covering such replacement Item from, if a new Item, the Manufacturer thereof or, if a used Item, the Railroad; and

(d) copies of financing statements filed in accordance with the Uniform Commercial Code where such replacing Item is not rolling stock.

6.7. In the event that any moneys paid to, or held by, the Manufacturer pursuant to this Section 6 are applied to the prepayment of indebtedness in respect of the Purchase Price, the Railroad will pay to the Manufacturer on the date of such application interest then accrued and unpaid on the indebtedness so prepaid.

If any Event of Default shall have occurred and be continuing, then so long as such Event of Default shall continue all money then held by the Manufacturer pursuant to this Section 6 shall be applied by the Manufacturer as if such money were money received upon the sale of Equipment pursuant to Section 16 hereof.

6.8. In order to facilitate the sale, or other disposition of any Equipment suffering a Casualty Occurrence, the Manufacturer shall upon request of the Railroad, provided the Railroad shall then be in compliance with the terms of this Section 6, 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 the terms and scope of this Conditional Sale Agreement, in such form as may be reasonably requested by the Railroad.

6.9. In the event that prior to the expiration of the term of this Agreement, the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period ending on or before said date, the Railroad's duty to pay the indebtedness in respect of the Purchase Price thereof shall continue for the duration of such requisitioning or taking. The Railroad shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

6.10. The Railroad represents and warrants that not more that $3,000,000 in aggregate Purchase Price of Items of Equipment under this Agreement and under the Other Agreement constitutes Equipment which is not operable on railroad tracks; and the Railroad agrees that no purchase of new Equipment or replacement of used Equipment under this Section 6 or Section 6 of the Other Agreement will at any time result in a greater proportion of all Equipment hereunder and under the Other Agreement (computed on the basis of Depreciated Value as of such time) constituting Equipment not operable on railroad tracks than the ratio of $3,000,000 to $75,589,000.

SECTION 7. TAXES.

All payments to be made by the Railroad hereunder will be free of expense to the Manufacturer for collection or other charges and will be free of expense to the Manufacturer in respect of the amount of any local, state or federal taxes, license and registration fees, assessments, charges, fines, penalties, sales, use and property taxes, gross receipts taxes arising out of receipts from use or operation of the Equipment, and other taxes, fees, and governmental charges similar or dissimilar to the foregoing (other than net income, excess profits and similar taxes) hereafter levied or imposed upon, or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which

expenses, taxes and licenses the Railroad assumes and agrees to pay on demand in addition to the other amounts payable by it pursuant to this Agreement. The Railroad will also pay promptly all taxes and assessments which may be imposed upon the Equipment or for the use or operation thereof by the Railroad or upon the earnings arising therefrom or upon the Manufacturer solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all taxes and assessments which might in any way affect the title of the Manufacturer or result in a lien upon any Item of Equipment; provided, however, that the Railroad shall be under no obligation to pay any taxes, assessments, licenses, charges, fines or penalties of any kind so long as it is contesting in good faith and by appropriate legal proceedings such taxes, assessments, licenses, charges, fines or penalties and the nonpayment thereof does not, in the opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder. If any such expenses, taxes, assessments, licenses, charges, fines or penalties shall have been charged or levied against the Manufacturer directly and paid by the Manufacturer, the Railroad shall reimburse the Manufacturer on presentation of an invoice therefor; provided, however, that the Railroad shall not be obligated to reimburse the Manufacturer for any such expenses, taxes, assessments, licenses, charges, fines or penalties so paid unless the Manufacturer shall have submitted notice in writing to the Railroad at least one business day in advance of payment thereof.

SECTION 8. REPORTS AND INSPECTIONS.

8.1. On or before April 1 in each year, commencing with the year 1981, the Railroad will furnish to the Manufacturer an accurate statement, as of the preceding December 31, (a) showing the amount, description and road numbers (if applicable) of the Items of Equipment then subject to this Agreement, the amount, description and road numbers (if applicable) of all Items of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the Manufacturer may reasonably request, and (b) stating that, in the case of all Equipment repaired and repainted during

the period covered by such statement, the markings required by Section 5.1 hereof shall have been preserved or replaced.

8.2. In addition to the statements described in Section 8.1 above, the Railroad will furnish to the Manufacturer: (i) as soon as available and in any event within 120 days after the end of each fiscal year of the Railroad, a copy of the annual report for such year for the Railroad, containing financial statements for such year certified in a manner acceptable to the Manufacturer by independent public accountants acceptable to the Manufacturer; (ii) promptly after the sending or filing thereof, copies of all reports which the Railroad sends to any of its security holders, and copies of all reports and registration statements which the Railroad files with the Securities and Exchange Commission or any national securities exchange; (iii) as soon as possible and in any event within 30 days after a Casualty Occurrence, a statement showing the amount, description and road numbers (if applicable) of all Items of Equipment that suffered such Casualty Occurrence; and (iv) such other information respecting the condition or operations, financial or otherwise, of the Railroad as the Manufacturer may from time to time reasonably request.

8.3. The Manufacturer shall have the right, at its sole cost and expense by its authorized representative, to inspect the Equipment and the Railroad's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Manufacturer the existence and proper maintenance thereof during the continuance of this Agreement.

SECTION 9. POSSESSION, USE AND MAINTENANCE.

9.1. The Railroad, so long as no Event of Default has occurred and is continuing under this Agreement, shall have absolute right, from and after delivery of the Equipment by the Manufacturer to the Railroad, to the possession of the Equipment and the use thereof upon the railroad lines owned or operated by it either alone or jointly with another and whether under lease or otherwise, or upon the railroad lines owned or operated by any railroad company controlled by or controlling the Railroad, or over which it has trackage rights, and the Equipment may also be used upon connecting and other railroads in the usual

interchange of traffic and lease to other railroads, from and after delivery of the Equipment by the Manufacturer to the Railroad; provided, however, that such use and lease shall be subject to all the terms and conditions of this Agreement and that the Railroad shall not assign or permit the assignment of any Item of Equipment to service involving the regular operation and maintenance thereof outside the continental United States. The Railroad agrees that it will not permit at any time more than 2% in aggregate Depreciated Value, as of such time, of the Items of Equipment hereunder and under the Other Agreement to be located in Mexico.

9.2. The Railroad shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Railroad shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable (if applicable) for use in interchange. The Railroad shall not modify any Item of Equipment without the written authority and approval of the Manufacturer which approval shall not be unreasonably withheld, provided that no such approval shall be necessary if and to the extent such modification is required by Section 11 hereof. Any parts (except communications, signal and automatic control equipment and devices having a similar use which are added to any Item of Equipment by the Railroad, the cost of which is not included in the Purchase Price of such Item and which are not required for the operation or use of such Item by the Interstate Commerce Commission, the Department of Transportation or any other regulatory body) installed or replacements made by the Railroad upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Manufacturer, without cost or expense to the Manufacturer.

SECTION 10. PROHIBITION AGAINST LIENS.

10.1. The Railroad will pay or satisfy and discharge any and all sums claimed by any party by, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien or a charge upon any Item of Equipment equal or superior to the security title of the Manufacturer, and any liens, encumbrances or charges which might be levied against or imposed upon any Item of Equipment as a result of the failure of the Railroad to

perform or observe any of its covenants or agreements under this Agreement, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested by the Railroad in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder.

10.2. The covenant of Section 10.1 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 or other liens arising in the ordinary course of business and mechanics', workmen's, repairmen's or other liens arising in the ordinary course of business and, in each case, not delinquent (such liens being herein called "permitted liens").

SECTION 11. COMPLIANCE WITH RULES, LAWS AND REGULATIONS.

During the term of this Agreement, the Railroad will 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 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 operation or use of the Equipment; and in the event that such laws or rules require the alteration of the Equipment, the Railroad will conform therewith at its expense, and will maintain the same in proper condition for operation under such laws and rules; provided, however, that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Manufacturer, adversely affect the property or rights of the Manufacturer hereunder.

SECTION 12. INDEMNITIES.

12.1. The Railroad agrees to indemnify, protect and hold harmless the Manufacturer against all losses, damages, injuries, liabilities, claims and demands

whatsoever, regardless of the cause thereof, and expenses in connection therewith, including claims for strict liability in tort and counsel fees, arising out of retention by the Manufacturer of security title to the Equipment, or out of the use and operation thereof during the period when security title thereto remains in the Manufacturer. This covenant of indemnity shall continue in full force and effect notwithstanding payment in full of the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, and the conveyance of the Equipment, as provided in Section 4.2 hereof, or the termination of this Agreement in any manner whatsoever; provided, that any assignee under Section 14 hereof shall receive the full benefit of this Section 12.1 notwithstanding the retention by the Manufacturer of its rights hereunder.

12.2. The Railroad, after delivery to and acceptance by the Railroad pursuant to Section 2.5 hereof of each Item of Equipment, will bear the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of such Item of Equipment.

12.3. The Manufacturer hereby assigns to the Railroad and its respective successors and assigns, each and all of its rights against the manufacturer of each Item of Equipment to be sold by it insofar as such rights arise out of any or all warranties, express or implied, with respect to such Item of Equipment, and the Manufacturer hereby appoints and constitutes the Railroad its agent and attorney-in-fact during the term of this Agreement, so long as the Railroad is not in default hereunder, to assert and enforce, from time to time in the name and for the account of the Manufacturer and the Railroad, as their interests may appear, in all cases at the sole cost and expense of the Railroad, whatever claims and rights the Manufacturer may have against said manufacturer thereof upon said warranties; it being understood, however, that said assignment and appointment are not exclusive, that the Railroad shall not have the sole right to assert and enforce such claims and rights in respect of such warranties and that the Manufacturer has concurrently with such assignment and appointment, similarly assigned such claims and rights to the assignee of its right, title and interest under this Agreement and appointed such assignee its agent and

attorney-in-fact to assert and enforce such claims and rights for its benefit as well. THE ASSIGNMENT PROVIDED FOR IN THIS SECTION 12.3 IS EXPRESSLY IN LIEU OF, AND THE MANUFACTURER HEREBY EXPRESSLY DISCLAIMS ANY LIABILITY UNDER, ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE MANUFACTURER, EXCEPT FOR ITS OBLIGATIONS HEREUNDER AS LIMITED HEREBY, AND THE MANUFACTURER DOES NOT ASSUME OR AUTHORIZE ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE DELIVERY OF THE EQUIPMENT. IN NO EVENT SHALL THE MANUFACTURER BE LIABLE FOR DAMAGES, INCLUDING, WITHOUT LIMITATION, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR COMMERCIAL LOSS.

SECTION 13. ASSIGNMENT OF PATENT INDEMNITIES.

13.1. The Manufacturer hereby assigns to the Railroad and its respective successors and assigns, each and all of its rights against the manufacturer of each Item of Equipment to be sold by it insofar as such rights arise out of any or all indemnities with respect to such Items of Equipment for violations of patents or similar rights, and the Manufacturer hereby appoints and constitutes the Railroad its agent and attorney-in-fact during the term of this Agreement so long as the Railroad is not in default hereunder, to assert and enforce as long as the Railroad is not in default hereunder, to assert and enforce, from time to time in the name and for the account of the Manufacturer and the Railroad, as their interests may appear, in all cases at the sole cost and expense of the Railroad, whatever claims and rights the Manufacturer may have against said manufacturer thereof upon said indemnities; it being understood, however, that said assignment and appointment are not exclusive, that the Railroad shall not have the sole right to assert and enforce such claims and rights in respect of such indemnities and that the Manufacturer has concurrently with such assignment and appointment, similarly assigned such claims and rights to the assignee of its right, title and interest under this Agreement and appointed such assignee its agent and attorney-in-fact to assert and enforce such claims and rights for its benefit as well.

SECTION 14. ASSIGNMENTS.

14.1. Except as otherwise provided in Section 9.1 hereof, the Railroad, to the extent that it may effectively do so under applicable law, covenants not to sell, assign, transfer or otherwise dispose of all or any of its rights under this Agreement or transfer the right to possession of any Item of Equipment without first obtaining the written consent of the Manufacturer. An assignment or transfer to a railroad company or other purchaser (including a successor corporation by consolidation or merger) which shall acquire all or substantially all the railroad lines of the Railroad, and which by execution of an appropriate instrument satisfactory to the Manufacturer shall assume and agree to perform each and all of the obligations and covenants of the Railroad hereunder, shall not be deemed a breach of this covenant. A lease of any or part of the Equipment to a subsidiary at least 80% directly or indirectly owned by the Railroad shall not be deemed to be a breach of this covenant, provided that the Railroad shall continue to be obligated under all the terms of this Agreement.

14.2. All or any of the rights, benefits and advantages of the Manufacturer under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Manufacturer and reassigned by an assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Manufacturer from, any of the obligations of the Manufacturer to sell and deliver the Equipment in accordance with Sections 1 and 2.1 hereof, or relieve the Railroad of its obligations to the Manufacturer hereunder.

14.3. Upon any such assignment, 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 of the Manufacturer's right, security title and interest in and to the Equipment 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 and notices thereafter to be made by the Railroad hereunder shall, to the extent so assigned, be made to the assignee at

the address of the assignee specified in the aforesaid notice.

14.4. The Railroad hereby acknowledges that, concurrently with the execution and delivery of this Agreement and in accordance with the custom of railroad equipment manufacturers, the Railroad has made arrangements for and the Manufacturer is executing and delivering an Agreement and Assignment dated as of the date hereof (hereinafter called the "Assignment") between the Manufacturer and The Chase Manhattan Bank (National Association), as agent and assignee (hereinafter called the "Agent"), pursuant to which the Manufacturer is assigning certain of its respective rights and interests hereunder. The Railroad expressly acknowledges and agrees with the Agent and its successors and assigns, for the purpose of inducing the execution and delivery of the Assignment by the Agent and its advance to the Manufacturer in consideration therefor of an amount equal to the aggregate Purchase Price of the Equipment, that the rights of the Agent and its successors and assigns to the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, or any part thereof as so assigned, as well as all other rights hereunder so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever, whether arising out of any breach of any obligation of any Manufacturer in respect of the Equipment or the manufacture, construction, delivery or warranty thereof or with respect to any indemnity herein contained or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, at any time owing to the Railroad by the Manufacturer or to any other person, firm or corporation or to any governmental authority, or for any cause whatsoever, it being the intent hereof that, except in the case of an intentionally wrongful act on the part of the Agent or its successors and assigns, the Railroad shall be unconditionally and absolutely obligated to pay the Agent the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness, together with interest thereon, and all other payments as herein provided, all in the manner and upon the dates set forth in Section 3 hereof. Any and all such obligations, if any and howsoever arising,

shall be and remain enforceable by the Railroad against and only against the Manufacturer.

14.5. In the event of any such assignment, or successive assignment, by the Manufacturer of security title to the Equipment and of the Manufacturer's rights hereunder with respect thereto, the Railroad will, whenever requested by such assignee, change the names and word or words to be marked on each side of each Item of Equipment so as to indicate the security title of such assignee to the Equipment with such names and word or words as shall be specified by such assignee, subject to the requirements of the laws of the jurisdictions in which the Equipment shall be operated relating to such names and word or words for use on equipment covered by conditional sale agreements with respect to railroad equipment. The cost of marking such names and word or words with respect to the Agent (or to any successor assignee of the Agent) shall be borne by the Railroad. The cost of marking such names and word or words in connection with any subsequent assignment (other than to a successor agent or trustee of the Agent) will be borne by the subsequent assignee.

14.6. In the event of any such assignment prior to the completion of delivery of the Equipment, the Railroad will, in connection with settlement for the Group subsequent to such assignment, deliver to the assignee, at the time of delivery by the Railroad of notice fixing the Closing Date with respect to such Group, all documents required by the terms of such assignment to be delivered to the assignee in connection with such settlement, in such number of counterparts as may reasonably be requested, except for any opinion of counsel for the assignee.

14.7. If this Agreement shall have been assigned by the Manufacturer (hereafter called the "Assigning Manufacturer"), and the assignee shall not, whether by reason of an insufficiency of funds or otherwise, make payment to the Assigning Maufacturer on the Closing Date with respect to any Item of Equipment manufactured by the Assigning Manufacturer and designated for settlement on such Closing Date of an amount equal to that portion of the Purchase Price of such Item of Equipment as provided in the instrument of assignment, the Assigning Manufacturer will promptly notify the Railroad of such event, such Item of Equipment shall be excluded from settlement on such Closing

Date but fully preserving the Assigning Manufacturer's security title to such Item in a manner acceptable to the Assigning Maufacturer and the Railroad shall not later than 60 days after such Closing Date pay or cause to be paid to the Assigning Manufacturer the Purchase Price of all such Items of Equipment, or the portion thereof unpaid by the assignee, such payment to be in cash, together with interest for the period from and including the Closing Date on which settlement was to have been made to but not including the deferred date of payment of the Purchase Price under this Section 14.7 at a rate per annum equal to the Prime Rate, or, if the Assigning Manufacturer and the Railroad shall mutually agree, by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Railroad shall determine and as may be reasonably satisfactory to the Assigning Manufacturer.

SECTION 15. APPLICATION OF PROVISIONS OF SECTION 16, "EVENTS OF DEFAULT", AND SECTION 17, "REMEDIES".

It is contemplated that the Manufacturer will assign certain of its rights under this Agreement, and all its respective right, security title and interest in and to the Equipment, to the Agent. It is desired by the parties hereto that the Agent should upon such assignment be entitled to enforce all of the assigned rights, powers, privileges and remedies of the Manufacturer under this Agreement, including but not limited to the enforcement of any remedies in case of an Event of Default under this Agreement.

SECTION 16. EVENTS OF DEFAULT.

16.1. In the event that any one or more of the following events of default ("Events of Default") shall occur and be continuing, to-wit:

(a) The Railroad shall fail to pay in full any sum payable by the Railroad when payment thereof shall be due under Section 3 or 6 hereof and such default shall continue for ten days; or

(b) The Railroad shall fail or refuse to comply with any covenant, agreement, term or provision of this

Agreement on its part to be kept and performed or to make provision satisfactory to the Manufacturer for such compliance for more than 30 days after written notice from the Manufacturer specifying the default and demanding the same to be remedied; or

(c) Any representation or warranty made by the Railroad herein or in any statement or certificate furnished to the Manufacturer or any assignee of the Manufacturer pursuant to or in connection with this Agreement or the Assignment proves untrue in any material respect as of the date of issuance or making thereof; or

(d) A case shall be commenced under subchapter IV of chapter 11 of Public Law 95-598, 11 U.S.C. §1161 et seq. (as said Law may be amended from time to time) by or against the Railroad and (unless such case shall within 30 days from the commencement thereof be dismissed, nullified, stayed or otherwise rendered ineffective, but then only so long as such stay shall continue in force or such ineffectiveness shall continue) either (i) the trustee or trustees in such proceeding, with the approval of the court having jurisdiction, shall not have agreed in writing, within the period specified in section 1168(a)(1) of said Law, to perform all obligations of the Railroad under this Agreement and with the court's approval confirmed that such obligations shall have the same status as obligations incurred by such trustee or trustees or (ii) any Event of Default (other than under this paragraph (d)) occurring prior to or at any time after the commencement of such case shall not have been duly cured within the respective period specified in section 1168(a)(2) of said Law; or

(e) Any other proceedings shall be commenced by or against the Railroad for any relief under any bankruptcy or insolvency laws, or laws 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 duly assumed in writing, pursuant to a court order or decree, by trustee or trustees or receiver or receivers appointed for the Railroad or for the property of the Railroad in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(f) The Railroad shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any Item of Equipment; or

(g) An Event of Default as defined in the Other Agreement shall occur and be continuing;

then at any time after the occurrence and during the continuance of such an Event of Default the Manufacturer may, upon written notice to the Railroad and upon compliance with any legal requirements then in force and applicable to such action by the Manufacturer, declare the entire indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness), together with the interest thereon then accrued and unpaid, and all other amounts payable by the Railroad under this Agreement, immediately due and payable, without further demand, and the Manufacturer shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated.

16.2. The Manufacturer may waive any such Event of Default and its consequences and rescind and annul any such declaration by notice to the Railroad in writing to that effect. Upon any such waiver the respective rights of the parties shall be as they would have been if no such Event of Default had existed and no such declaration had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad that time is

of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

SECTION 17. REMEDIES.

17.1. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided and during the continuance of such default, the Manufacturer may, upon such further notice, if any, as may be required for compliance with any mandatory requirements of law then in force and applicable to the action to be taken by the Manufacturer, take or cause to be taken by its agent or agents immediate possession of the Equipment, or any Item thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Section 17 expressly provided, and may remove the same from possession and use of the Railroad and for such purpose may enter upon the premises of the Railroad or where the Equipment may be located and may 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, with or without process of law.

17.2. In case the Manufacturer shall rightfully demand possession of the Equipment in pursuance of this Agreement and shall reasonably designate a point or points upon the lines of the Railroad for the delivery of the Equipment to the Manufacturer, the Railroad shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points as shall be reasonably designated by the Manufacturer and shall there deliver the Equipment or cause it to be delivered to the Manufacturer; and, at the option of the Manufacturer, the Manufacturer may keep the Equipment on any of the railroad lines or premises of the Railroad until the Manufacturer 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 Manufacturer reasonably convenient. The agreement to deliver the Equipment as

hereinbefore provided is of the essence of this Agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Manufacturer shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Manufacturer and its agent or agents for damages of whatever nature in connection with any retaking of any Item of Equipment in any reasonable manner.

17.3. If an Event of Default shall have occurred and be continuing as hereinbefore provided, then at any time thereafter during the continuance of such Event of Default and after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided (unless such declaration has been rescinded and annulled as provided in Section 16.2 hereof), the Manufacturer (after retaking possession of the Equipment as hereinbefore in this Section 17 provided) may at its election and upon such notice as is hereinafter set forth retain the Equipment in satisfaction of the entire unpaid indebtedness in respect of the Purchase Price thereof, together with interest thereon and all other payments due hereunder and make such disposition thereof as the Manufacturer shall deem fit. Written notice of the Manufacturer's election to retain the Equipment shall be given to the Railroad by telegram or registered mail, addressed as provided in Section 21 hereof, and to any other persons to whom the law may require notice, within 30 days after the indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable by the Manufacturer as above provided. In the event that the Manufacturer should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all of the Railroad's rights in the Equipment shall thereupon terminate and all payments made by the Railroad may be retained by the Manufacturer as compensation for the use of the Equipment; 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 Manufacturer the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the entire unpaid balance of the aggregate amount of the Conditional Sale Indebtedness), together with interest thereon accrued and unpaid and all other payments

due under this Agreement, then in such event absolute right to the possession of title to any 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 17.3 object in writing to the Manufacturer within 30 days from the receipt of notice of the Manufacturer's election to retain the Equipment, then the Manufacturer may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold the Equipment pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Manufacturer shall not have given 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 this Section 17.

17.4. Any sale hereunder may be held or conducted at such place or places and at such time or times as the Manufacturer 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 Manufacturer may determine, provided that the Railroad shall be given written notice of such sale not less than 30 days prior thereto, by mail addressed as provided herein. If such sale shall be a private sale, it shall be subject to the rights of the Railroad to purchase or provide a purchaser, within 30 days after notice of the proposed sale price, at the same price offered in writing by the intending purchaser or a better price. In the event that the Railroad does not exercise said right to purchase or provide a purchaser for the Equipment, the Manufacturer may bid for and become the purchaser of the Equipment, or any Item thereof, so offered for sale without accountability to the Railroad (except to the extent of surplus money received as hereinafter provided in this Secton 17), and in payment of the Purchase Price therefor the Manufacturer shall be entitled to have credited on account thereof all sums due to the Manufacturer from the Railroad hereunder.

17.5. Each and every power and remedy hereby specifically given to the Manufacturer 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 Manufacturer. 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 Manufacturer 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.

17.6. All sums of money realized by the Manufacturer under the remedies herein provided shall be applied, first to the payment of the expenses and liabilities of the Manufacturer herein undertaken to be paid, second to the payment of interest on the indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the Conditional Sale Indebtedness), third to the payment, ratably in accordance with the unpaid balance of each installment, of the installments of indebtedness in respect of the Purchase Price of the Equipment (including, without limitation, the Conditional Sale Indebtedness) accrued and unpaid and, fourth, to any unpaid commitment fee due hereunder. If, after applying as aforesaid all sums of money realized by the Manufacturer, there shall remain any amount due to it under the provisions of this Agreement, the Manufacturer 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 Manufacturer, there shall remain a surplus in the possession of the Manufacturer, such surplus shall be paid without interest to the Railroad.

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

17.8. The foregoing provisions of this Section are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

SECTION 18. APPLICABLE STATE LAWS.

18.1. Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an agreement of conditional sale, shall not modify the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale agreement and enforced as such.

18.2. 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, notice of intention to take possession of or to sell the Equipment, or any Item thereof, and any other requirements as to the time, place and terms of sale thereof, and other requirements with respect to the enforcement of the Manufacturer's rights hereunder and any and all rights of redemption.

SECTION 19. EXTENSION NOT A WAIVER.

No delay or omission in the exercise of any power or remedy herein provided or otherwise available to the Manufacturer shall impair or affect the Manufacturer's right thereafter to exercise the same. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Manufacturer's rights or the obligations of the Railroad hereunder. The Manufacturer'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 Manufacturer's rights hereunder with respect to any subsequent payments or Events of Default.

SECTION 20. RECORDING.

The Railroad at its expense will cause this Agreement, any assignment hereof and any supplements hereto and thereto to be filed, recorded or deposited and re-filed, re-recorded or re-deposited, if necessary, with the

Interstate Commerce Commission and the Registrar General of Canada (with notice of such deposit to be published in The Canada Gazette in accordance with Section 86 of the Railway Act of Canada), and otherwise as may be required by law or reasonably requested by the Manufacturer (including, without limitation, in accordance with the laws of Mexico) for the purpose of proper protection, to the satisfaction of counsel for the Manufacturer, of its security title to 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 Manufacturer certificates or other evidences of such filing, recording or depositing, and an opinion or opinions of counsel for the Railroad with respect thereto, satisfactory to the Manufacturer.

SECTION 21. NOTICE.

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

(a) to the Railroad:

Burlington Northern Inc.
Burlington Northern Building
176 East Fifth Street
St. Paul, MN 55101
Attention: Vice President and Treasurer

(b) to TPC:

Transportation Products Company
80 East Jackson Blvd., Suite 307
Chicago, IL 60604
Attention: Mr. John Miller

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

SECTION 22. HEADINGS.

All section headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement.

SECTION 23. EFFECT AND MODIFICATION OF AGREEMENTS.

Except as provided in Section 3.1 hereof, this Agreement and the Schedules relating hereto exclusively and completely state the rights and agreements of the Manufacturer and the Railroad with respect to the Equipment and supersede all other agreements, oral or written, with respect to the Equipment. No variation of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and duly executed on behalf of the Manufacturer and the Railroad.

SECTION 24. LAW GOVERNING.

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by applicable federal law and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

SECTION 25. DEFINITIONS.

The term "Manufacturer", whenever used in this Agreement, means, before any assignment of any of its rights hereunder, TPC and any successor or successors for the time being to the properties and business of TPC, and, after any such assignment, 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 and excluded from any assignment. The rights and undertakings of the Manufacturer and the rights and obligations of the Railroad with respect to the Manufacturer hereunder are several and not joint.

SECTION 26. PAYMENT OF EXPENSES.

The Railroad will pay all stamp or other taxes and all reasonable costs and expenses incident to this Agreement, the Assignment and the first assignment of this Agreement, and any instrument supplemental or related thereto, including but not limited to all fees and expenses of the first assignee of this Agreement and 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. For the purposes of this Section 26, if the first assignee is the Agent, then any successor agent to the Agent shall also be considered the first assignee.

SECTION 27. CONSOLIDATION OR MERGER.

In case of any consolidation or merger to which the Railroad or the Manufacturer shall be a party, or in case of any sale of all or substantially all of the assets of the Railroad or the Manufacturer, the corporation resulting from such consolidation or merger (if other than the Railroad or the Manufacturer), or the corporation which shall acquire such assets, shall expressly assume all obligations hereunder not then performed by the Railroad or the Manufacturer, as the case may be, and shall become entitled to all rights hereunder of the Railroad or the Manufacturer, as the case may be.

SECTION 28. EXECUTION.

This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all of the parties so long as at least one counterpart is signed by each party hereto. Although this Agreement is dated for convenience as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

[Corporate Seal]

TRANSPORTATION PRODUCTS COMPANY

Attest:

By /s/ WALTER J. DRANE
Vice President

/s/ JOAN STUVELING
Assistant Secretary

[Corporate Seal]

Attest:

/s/ GARRETT F. STEINHIBEL
Assistant Secretary

BURLINGTON NORTHERN INC.

By/s/ FRANK H. COYNE
Executive Vice President-
Finance and Administration

STATE OF ILLINOIS)
: ss.:
COUNTY OF COOK)

On this 14th day of December, 1979, before me personally appeared Walter J. Drane, to me personally known, who, being by me duly sworn, says that he is a Vice President of TRANSPORTATION PRODUCTS COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Seal) /s/ BERNICE STAGMAN
Notary Public

STATE OF MINNESOTA)
: ss:
COUNTY OF RAMSEY)

On this 14th day of December, 1979, before me personally appeared Frank H. Coyne, to me personally known, who, being by me duly sworn, says that he is the Executive Vice President-Finance and Administration of BURLINGTON NORTHERN INC., 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.

(Seal)

/s/ J. H. McCARTHY
Notary Public

J.H. McCARTHY
Notary Public - Minnesota
Ramsey County
My Comm. Expires Jan. 6, 1982

SCHEDULE A

(to Conditional Sale Agreement)

MANUFACTURER.....	Ohio Locomotive Crane
VENDOR.....	TRANSPORTATION PRODUCTS COMPANY
DESCRIPTION OF EQUIPMENT.....	One-Ohio#DE250 40/50 Ton Diesel Electric Locomotive Crane with identifying number BN 975319
SPECIFICATIONS.....	Per Burlington Northern Inc. Letter of Intent dated November 27, 1979
BASE PRICE.....	$600,000 per item
DELIVER TO.....	BURLINGTON NORTHERN INC.
PLACE OF DELIVERY.....	FOB MANUFACTURER'S PLANT, or such other place as agreed to between Transportation Products Company and Burlington Northern Inc.
ESTIMATED DELIVERY DATES.....	August, 1980
OUTSIDE DELIVERY DATE.....	December 31, 1980

SCHEDULE B

(to Conditional Sale Agreement)

MANUFACTURER.....	Ohio Locomotive Crane
VENDOR.....	TRANSPORTATION PRODUCTS COMPANY
DESCRIPTION OF EQUIPMENT.....	One-Ohio #DE400 40-50 Ton Diesel Electric Locomotive Crane with identifying number BN 975425
SPECIFICATIONS.....	Per Burlington Northern Inc. Letter of Intent dated November 27, 1979
BASE PRICE.....	$600,000 per item
DELIVER TO.....	BURLINGTON NORTHERN INC.
PLACE OF DELIVERY.....	FOB MANUFACTURER'S PLANT, or such other place as agreed to between Transportation Products Company and Burlington Northern Inc.
ESTIMATED DELIVERY DATES.....	July, 1980
OUTSIDE DELIVERY DATE.....	December 31, 1980

EXHIBIT B

AGREEMENT AND ASSIGNMENT dated as of October 1, 1979 among FMC CORPORATION, a Delaware corporation (hereinafter called "FMC"), GENERAL ELECTRIC COMPANY, a New York corporation (hereinafter called "General Electric") and DIFCO, INC., an Ohio corporation (hereinafter called "DIFCO") (the foregoing companies being hereinafter collectively called the "Manufacturers", or severally called a "Manufacturer"), and THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION), a national banking association organized under the laws of the United States of America, acting as Agent under a Finance Agreement dated as of the date hereof (hereinafter called the "Finance Agreement") (said bank so acting being hereinafter called the "Assignee").

WHEREAS, the Manufacturers and Burlington Northern Inc., a corporation duly organized and existing under the laws of the State of Delaware (hereinafter called the "Railroad"), have entered into a Conditional Sale Agreement, dated as of the date hereof (hereinafter called the "Conditional Sale Agreement"), covering the construction, sale and delivery, on the conditions therein set forth, by the respective Manufacturers and the purchase by the Railroad of the railroad equipment described in Schedules A, B and C to the Conditional Sale Agreement (said equipment being hereinafter called the "Equipment");

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Assignee to the respective Manufacturers, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. Each Manufacturer hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) All the right, security title and interest of such Manufacturer in and to the Equipment and each unit thereof to be constructed and sold by such Manufacturer when and as severally delivered and accepted and upon payment by the Assignee to such Manufacturer of the amounts required to be paid under Section 6 hereof with respect to such unit;

(b) All the right, title and interest of such Manufacturer in and to the Conditional Sale Agreement in respect of the Equipment to be constructed and sold by such Manufacturer thereunder (except the rights to cause to be constructed and to deliver the Equipment and the right to receive the payments specified in Sections 2.3 and 14.7 thereof and the right to reimbursement for taxes as provided in Section 7 of the Conditional Sale Agreement, and provided that such Manufacturer retains a right to indemnity as provided in Section 12.1 thereof notwithstanding assignment of such right hereunder), and in and to any and all amounts which may be or become due or owing to such Manufacturer under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) All of such Manufacturer's rights (except as herein provided), powers, privileges and remedies under the Conditional Sale Agreement (without any recourse, however, against such Manufacturer for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement); provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of each such Manufacturer to cause to be constructed and to deliver the Equipment to be sold by such Manufacturer in accordance with the Conditional Sale Agreement or in respect of its warranties and indemnities contained in Sections 12.3 and 13 of, and Schedules A, B and C to, the Conditional Sale Agreement or relieve the Railroad from its obligations to such Manufacturer under the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Section 14 of the Conditional Sale Agreement, all obligations of such Manufacturer to the Railroad in respect of the Equipment shall be and remain enforceable by the Railroad, its successors and assigns, against and only against such Manufacturer. In furtherance of the foregoing assignment and transfer, each Manufacturer hereby

authorizes and empowers the Assignee in the Assignee's own name, in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for such Manufacturer to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Railroad with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

Each Manufacturer agrees that any amount payable to such Manufacturer by the Railroad, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien or charge on any of the units of Equipment.

SECTION 2. Each Manufacturer covenants and agrees that it will cause the Equipment to be sold by such Manufacturer under the Conditional Sale Agreement to be constructed in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Railroad in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions to the Conditional Sale Agreement set forth to be performed and complied with by such Manufacturer. Each Manufacturer further covenants and agrees that it will warrant to the Assignee and the Railroad that at the time of delivery of each unit of the Equipment to be constructed and sold by such Manufacturer it had legal title to such unit and good and lawful right to sell such unit and the title to such unit was free of all claims, security interests, liens and encumbrances of any nature except only the rights of the Railroad under the Conditional Sale Agreement; and each Manufacturer further covenants and agrees that it will defend such title against all claims and demands whatsoever. Each Manufacturer will not deliver any of the Equipment to be constructed and sold by such Manufacturer to the Railroad until the filings and recordations referred to in Section 20 of the Conditional Sale Agreement have been effected.

SECTION 3. Each Manufacturer covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement

for any amount which may be due or owing by the Railroad on account of its indebtedness in respect of the aggregate Purchase Price of the Equipment and interest thereon, and any other sums becoming due under the Conditional Sale Agreement, or to enforce any provision of the Conditional Sale Agreement, each such Manufacturer will save, indemnify, defend and keep harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Railroad arising out of a breach by such Manufacturer of any obligation in respect of its Equipment, or the manufacture, construction, delivery or warranty thereof, or under Sections 12 and 13 of, or Schedules A, B and C to, the Conditional Sale Agreement, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by such Manufacturer. Any and all such obligations shall be and remain enforceable by the Railroad against and only against the respective Manufacturers and shall not be enforceable against the Assignee or any party or parties in whom security title to the Equipment, or any unit thereof, or any of the rights of the respective Manufacturers under the Conditional Sale Agreement shall vest by reason of this Assignment or of successive assignments or transfers. The respective Manufacturers shall have no liability under the foregoing provisions of this Section 3 unless (a) the Assignee, in any such suit, proceeding or action by the Assignee, hereinabove described, promptly moves or takes other appropriate action on the basis of Section 14.4 of the Conditional Sale Agreement, to strike any such defense, setoff, counterclaim or recoupment asserted by the Railroad, and the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, and (b) upon any such denial and acceptance, the Assignee promptly notifies the Manufacturer of the Equipment of any such defense, setoff, counterclaim or recoupment asserted by the Railroad and such Manufacturer is given the right by the Assignee to compromise, settle or defend against, at its expense, such defense, setoff, counterclaim or recoupment. Each Manufacturer will indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or

accruing against the Assignee or its assigns because of the use in or about the construction of the Equipment, or any unit thereof, to be constructed and sold by such Manufacturer, of any design, article or material which infringes, or is claimed to infringe, on any patent or other right, except for any design specified by the Railroad and not developed or purported to be developed by such Manufacturer or any article or material specified by the Railroad and not manufactured by such Manufacturer. Nothing in this Section 3 is intended to extend the scope of the Manufacturers' warranties which are always subject to the DISCLAIMERS OF IMPLIED WARRANTIES and limitations of remedy set forth therein.

SECTION 4. Each Manufacturer will cause to be plainly, distinctly, permanently and conspicuously marked on each side of each unit of the Equipment, to be constructed and sold by such Manufacturer, at the time of delivery thereof to the Railroad, in letters not less than one inch in height, the following legend:

UNIT SUBJECT TO SECURITY INTEREST OF
THE AGENT BANK UNDER CONDITIONAL SALE
AGREEMENT RECORDED WITH THE I.C.C.

SECTION 5. Upon request of the Assignee, its successors and assigns, each Manufacturer will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of such Manufacturer therein or in the Equipment.

SECTION 6. Subject to timely receipt by the Assignee of funds sufficient for the purpose, the Assignee, on each Closing Date as provided in Section 3 of the Conditional Sale Agreement with respect to a Group of Equipment (as defined in said Section 3) or as otherwise hereinafter set forth, shall pay to the Manufacturer of each unit of Equipment in such Group an amount equal to the Purchase Price of such unit, provided that there shall have been delivered to the Assignee, as provided in the Conditional Sale Agreement, the following documents, in such number of counterparts or copies as may reasonably be requested, in form and substance satisfactory to it and to the special counsel for the Agent hereinafter mentioned:

(a) Bills of Sale from each of the Manufacturers of such Equipment to the Assignee, dated as of such Closing Date and in the form of Schedule 1 hereto, transferring to the Assignee security title to the units of the Equipment in such Group and warranting to the Assignee and to the Railroad that at the time of delivery to the Railroad under the Conditional Sale Agreement such Manufacturers had legal title to such units and good and lawful right to sell such units and title to such units was free of all claims, security interests, liens and encumbrances of any nature except only the rights of the Railroad under the Conditional Sale Agreement;

(b) Certificate or Certificates of Acceptance signed by an authorized representative of the Railroad, dated the date of such acceptance and in the form of Schedule 2 hereto, stating that the units of the Equipment in such Group have been inspected and accepted by him on behalf of the Railroad and further stating that there was plainly, distinctly, permanently and conspicuously marked on each side of each of such units at the time of its acceptance, in letters not less than one inch in height, the following legend:

UNIT SUBJECT TO SECURITY INTEREST OF
THE AGENT BANK UNDER CONDITIONAL SALE
AGREEMENT RECORDED WITH THE I.C.C.

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

(d) Opinion of counsel for the Railroad, dated as of a date within 21 days after the date of execution and delivery of the Conditional Sale Agreement and this Assignment and substantially in the form of Schedule 3 hereto, to the effect that (i) the Railroad is a duly organized and existing corporation in good standing under the laws of Delaware, its state of incorporation, and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Railroad and is a valid instrument binding upon and enforceable against the

Railroad in accordance with its terms, (iii) the execution, delivery and performance by the Railroad of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-Laws of the Railroad, or any indenture, agreement or other instrument to which the Railroad is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Railroad, (iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or this Assignment, or, if any authority is necessary, that it has been duly obtained and is in full force and effect, (v) the Conditional Sale Agreement and this Assignment have been duly filed and recorded in accordance with Section 20 of the Conditional Sale Agreement, (vi) that the Equipment is rolling stock under 11 U.S.C. §1168 and that the Assignee is entitled to the rights of a secured party with a purchase-money equipment security interest in the Equipment thereunder, (vii) that the Equipment consists of railroad cars, locomotives or other rolling stock used or intended for use in connection with interstate commerce as required by 49 U.S.C. §11303 and (viii) that upon delivery of each unit of Equipment to the Railroad and payment of its purchase price, the Assignee shall have a duly perfected purchase-money equipment security interest therein;

(e) On December 6, 1979 (hereinafter called the "Initial Closing") an opinion of counsel for each Manufacturer, dated as of such date and substantially in the form of Schedule 4 hereto, stating that (i) such Manufacturer is a duly organized and existing corporation in good standing under the laws of the state of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by such Manufacturer and is a valid instrument binding upon and

enforceable against such Manufacturer in accordance with its terms, (iii) the execution, delivery and performance by such Manufacturer of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-Laws of such Manufacturer, or any Indenture, agreement or other instrument to which such Manufacturer is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of such Manufacturer, (iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or this Assignment, or, if any authority is necessary, that it has been duly obtained and is in full force and effect, (v) this Assignment has been duly authorized, executed and delivered by such Manufacturer and is a valid instrument binding upon and enforceable against such Manufacturer in accordance with its terms, and (vi) the Assignee is vested with all the right, title and interest of such Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date, an opinion of counsel for each Manufacturer of the Equipment in such Group, dated as of such Closing Date and substantially in the form of Schedule 5 hereto, reaffirming the opinion of such counsel delivered in respect of the Initial Closing and stating that security title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, were free of all claims, security interests, liens and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement;

(f) In respect of the Initial Closing, the opinion of Milbank, Tweed, Hadley & McCloy as to the due authorization, execution and delivery by (i) the Railroad and each Manufacturer of the Conditional Sale Agreement and (ii) each Manufacturer of this Assignment

and the validity and binding nature as regards (x) the Railroad and each Manufacturer of the Conditional Sale Agreement and (y) each Manufacturer of this Assignment. For purposes of such opinion such counsel may rely (other than as to matters of New York or U.S. Federal law) upon the opinion of counsel for the Railroad and for each Manufacturer, respectively, referred to above (and upon any opinions referred to in said opinion); and

(g) In respect of the Initial Closing a certificate of a Vice President of the Railroad dated the date of the Initial Closing concerning the Railroad's Certificate of Incorporation and By-Laws, payment of taxes, good standing and to the effect that no Event of Default as specified in the Conditional Sale Agreement, or event which with the lapse of time and/or notice provided for in the Conditional Sale Agreement would constitute such an Event of Default, has occurred and is continuing, and to the effect that, since December 31, 1978, there has been no material adverse change in the affairs or financial condition of the Railroad in the form of Schedule 6 hereto, a Certificate of Incumbency in the form of Schedule 7 hereto and a Certificate of Resolutions in the form of Schedule 8 hereto.

(h) In respect of each Closing Date a certificate of a Vice President of the Railroad dated the date of such Closing Date and in the Form of Schedule 9 hereto.

In giving the opinions specified in subparagraphs (d), (e) and (f) of the first paragraph of this Section 6, counsel may qualify any opinion to the effect that any agreement is enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. Any opinion delivered hereunder after the Initial Closing may state that counsel signing such opinion reaffirms any statement contained in any opinion of the same counsel theretofore delivered hereunder without repeating the substance of such earlier opinion.

The obligation of the Assignee hereunder to make payments on each Closing Date is hereby expressly

conditioned upon the prior receipt by the Assignee, as provided in the Finance Agreement, of all the funds to be furnished to the Assignee by the various parties to the Finance Agreement with respect to such Closing Date, or, if any of such parties default in furnishing such funds, the prior receipt by the Assignee from the Railroad of such funds as provided in the Finance Agreement; and, in the event of failure of any such party to furnish any such funds with respect thereto, such Closing Date shall be postponed for four business days. To the extent that the Railroad shall pay or cause to be paid to the Assignee, in accordance with the Finance Agreement, any amount or amounts on account of the Purchase Price of the Equipment to be settled for on such Closing Date, the Railroad shall be relieved of its indebtedness in respect of the Purchase Price of the Equipment under Section 3.3 of the Conditional Sale Agreement to the extent of the amount or amounts so paid by the Railroad. By any such payment, however, the Railroad shall not acquire any rights under this Assignment. If the Assignee fails to pay any Manufacturer any amount required to be paid with respect to any unit of Equipment pursuant to this Section 6 at the time herein specified, then any right, title and interest in and to such unit, to the extent of such amount, including any right, title and interest under the Conditional Sale Agreement with respect to such unit, to the extent of such amount, which has been assigned, transferred or set over to the Assignee by such Manufacturer, shall automatically, and without further action on the part of the Assignee, be reassigned, transferred and set over back to such Manufacturer by the Assignee.

It is understood and agreed that the Assignee shall not be required to make (i) any payment in respect of any units of the Equipment excluded from the Conditional Sale Agreement pursuant to Section 2 thereof or (ii) any payment under this Section 6 at any time while an Event of Default, or any event which with the lapse of time and/or notice provided for in the Conditional Sale Agreement shall constitute an Event of Default, shall be subsisting under the Conditional Sale Agreement. It is also understood and agreed that, anything herein to the contrary notwithstanding, the Assignee hereunder shall not be obligated to make payment to any Manufacturer except out of funds furnished to it pursuant to the Finance Agreement.

SECTION 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payment due or to become due to it from the Railroad thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder. The address of the Assignee for purposes of notices and payments is 1 Chase Manhattan Plaza, New York, New York 10081, Attention: Land Transportation Division or such other address as the Assignee shall have furnished in writing to the Railroad.

SECTION 8. Each Manufacturer hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the other Manufacturers and by the Railroad, the Conditional Sale Agreement is, in so far as such Manufacturer is concerned, a valid and existing agreement binding upon such Manufacturer and the Railroad in accordance with its terms and that it is now in force without amendment thereto; and

(b) covenants and agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

SECTION 9. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all of the parties so long as at least one counterpart is signed by each party hereto. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Railroad. Although this Assignment is dated for convenience as of October 1, 1979,

the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

SECTION 10. The terms of this Assignment and the rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by applicable federal law and such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Assignment, as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment shall be filed, recorded or deposited.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

FMC CORPORATION

[CORPORATE SEAL]

By /s/ B.R. VAN ECK
Title: Vice President

Attesting:

/s/ A.R. KIDSTON
Assistant Secretary

GENERAL ELECTRIC COMPANY

[CORPORATE SEAL]

By /s/ R. D. MOREY

Title: Manager-Marketing
Locomotive Marketing
Department

Attest:

/s/ J.T. HUGHES

Attesting Secretary

DIFCO, INC.

[CORPORATE SEAL]

By /s/ FRED F. FLOWERS
President

Attest:

/s/ MARY SCHINDLER
Assistant Secretary

THE CHASE MANHATTAN BANK
(NATIONAL ASSOCIATION), Agent

[CORPORATE SEAL]

By /s/ J. SCOTT SWENSEN
Second Vice President

Attest:

/s/ VICTOR R. SIMONE, JR.
Assistant Treasurer

STATE OF ILLINOIS)
:SS.:
COUNTY OF COOK)

On this 16th day of November, 1979, before me personally appeared B.R. van Eck , to me personally known, who, being by me duly sworn, says that he is a Vice President of FMC 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.

[Notarial Seal]

/s/ JUDITH A. ZEMAR

Notary Public

COMMONWEALTH OF PENNSYLVANIA)
:SS.:
COUNTY OF ERIE)

On this 19th day of November, 1979, before me personally appeared R. D. Morey, to me personally known, who, being by me duly sworn, says that he is a Manager-Marketing Locomoti Marketing Department of GENERAL ELECTRIC COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

/s/ DORIS W. CHILCOTT
Notary Public

Lawrence Park TWP., Erie Co., PA.
MY Commission Expires Nov. 26, 1979

STATE OF OHIO)
:SS.:
COUNTY OF HANCOCK)

On this 16th day of November, 1979, before me personally appeared Fred F. Flowers, to me personally known, who, being by me duly sworn, says that he is a President of DIFCO, INC., 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.

[Notarial Seal]

/s/ DORTHA E. BUCKLAND
Notary Public
7-9-82

STATE OF NEW YORK)
:SS.:
COUNTY OF NEW YORK)

On this 15th day of November, 1979, before me personally appeared J. Scott Swensen, to me personally known, who, being by me duly sworn, says that he is a Second Vice President of THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION), 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.

[Notarial Seal]

/s/ STANLEY JENDRAS
Notary Public

Notary Public, State of New York
No. 24-4680456
Qualified in Kings County
Cert. filed in New York City Co.
Commission expires March 30, 1980

ACKNOWLEDGEMENT OF NOTICE OF ASSIGNMENT

Receipt of a signed copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged.

BURLINGTON NORTHERN INC.

By /s/ FRANK H. COYNE
Executive Vice President-
Finance and Administration

Dated November 19, 1979

SCHEDULE 1

BILL OF SALE

NO._____

_____ (hereinafter called the Manufacturer), in consideration of the sum of One Dollar ($1) and other good and valuable consideration paid by THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION) (hereinafter called the Assignee), Assignee under an Agreement and Assignment dated as of October 1, 1979 between the Manufacturer and the Assignee, by which the Manufacturer assigned to the Assignee certain rights of the Manufacturer under a Conditional Sale Agreement dated as of October 1, 1979, among the Manufacturer, BURLINGTON NORTHERN INC. (hereinafter called the Railroad) and certain other builders, at or before the execution and delivery of these presents, the receipt of which is hereby acknowledged, does hereby grant, the security interest of the Manufacturer in and to the following units of railroad equipment (hereinafter called the Equipment) which have been delivered by the Manufacturer to the Railroad pursuant to said Conditional Sale Agreement:

Description	Quantity	Railroad Nos.

To have and to hold all and singular the security title to the above described units of railroad Equipment to the Assignee, its successors and assigns, for its and their own use and behoof forever.

And the Manufacturer hereby warrants to the Assignee, its successors and assigns, and to the Railroad that at the time of delivery of each of the above-described units of railroad equipment to the Railroad under the above-mentioned Conditional Sale Agreement the Manufacturer had legal title thereto and good and lawful right to sell each

such unit and the title to each such unit was free and clear of all claims, liens, security interests and encumbrances of any nature except only the rights of the Railroad under said Conditional Sale Agreement; and the Manufacturer covenants that it will defend such title to the Equipment against the demands of all persons whomsoever based on claims originating prior to the delivery of the Equipment by the Manufacturer under the Conditional Sale Agreement.

IN WITNESS WHEREOF, the Manufacturer has caused this instrument to be executed in its name by a duly authorized officer and its corporate seal to be hereunto affixed, duly attested, the day of , 1980.

[Seal]

By_____
Title:

Attest:

_____
Assistant [Attesting] Secretary

SCHEDULE 2

CERTIFICATE OF ACCEPTANCE
UNDER CONDITIONAL SALE AGREEMENT

I, a duly appointed inspector and authorized representative of BURLINGTON NORTHERN INC. (the "Railroad"), do hereby certify that I have inspected, received, approved and accepted delivery on behalf of the Railroad under the Conditional Sale Agreement dated as of October 1, 1979 among FMC Corporation, General Electric Company and Difco, Inc. (the "Manufacturers") and the Railroad, of the following items of Equipment (the "Equipment"):

TYPE OF EQUIPMENT:

MANUFACTURER:

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF ITEMS:

NUMBERED:

I do further certify that the foregoing Equipment is in good order and condition, and conforms to the Specifications applicable thereto, and at the time of delivery to the Railroad there was plainly, distinctly, permanently and conspicuously marked in contrasting colors upon each side of the Item of Equipment the following legend in letters not less then one inch in height:

"Unit Subject to Security Interest of the Agent Bank under Conditional Sale Agreement Recorded with I.C.C."

The execution of this Certificate will in no way relieve or decrease the responsibility of the Vendor or the Manufacturer of the Equipment for warranties it has made with respect to the Equipment.

Date: , 1980

_____

Inspector and Authorized
Representative of Railroad

SCHEDULE 3

[Letterhead of Burlington Northern Counsel]

, 1979

The Chase Manhattan Bank
(National Association)
1 Chase Manhattan Plaza
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As attorney for Burlington Northern Inc. (hereinafter called the "Railroad"), I have examined and am familiar with (a) the Restated Certificate of Incorporation and By-laws of the Railroad; (b) the Conditional Sale Agreement dated as of October 1, 1979 (hereinafter called the "Conditional Sale Agreement"), among FMC Corporation, General Electric Company, Difco, Inc. and the Railroad covering railroad equipment therein referred to; (c) the Agreement and Assignment dated as of October 1, 1979 among FMC Corporation, General Electric Company and Difco, Inc. and you as Agent for the Investors under a Finance Agreement dated as of October 1, 1979; and (d) all corporate and other proceedings taken by the Railroad in connection with the execution and delivery of the Conditional Sale Agreement.

I have also examined originals, or copies certified or otherwise identified to my satisfaction, of such other documents and instruments as I have deemed necessary or appropriate for the purposes of this opinion.

As attorney for the Railroad, I am of the opinion that:

(i) The Railroad is a duly organized and validly existing corporation in good standing under the laws of the State of Delaware, its state of incorporation, and has the

power and authority to own its properties and to carry on its business as now conducted and is duly qualified to do business as a foreign corporation in all states where the character of its properties or the nature of its activities makes such qualification necessary;

(ii) The Conditional Sale Agreement has been duly authorized, executed and delivered by the Railroad and is a valid and binding instrument enforceable against the Railroad in accordance with its terms (subject, as to the enforcement of remedies, to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditor's rights generally from time to time in effect);

(iii) The execution and delivery and performance by the Railroad of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-Laws of the Railroad, or any indenture, agreement, or other instrument to which the Railroad is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Railroad;

(iv) No approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or the Agreement and Assignment;

(v) The Conditional Sale Agreement and the Agreement and Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 11303 of the Interstate Commerce Act and have been duly deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada (with notice of such deposit published in the Canada Gazette on November , 1979 in accordance with Section 86 of the Railway Act of Canada), the security interest created by said instruments has been duly perfected and is subject to no prior lien,

security interest or encumbrance and no other filing, recordation, depositing, giving of notice, refiling, rerecording, redepositing or regiving of notice is necessary for the protection of the rights of the Agent in any State of the United States of America or to make said instruments valid against all persons under Canadian law;

(vi) The Equipment is rolling stock under 11 U.S.C. §1168 and the Assignee is entitled to the rights of a secured party with a purchase-money equipment security interest in the Equipment thereunder;

(vii) The Equipment consists of railroad cars, locomotives or other rolling stock used or intended for use in connection with interstate commerce as required by 49 U.S.C. §11303; and

(viii) Upon delivery of each unit of Equipment to the Railroad and payment of its purchase price, the Assignee shall have a duly perfected purchase-money equipment security interest therein.

Very truly yours,

SCHEDULE 4

[Letterhead of Counsel to Manufacturer]

November , 1979

The Chase Manhattan Bank
(National Association)
1 Chase Manhattan Plaza
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As counsel for _____, a _____ corporation (the "Manufacturer"), I have examined counterparts of: (i) the Conditional Sale Agreement dated as of October 1, 1979 (the "Conditional Sale Agreement"), among the Manufacturer, Burlington Northern Inc. (the "Railroad") and certain other manufacturers; (ii) the Agreement and Assignment dated as of October 1, 1979 (the "Assignment"), among the Manufacturer, certain other manufacturers and The Chase Manhattan Bank (National Association), as Agent (the "Assignee"); and (iii) such other documents as I have deemed necessary to render the opinion set forth below.

Based upon the foregoing, I am of opinion that:

(i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the State of _____ and has the power and authority to own its properties and to carry on its business as now conducted;

(ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in

accordance with its terms, subject to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally;

(iii) the execution, delivery and performance by the Manufacturer of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Certificate of Incorporation or By-Laws of the Manufacturer, or any indenture, agreement or other instrument to which the Manufacturer is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Manufacturer;

(iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement;

(v) the Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, subject to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally; and

(vi) the Assignee is vested with all the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by the Manufacturer under the Assignment.

Very truly yours,

SCHEDULE 5

[Letterhead of Counsel to Manufacturer]

, 1980

The Chase Manhattan Bank
(National Association)
1 Chase Manhattan Plaza
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As counsel for _____, a _____ corporation (the "Manufacturer"), I have examined counterparts of: (i) the Conditional Sale Agreement dated as of October 1, 1979 (the "Conditional Sale Agreement"), among the Manufacturer, Burlington Northern Inc. (the "Railroad") and certain other manufacturers; (ii) the Agreement and Assignment dated as of October 1, 1979 (the "Assignment"), among the Manufacturer, certain other manufacturers and The Chase Manhattan Bank (National Association), as Agent (the "Assignee"); (iii) the Bill of Sale dated as of the date hereof (the "Bill of Sale") from the Manufacturer to the Assignee transferring to the Assignee the security title of the Manufacturer in the units of railroad equipment (the "Equipment") described therein; and (iv) such other documents as I have deemed necessary to render the opinion set forth below.

Based upon the foregoing, I am of opinion that:

(i) my opinion of counsel dated [date of opinion delivered in the form of Schedule 5 hereto] is true and correct as of the date hereof as if such opinion of counsel had been made on and as of such date and I hereby affirm such opinion of counsel; and

(ii) upon delivery of the Bill of Sale to the Assignee, security title to the Equipment will be validly vested in the Assignee, and each unit of the Equipment, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, was free of all claims, security interests, liens and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement.

Very truly yours,

SCHEDULE 6

Certificate

I, , Vice President of Burlington Northern Inc., a Delaware corporation (herein called the "Railroad"), HEREBY CERTIFY that:

1. Attached hereto as Exhibits A and B are true and complete copies of the Certificate of Incorporation and By-Laws, respectively, of the Railroad as in effect on [the date of corporate action authorizing the transaction] and at all subsequent times to and including the date hereof.

2. After due inquiry I know of no proceeding for the dissolution or liquidation or threatening the existence of the Railroad and to my knowledge the Railroad is in good standing in the State of Delaware.

3. All tax returns have been filed by the Railroad as required by law and all taxes have been paid except such taxes as are not yet due.

4. I am familiar with the terms of the Conditional Sale Agreement dated as of October 1, 1979 (herein called the "Conditional Sale Agreement") among FMC Corporation, General Electric Company, Difco, Inc. and the Railroad covering railroad equipment therein referred to and I am familiar with the terms and conditions of the various documents mentioned and described in the Conditional Sale Agreement. Terms defined in the Conditional Sale Agreement have the same meanings when used herein.

5. As to matters hereinbelow set forth, I have personal knowledge or have obtained information from officers or employees of the Railroad in whom I have confidence and whose duties require them to have personal knowledge thereof, and I make this certificate pursuant to the provisions of § 6(g) of an Agreement and Assignment dated as of October 1, 1979 among the Manufacturers and their Assignee thereunder with the intention that this

certificate shall be relied upon by the Assignee and certain Investors under a Finance Agreement dated as of October 1, 1979 as the basis for their execution and delivery of said Finance Agreement and said Agreement and Assignment on the date hereof.

6. The representations and warranties contained in the Conditional Sale Agreement are (except as affected by the transactions contemplated by the Conditional Sale Agreement) true on the date hereof with the same effect as though such representations and warranties had been made on and as of the date hereof, and no Event of Default specified in § 16 of the Conditional Sale Agreement and no event which, with the lapse of time or the notice and lapse of time specified in said § 16, would become such an Event of Default has occurred and is continuing.

7. Since December 31, 1978 there has been no material adverse change in the affairs or financial condition of the Railroad.

WITNESS my hand this _____ day of December, 1979

_____

SCHEDULE 7

BURLINGTON NORTHERN INC.

CERTIFICATE OF INCUMBENCY

I, G. F. Steinhibel, hereby certify that I am an Assistant Secretary of Burlington Northern Inc. (the Company); that as such Assistant Secretary I am one of the keepers of the records and corporate seal of the Company; that each of the persons named below is the duly elected or appointed incumbent of the office of the Company set opposite his name and has been duly qualified and acting as such officer of the Company at all times since the date of his election or appointment to and including the date and delivery of this Certificate; and that the genuine signatures of said officers are set opposite their names:

Office		
Executive Vice President-Finance and Administration	Frank H. Coyne	_____
Vice President and Treasurer	R.C. Burton, Jr.	_____
Assistant Secretary	G.F. Steinhibel	_____

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Company this day of November, 1979.

_____
Assistant Secretary

I, , of Burlington Northern Inc. (the Company), do hereby certify that G. F. Steinhibel is a duly appointed Assistant Secretary of the Company on the date hereof; that I am familiar with the signature of G. F. Steinhibel; and that the signature set opposite his name in the foregoing certificate is his genuine signature.

IN WITNESS WHEREOF, I have hereunto set my hand this day of November, 1979.

_____

SCHEDULE 8

RESOLUTIONS

OF

BURLINGTON NORTHERN INC.

I, _____, _____ of BURLINGTON NORTHERN INC., a Delaware corporation, HEREBY CERTIFY that the following resolutions were duly adopted at a meeting of the Board of Directors of said corporation duly called and held at , on , at which a quorum was present and acting throughout:

[Form of resolutions to be provided by the Railroad.]

I HEREBY FURTHER CERTIFY that said resolutions have not been modified and are still in full force and effect and that the form of said Conditional Sale Agreement submitted to said meeting was substantially the form in which it was executed.

IN WITNESS WHEREOF, I have signed this certificate this _____ day of November, 1979.

_____

SCHEDULE 9

CERTIFICATE

I, _____, Vice President of Burlington Northern Inc. (hereinafter called the "Railroad"), do hereby certify that (i) there has been no change in the Railroad's Restated Certificate of Incorporation or By-Laws subsequent to [the date of the Certificate exhibited in Schedule 7], (ii) after due inquiry I know of no proceeding for the dissolution or liquidation or threatening the existence of the Railroad and to my knowledge the Railroad is in good standing in the State of Delaware, (iii) all tax returns have been filed by the Railroad as required by law and all taxes have been paid except such taxes as are not yet due, (iv) the resolutions of the directors of the Railroad adopted on _____ have not been modified and are still in full force and effect, (v) each person duly elected or appointed incumbent of the office of the Railroad set opposite his name in the Certificate of Incumbency dated _____ is duly qualified and acting as such officer of the Railroad on the date hereof, (vi) the representations and warranties contained in the Conditional Sale Agreement (as mentioned below) are (except as affected by the transactions contemplated by said Conditional Sale Agreement) true on the date hereof with the same effect as though such representations and warranties had been made on and as of the date hereof, and no Event of Default specified in § 16 of the Conditional Sale Agreement and no event which, with the lapse of time or the notice and lapse of time specified in said § 16, would become such an Event of Default has occurred and is continuing, and (vii) since December 31, 1978 there has been no material adverse change in the affairs or financial condition of the Railroad.

I am familiar with the terms of the Conditional Sale Agreement dated as of October 1, 1979 (herein called the "Conditional Sale Agreement") among FMC Corporation, General Electric Company, Difco, Inc. and the Railroad covering railroad equipment therein referred to and I am familiar with the terms and conditions of the various documents mentioned and described in the Conditional Sale

Agreement. Terms defined in the Conditional Sale Agreement have the same meanings when used herein.

As to matters hereinbelow set forth, I have personal knowledge or have obtained information from officers or employees of the Railroad in whom I have confidence and whose duties require them to have personal knowledge thereof, and I make this certificate pursuant to the provisions of § 6(h) of an Agreement and Assignment dated as of October 1, 1979 among the Manufacturers and their Assignee thereunder with the intention that this certificate shall be relied upon by the Assignee and certain Investors under a Finance Agreement dated as of October 1, 1979 as the basis for their making certain payments to the Manufacturers for delivery of railroad equipment to the Railroad on the date hereof.

Dated: , 1980

_____

AGREEMENT AND ASSIGNMENT dated as of October 1, 1979 between TRANSPORTATION PRODUCTS COMPANY, an Illinois corporation (hereinafter called "TPC") (hereinafter called the "Manufacturer") and THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION), a national banking association organized under the laws of the United States of America, acting as Agent under a Finance Agreement dated as of the date hereof (hereinafter called the "Finance Agreement") (said bank so acting being hereinafter called the "Assignee").

WHEREAS, the Manufacturer and Burlington Northern Inc., a corporation duly organized and existing under the laws of the State of Delaware (hereinafter called the "Railroad"), have entered into a Conditional Sale Agreement, dated as of the date hereof (hereinafter called the "Conditional Sale Agreement"), covering the construction, sale and delivery, on the conditions therein set forth, by the Manufacturer and the purchase by the Railroad of the railroad equipment described in Schedules A and B to the Conditional Sale Agreement (said equipment being hereinafter called the "Equipment");

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Assignee to the Manufacturer, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. The Manufacturer hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) All the right, security title and interest of the Manufacturer in and to the Equipment and each unit thereof to be sold by the Manufacturer when and as severally delivered and accepted and upon payment by the Assignee to the Manufacturer of the amounts required to be paid under Section 6 hereof with respect to such unit;

(b) All the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement in respect of the Equipment to be sold by the Manufacturer thereunder (except the rights to deliver the Equipment to be sold by it and the right to receive the payments

specified in Sections 2.3 and 14.7 thereof and the right to reimbursement for taxes as provided in Section 7 of the Conditional Sale Agreement, and provided that the Manufacturer retains a right to indemnity as provided in Section 12.1 thereof notwithstanding assignment of such right hereunder), and in and to any and all amounts which may be or become due or owing to the Manufacturer under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) All of the Manufacturer's rights (except as herein provided), powers, privileges and remedies under the Conditional Sale Agreement (without any recourse, however, against the Manufacturer for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement); provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Manufacturer to cause to be sold by the Manufacturer in accordance with the Conditional Sale Agreement or relieve the Railroad from its obligations to the Manufacturer under the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Section 14 of the Conditional Sale Agreement, all obligations of the Manufacturer to the Railroad in respect of the Equipment shall be and remain enforceable by the Railroad, its successors and assigns, against and only against the Manufacturer. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby authorizes and empowers the Assignee in the Assignee's own name, in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Manufacturer to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Railroad with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at

the expense and liability and for the sole benefit of the Assignee.

The Manufacturer agrees that any amount payable to the Manufacturer by the Railroad, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien or charge on any of the units of Equipment.

SECTION 2. The Manufacturer covenants and agrees that it will cause the Equipment to be sold by the Manufacturer under the Conditional Sale Agreement to be constructed in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Railroad in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions to the Conditional Sale Agreement set forth to be performed and complied with by the Manufacturer. The Manufacturer further covenants and agrees that it will warrant to the Assignee and the Railroad that at the time of delivery of each unit of the Equipment to be sold by the Manufacturer it had legal title to such unit and good and lawful right to sell such unit and the title to such unit was free of all claims, security interests, liens and encumbrances of any nature except only the rights of the Railroad under the Conditional Sale Agreement; and the Manufacturer further covenants and agrees that it will defend such title against all claims and demands whatsoever. The Manufacturer will not deliver any of the Equipment to be sold by the Manufacturer to the Railroad until the filings and recordations referred to in Section 20 of the Conditional Sale Agreement have been effected.

SECTION 3. The Manufacturer covenants and agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any amount which may be due or owing by the Railroad on account of its indebtedness in respect of the aggregate Purchase Price of the Equipment and interest thereon, and any other sums becoming due under the Conditional Sale Agreement, or to enforce any provision of the Conditional Sale Agreement, the Manufacturer will save, indemnify, defend and keep harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense,

setoff, counterclaim or recoupment whatsoever of the Railroad arising out of a breach by the Manufacturer of any obligation in respect of the Equipment, or the delivery or warranty thereof, or under Sections 12 and 13 of, or Schedules A or B to, the Conditional Sale Agreement, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Manufacturer. Any and all such obligations shall be and remain enforceable by the Railroad against and only against the Manufacturer and shall not be enforceable against the Assignee or any party or parties in whom security title to the Equipment, or any unit thereof, or any of the rights of the Manufacturer under the Conditional Sale Agreement shall vest by reason of this Assignment or of successive assignments or transfers. The Manufacturer shall have no liability under the foregoing provisions of this Section 3 unless (a) the Assignee, in any such suit, proceeding or action by the Assignee, hereinabove described, promptly moves or takes other appropriate action on the basis of Section 14.4 of the Conditional Sale Agreement, to strike any such defense, setoff, counterclaim or recoupment asserted by the Railroad, and the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, and (b) upon any such denial and acceptance, the Assignee promptly notifies the Manufacturer of any such defense, setoff, counterclaim or recoupment asserted by the Railroad and the Manufacturer is given the right by the Assignee to compromise, settle or defend against, at its expense, such defense, setoff, counterclaim or recoupment.

SECTION 4. The Manufacturer will cause to be plainly, distinctly, permanently and conspicuously marked on each side of each unit of the Equipment, to be sold by the Manufacturer, at the time of delivery thereof to the Railroad, in letters not less than one inch in height, the following legend:

UNIT SUBJECT TO SECURITY INTEREST OF
THE AGENT BANK UNDER CONDITIONAL SALE
AGREEMENT RECORDED WITH THE I.C.C.

SECTION 5. Upon request of the Assignee, its successors and assigns, the Manufacturer will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Manufacturer therein or in the Equipment.

SECTION 6. Subject to timely receipt by the Assignee of funds sufficient for the purpose, the Assignee, on each Closing Date as provided in Section 3 of the Conditional Sale Agreement with respect to a Group of Equipment (as defined in said Section 3) or as otherwise hereinafter set forth, shall pay to the Manufacturer an amount equal to the Purchase Price of the units of Equipment, provided that there shall have been delivered to the Assignee, as provided in the Conditional Sale Agreement, the following documents, in such number of counterparts or copies as may reasonably be requested, in form and substance satisfactory to it and to the special counsel for the Agent hereinafter mentioned:

(a) Bill or Bills of Sale from the manufacturer of the units of Equipment in the Group to the Manufacturer dated as of such Closing Date and in the form of Schedule 1 hereto, transferring to the Manufacturer title to such units and warranting to the Manufacturer that at the time of delivery thereof to the Railroad under the Conditional Sale Agreement the Manufacturer had legal title to such units and good and lawful right to sell such units, and title to such units was free of all claims, security interests, liens and encumbrances of any nature except only the rights of the Manufacturer to receive payment of its invoice price thereof;

(b) Bill or Bills of Sale from the Manufacturer to the Assignee dated as of such Closing Date and in the form of Schedule 2 hereto, transferring to the Assignee security title to the units of Equipment in the Group and warranting to the Assignee and to the Railroad that at the time of delivery thereof to the Railroad under the Conditional Sale Agreement the Manufacturer had legal title to such units and good and lawful right to sell such units, and title to such units was free of all claims, security interests, liens and encumbrances of

any nature except only the rights of the Railroad under the Conditional Sale Agreement;

(c) Certificate or Certificates of Acceptance signed by an authorized representative of the Railroad, dated the date of such acceptance and in the form of Schedule 3 hereto stating that the units of the Equipment in such Group have been inspected and accepted by him on behalf of the Railroad and further stating that there was plainly, distinctly, permanently and conspicuously marked on each side of each of such units at the time of its acceptance, in letters not less than one inch in height, the following legend:

UNIT SUBJECT TO SECURITY INTEREST OF
THE AGENT BANK UNDER CONDITIONAL SALE
AGREEMENT RECORDED WITH THE I.C.C.

(d) Invoice for the units of the Equipment in such Group accompanied by or having endorsed thereon a certification by the Railroad as to the correctness of the prices of such units as set forth in said invoice and that such price does not exceed the fair price of such units;

(e) Opinion of counsel for the Railroad, dated as of a date within 21 days after the date of execution and delivery of the Conditional Sale Agreement and this Assignment and substantially in the form of Schedule 4 hereto, to the effect that (i) the Railroad is a duly organized and existing corporation in good standing under the laws of Delaware, its state of incorporation, and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Railroad and is a valid instrument binding upon and enforceable against the Railroad in accordance with its terms, (iii) the execution, delivery and performance by the Railroad of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-Laws of the Railroad, or any indenture, agreement or other instrument to which the Railroad is a party or by which it, or any of its property, is bound, and will not be in conflict with,

result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Railroad, (iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or this Assignment, or, if any authority is necessary, that it has been duly obtained and is in full force and effect, (v) the Conditional Sale Agreement and this Assignment have been duly filed and recorded in accordance with Section 20 of the Conditional Sale Agreement, (vi) that the Equipment is rolling stock under 11 U.S.C. §1168 and the Assignee is entitled to the rights of a secured party with a purchase-money equipment security interest in the Equipment thereunder, (vii) that the Equipment consists of railroad cars, locomotives or other rolling stock used or intended for use in connection with interstate commerce as required by 49 U.S.C. §11303, and (viii) that upon delivery of each unit of Equipment to the Railroad and payment of its purchase price, the Assignee shall have a duly perfected purchase-money equipment security interest therein;

(f) In respect of the date (hereinafter called the "Initial Closing") of execution and delivery of the Conditional Sale Agreement and this Assignment an opinion of counsel for the Manufacturer, dated as of such date and substantially in the form of Schedule 5 hereto, stating that (i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the state of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duty authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, (iii) the execution, delivery and performance by the Manufacturer of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-Laws of the Manufacturer, or any

indenture, agreement or other instrument to which the Manufacturer is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Manufacturer, (iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or this Assignment, or, if any authority is necessary, that it has been duly obtained and is in full force and effect, (v) this Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, and (vi) the Assignee is vested with all the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by this Assignment; and in respect of each Closing Date, an opinion of counsel for the Manufacturer of the Equipment in such Group, dated as of such Closing Date and substantially in the form of Schedule 6 hereto, reaffirming the opinion of such counsel delivered in respect of the initial Closing Date and stating that security title to the units of Equipment in such Group is validly vested in the Assignee, and that such units, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, were free of all claims, security interests, liens and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement;

(g) In respect of the Initial Closing the opinion of Milbank, Tweed, Hadley & McCloy as to the due authorization, execution and delivery by (i) the Railroad and the Manufacturer of the Conditional Sale Agreement and (ii) the Manufacturer of this Assignment and the validity and binding nature as regards (x) the Railroad and the Manufacturer of the Conditional Sale Agreement and (y) the Manufacturer of this Assignment. For purposes of such opinion such counsel may rely (other than as to matters of New York or U.S. Federal law) upon the opinion of counsel for the Railroad and

for the Manufacturer, respectively, referred to above (and upon any opinions referred to in said opinion);

(h) In respect of each Closing Date an opinion of counsel for the manufacturer of the units of Equipment in the Group addressed to the Manufacturer and substantially in the form of Schedule 7 hereto, to the effect that the Bills of Sale referred to in clause (a) above, have been duly authorized, executed and delivered by said manufacturer and said Bills of Sale are valid and effective to transfer, and do transfer, good title to such Items to the Manufacturer, free and clear of all claims, security interests liens and encumbrances of any nature except only the right of said manufacturer to receive payment of its invoice price for such Items;

(i) In respect of the Initial Closing a certificate of a Vice President of the Railroad dated the date of the Initial Closing concerning the Railroad's Certificate of Incorporation and By-Laws, payment of taxes, good standing and to the effect that no Event of Default as specified in the Conditional Sale Agreement, or event which with the lapse of time and/or notice provided for in the Conditional Sale Agreement would constitute such an Event of Default, has occurred and is continuing, and to the effect that, since December 31, 1978, there has been no material adverse change in the affairs or financial condition of the Railroad in the form of Schedule 8 hereto, a Certificate of Incumbency in the form of Schedule 9 hereto and a Certificate of Resolutions in the form of Schedule 10 hereto;

(j) In respect of each Closing Date a certificate of a Vice President of the Railroad dated the date of such Closing Date and in the form of Schedule 11 hereto; and

(k) A letter agreement from the manufacturer of the units of Equipment in the Group pursuant to which said manufacturer warrants to the Assignee that such units will be free from defects in material or workmanship under normal use and service and indemnifies the Assignee and the Railroad against claims or liabilities based on patent infringements, all in form customarily provided by manufacturers of railroad

equipment and reasonably satisfactory to the Assignee, the Railroad and the Investors.

In giving the opinions specified in subparagraphs (e), (f), (g) and (h) of the first paragraph of this Section 6, counsel may qualify any opinion to the effect that any agreement is enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. In giving the opinion specified in the subparagraphs (e) and (f) of the first paragraph of this Section 6, counsel may rely as to the title to the units of Equipment upon the opinion of counsel for the manufacturer thereof. Any opinion delivered hereunder after the Closing Date relating to the initial settlement for Equipment under this Section 6 may state that counsel signing such opinion reaffirms any statement contained in any opinion of the same counsel theretofore delivered hereunder without repeating the substance of such earlier opinion.

The obligation of the Assignee hereunder to make payments on each Closing Date is hereby expressly conditioned upon the prior receipt by the Assignee, as provided in the Finance Agreement, of all the funds to be furnished to the Assignee by the various parties to the Finance Agreement with respect to such Closing Date, or, if any of such parties default in furnishing such funds, the prior receipt by the Assignee from the Railroad of such funds as provided in the Finance Agreement; and, in the event of failure of any such party to furnish any such funds with respect thereto, such Closing Date shall be postponed for four business days. To the extent that the Railroad shall pay or cause to be paid to the Assignee, in accordance with the Finance Agreement, any amount or amounts on account of the Purchase Price of the Equipment to be settled for on such Closing Date, the Railroad shall be relieved of its indebtedness in respect of the Purchase Price of the Equipment under Section 3.3 of the Conditional Sale Agreement to the extent of the amount or amounts so paid by the Railroad. By any such payment, however, the Railroad shall not acquire any rights under this Assignment. If the Assignee fails to pay the Manufacturer any amount required to be paid with respect to any unit of Equipment pursuant to this Section 6 at the time herein specified, then any right,

title and interest in and to such unit, to the extent of such amount, including any right, title and interest under the Conditional Sale Agreement with respect to such unit, to the extent of such amount, which has been assigned, transferred or set over to the Assignee by the Manufacturer, shall automatically, and without further action on the part of the Assignee, be reassigned, transferred and set over back to the Manufacturer by the Assignee.

It is understood and agreed that the Assignee shall not be required to make (i) any payment in respect of any units of the Equipment excluded from the Conditional Sale Agreement pursuant to Section 2 thereof or (ii) any payment under this Section 6 at any time while an Event of Default, or any event which with the lapse of time and/or notice provided for in the Conditional Sale Agreement shall constitute an Event of Default, shall be subsisting under the Conditional Sale Agreement. It is also understood and agreed that, anything herein to the contrary notwithstanding, the Assignee hereunder shall not be obligated to make payment to the Manufacturer except out of funds furnished to it pursuant to the Finance Agreement.

SECTION 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payment due or to become due to it from the Railroad thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder. The address of the Assignee for purposes of notices and payments is 1 Chase Manhattan Plaza, New York, New York 10081, Attention: Land Transportation Division or such other address as the Assignee shall have furnished in writing to the Railroad.

SECTION 8. The Manufacturer hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the Railroad, the Conditional Sale Agreement is, in so far as the Manufacturer is concerned, a valid and existing agreement binding upon the Manufacturer and

the Railroad in accordance with its terms and that it is now in force without amendment thereto; and

(b) covenants and agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be.

SECTION 9. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all of the parties so long as at least one counterpart is signed by each party hereto. The Assignee agrees to deliver one of such counterparts, or a certified copy thereof, to the Railroad. Although this Assignment is dated for convenience as of October 1, 1979, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

SECTION 10. The terms of this Assignment and the rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by applicable federal law and such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Assignment, as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment shall be filed, recorded or deposited.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officers, or representatives, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

TRANSPORTATION PRODUCTS COMPANY

[CORPORATE SEAL]

By /s/ WALTER J. DRANE
Vice President

Attest:

/s/ JOAN STUVELING
Assistant Secretary

THE CHASE MANHATTAN BANK
(NATIONAL ASSOCIATION), Agent

[CORPORATE SEAL]

By /s/ DONALD W. WHITHAM
Vice President

Attest:

/s/ STEPHEN J. VACCARO
Assistant Treasurer

STATE OF ILLINOIS)
: SS.:
COUNTY OF COOK)

On this 14th day of December, 1979, before me personally appeared Walter J. Drane, to me personally known, who, being by me duly sworn, says that he is a Vice President of TRANSPORTATION PRODUCTS COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

/s/ BERNICE STAGMAN
Notary Public

STATE OF NEW YORK)
:SS:
COUNTY OF NEW YORK)

On this 14th day of December, 1979, before me personally appeared Donald N. Whitham, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION), 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.

[Notarial Seal]

/s/ STANLEY HENDRAS
Notary Public

Notary Public, State of New York
No. 24-4680456
Qualified in Kings County
Cert. filed in New York City Co.
Commission expires March 30, 1980

ACKNOWLEDGEMENT OF NOTICE OF ASSIGNMENT

Receipt of a signed copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged.

BURLINGTON NORTHERN INC.

By /s/ FRANK H. COYNE
Executive Vice President-
Finance and Administration

Dated December 14, 1979

SCHEDULE 1

BILL OF SALE

_____
(hereinafter called the "manufacturer"), for valuable consideration, hereby sells to _____ (hereinafter called the "Manufacturer") the following item of equipment:

Description	Quantity	Railroad Nos.

The manufacturer warrants to the Manufacturer that at the time of delivery of the above-described item of equipment to Burlington Northern Inc. under a Conditional Sale Agreement dated as of October 1, 1979, among the Manufacturer, certain other manufacturers, and Burlington Northern Inc., the Manufacturer had legal title to such unit[s] and good and lawful right to sell such unit[s], and title to such unit[s] was free of all claims, security interests, liens and encumbrances of any nature except only the rights of the Manufacturer to receive payment of its invoice price thereof.

IN WITNESS WHEREOF, Seller has caused this Bill of Sale to be executed in its name by the undersigned, duly authorized officer of the manufacturer and its corporate seal to be hereunto affixed, duly attested, the day of , 1980.

[Name of the manufacturer]

[Seal] By_____

ATTEST:

_____
Assistant Secretary

SCHEDULE 2

BILL OF SALE

NO._____

_____ (hereinafter called the Manufacturer), in consideration of the sum of One Dollar ($1) and other good and valuable consideration paid by THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION) (hereinafter called the Assignee), Assignee under an Agreement and Assignment dated as of October 1, 1979 between the Manufacturer and the Assignee, by which the Manufacturer assigned to the Assignee certain rights of the Manufacturer under a Conditional Sale Agreement dated as of October 1, 1979, among the Manufacturer, BURLINGTON NORTHERN INC. (hereinafter called the Railroad) and certain other manufacturers, at or before the execution and delivery of these presents, the receipt of which is hereby acknowledged, does hereby grant, the security interest of the Manufacturer in and to the following units of railroad equipment (hereinafter called the Equipment) which have been delivered by the Manufacturer to the Railroad pursuant to said Conditional Sale Agreement:

Description	Quantity	Railroad Nos.

To have and to hold all and singular the security title to the above described units of railroad equipment to the Assignee, its successors and assigns, for its and their own use and behoof forever.

And the Manufacturer hereby warrants to the Assignee, its successors and assigns, and to the Railroad that at the time of delivery of each of the above-described units of railroad equipment to the Railroad under the above-mentioned Conditional Sale Agreement the Manufacturer had legal title thereto and good and lawful right to sell each

such unit and the title to each such unit was free and clear of all claims, liens, security interests and encumbrances of any nature except only the rights of the Railroad under said Conditional Sale Agreement; and the Manufacturer covenants that it will defend such title to the Equipment against the demands of all persons whomsoever based on claims originating prior to the delivery of the Equipment by the Manufacturer under the Conditional Sale Agreement.

IN WITNESS WHEREOF, the Manufacturer has caused this instrument to be executed in its name by a duly authorized officer and its corporate seal to be hereunto affixed, duly attested, the day of , 1980.

[Seal] [Name of the Manufacturer]

By_____
Title:

Attest:

_____
Assistant Secretary

SCHEDULE 3

CERTIFICATE OF ACCEPTANCE
UNDER CONDITIONAL SALE AGREEMENT

I, a duly appointed inspector and authorized representative of BURLINGTON NORTHERN INC. (the "Railroad"), do hereby certify that I have inspected, received, approved and accepted delivery on behalf of the Railroad under the Conditional Sale Agreement dated as of October 1, 1979 between Transportation Products Company (the "Manufacturer") and the Railroad, of the following items of Equipment (the "Equipment"):

TYPE OF EQUIPMENT:

MANUFACTURER:

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF ITEMS:

NUMBERED:

I do further certify that the foregoing Equipment is in good order and condition, and conforms to the Specifications applicable thereto, and at the time of delivery to the Railroad there was plainly, distinctly, permanently and conspicuously marked in contrasting colors upon each side of the Item of Equipment the following legend in letters not less then one inch in height:

"Unit Subject to Security Interest of the Agent Bank under Conditional Sale Agreement Recorded with I.C.C."

The execution of this Certificate will in no way relieve or decrease the responsibility of the Vendor or the Manufacturer of the Equipment for warranties it has made with respect to the Equipment.

Date: , 1980

_____

Inspector and Authorized
Representative of Railroad

SCHEDULE 4

[Letterhead of Burlington Northern Counsel]

, 1979

The Chase Manhattan Bank
(National Association)
1 Chase Manhattan Plaza
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As attorney for Burlington Northern Inc. (hereinafter called the "Railroad"), I have examined and am familiar with (a) the Restated Certificate of Incorporation and By-laws of the Railroad; (b) the Conditional Sale Agreement dated as of October 1, 1979 (hereinafter called the "Conditional Sale Agreement"), between Transportation Products Company and the Railroad covering railroad equipment therein referred to; (c) the Agreement and Assignment dated as of October 1, 1979 between Transportation Products Company and you as Agent for the Investors under a Finance Agreement dated as of October 1, 1979; and (d) all corporate and other proceedings taken by the Railroad in connection with the execution and delivery of the Conditional Sale Agreement.

I have also examined originals, or copies certified or otherwise identified to my satisfaction, or such other documents and instruments as I have deemed necessary or appropriate for the purposes of this opinion.

As attorney for the Railroad, I am of the opinion that:

(i) The Railroad is a duly organized and validly existing corporation in good standing under the laws of the State of Delaware, its state of incorporation, and has the

power and authority to own its properties and to carry on its business as now conducted and is duly qualified to do business as a foreign corporation in all states where the character of its properties or the nature of its activities makes such qualification necessary;

(ii) The Conditional Sale Agreement has been duly authorized, executed and delivered by the Railroad and is a valid and binding instrument enforceable against the Railroad in accordance with its terms (subject, as to the enforcement of remedies, to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally from time to time in effect);

(iii) The execution and delivery and performance by the Railroad of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Restated Certificate of Incorporation or By-Laws of the Railroad, or any indenture, agreement, or other instrument to which the Railroad is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Railroad;

(iv) No approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement or the Agreement and Assignment;

(v) The Conditional Sale Agreement and the Agreement and Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 11303 of the Interstate Commerce Act and have been duly deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada (with notice of such deposit published in the Canada Gazette on November , 1979 in accordance with Section 86 of the Railway Act of Canada), the security interest created by said instruments has been duly perfected and is subject to no prior lien,

security interest or encumbrance and no other filing, recordation, depositing, giving of notice, refiling, rerecording, redepositing or regiving of notice is necessary for the protection of the rights of the Agent in any State of the United States of America or to make said instruments valid against all persons under Canadian law;

(vi) The Equipment is rolling stock under 11 U.S.C. §1168 and the Assignee is entitled to the rights of a secured party with a purchase-money equipment security interest in the Equipment thereunder;

(vii) The Equipment consists of railroad cars, locomotives or other rolling stock used or intended for use in connection with interstate commerce as required by 49 U.S.C. §11303; and

(viii) Upon delivery of each unit of Equipment to the Railroad and payment of its purchase price, the Assignee shall have a duly perfected purchase-money equipment security interest therein.

Very truly yours,

SCHEDULE 5

[Letterhead of Counsel to Manufacturer]

, 1980

The Chase Manhattan Bank
(National Association)
1 Chase Manhattan Plaza
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As counsel for _____, a _____ corporation (the "Manufacturer"), I have examined counterparts of: (i) the Conditional Sale Agreement dated as of October 1, 1979 (the "Conditional Sale Agreement"), between the Manufacturer and Burlington Northern Inc. (the "Railroad"); (ii) the Agreement and Assignment dated as of October 1, 1979 (the "Assignment"), between the Manufacturer and The Chase Manhattan Bank (National Association), as Agent (the "Assignee"); and (iii) such other documents as I have deemed necessary to render the opinion set forth below.

Based upon the foregoing, I am of opinion that:

(i) the Manufacturer is a duly organized and existing corporation in good standing under the laws of the State of Illinois and has the power and authority to own its properties and to carry on its business as now conducted;

(ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, subject to limitations

as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally;

(iii) the execution, delivery and performance by the Manufacturer of the Conditional Sale Agreement do not violate any provision of any law, any order of any court or governmental agency, the Certificate of Incorporation or By-Laws of the Manufacturer, or any indenture, agreement or other instrument to which the Manufacturer is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice or lapse of time, or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Manufacturer;

(iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution, delivery and performance of the Conditional Sale Agreement;

(v) the Assignment has been duly authorized, executed and delivered by the Manufacturer and is a valid instrument binding upon and enforceable against the Manufacturer in accordance with its terms, subject to limitations as to enforceabilty imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally; and

(vi) the Assignee is vested with all the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement purported to be assigned to the Assignee by the Manufacturer under the Assignment.

Very truly yours,

SCHEDULE 6

[Letterhead of Counsel to Manufacturer]

, 1980

The Chase Manhattan Bank
(National Association)
1 Chase Manhattan Plaza
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As counsel for _____, a _____ corporation (the "Manufacturer"), I have examined counterparts of: (i) the Conditional Sale Agreement dated as of October 1, 1979 (the "Conditional Sale Agreement"), between the Manufacturer and Burlington Northern Inc. (the "Railroad"); (ii) the Agreement and Assignment dated as of October 1, 1979 (the "Assignment"), between the Manufacturer and The Chase Manhattan Bank (National Association), as Agent (the "Assignee"); (iii) the Bill of Sale dated as of the date hereof (the "Bill of Sale") from the Manufacturer to the Assignee transferring to the Assignee the security title of the Manufacturer in the units of railroad equipment (the "Equipment") described therein; and (iv) such other documents as I have deemed necessary to render the opinion set forth below.

Based upon the foregoing, I am of opinion that:

(i) my opinion of counsel dated [date of opinion delivered in the form of Schedule 6 hereto] is true and correct as of the date hereof as if such opinion of counsel had been made on and as of such date and I hereby affirm such opinion of counsel; and

(ii) upon delivery of the Bill of Sale to the Assignee, security title to the Equipment will be validly vested in the Assignee, and each unit of the Equipment, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, was free of all claims, security interests, liens and encumbrances except only the rights of the Railroad under the Conditional Sale Agreement.

Very truly yours,

SCHEDULE 7

[Letterhead of Counsel to the manufacturer]

, 1980

The Chase Manhattan Bank
(National Association)
1 Chase Manhattan Plaza
New York, New York 10081

Attention: Land Transportation Division

Dear Sirs:

As counsel for _____, a _____ corporation (the "manufacturer"), I have examined counterparts of: (i) the Conditional Sale Agreement dated as of October 1, 1979 (the "Conditional Sale Agreement"), between the Manufacturer and Burlington Northern Inc. (the "Railroad"); (ii) the Agreement and Assignment dated as of October 1, 1979 (the "Assignment"), between the Manufacturer and The Chase Manhattan Bank (National Association), as Agent (the "Assignee"); (iii) the Bill[s] of Sale dated as of the date hereof (the "Bill of Sale") from the manufacturer to the Manufacturer transferring to the Manufacturer the security title of the manufacturer in the unit[s] of railroad equipment (the "Equipment") described therein; and (iv) such other documents as I have deemed necessary to render the opinion set forth below.

Based upon the foregoing, I am of opinion that:

(i) the Bill of Sale has been duly authorized, executed and delivered by the manufacturer and is a valid instrument binding upon and enforceable against the manufacturer in accordance with its terms, subject to limitations as to enforceability imposed by bankruptcy,

insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally; and

(ii) the Bill of Sale is valid and effective to transfer, and does transfer, good title to the Equipment to the Manufacturer free of all claims, liens and encumbrances except only the rights of the manufacturer to receive payment of its invoice price for such Equipment.

Very truly yours,

SCHEDULE 8

Certificate

I, , Vice President of Burlington Northern Inc., a Delaware corporation (herein called the "Railraod"), HEREBY CERTIFY that:

1. Attached hereto as Exhibits A and B are true and complete copies of the Certificate of Incorporation and By-Laws, respectively, of the Railroad as in effect on [the date of corporate action authorizing the transaction] and at all subsequent times to and including the date hereof.

2. After due inquiry I know of no proceeding for the dissolution or liquidation or threatening the existence of the Railroad and to my knowledge the Railroad is in good standing in the State of Delaware.

3. All tax returns have been filed by the Railroad as required by law and all taxes have been paid except such taxes as are not due.

4. I am familiar with the terms of the Conditional Sale Agreement dated as of October 1, 1979 (herein called the "Conditional Sale Agreement") between Transportation Products Company and the Railroad covering railroad equipment therein referred to and I am familiar with the terms and conditions of the various documents mentioned and described in the Conditional Sale Agreement. Terms defined in the Conditional Sale Agreement have the same meanings when used herein.

5. As to matters hereinbelow set forth, I have personal knowledge or have obtained information from officers or employees of the Railroad in whom I have confidence and whose duties require them to have personal knowledge thereof, and I make this certificate pursuant to the provisions of § 6(i) of an Agreement and Assignment dated as of October 1, 1979 between the Manufacturer and their Assignee thereunder with the intention that this

certificate shall be relied upon by the Assignee and certain Investors under a Finance Agreement dated as of October 1, 1979 as the basis for their execution and delivery of said Finance Agreement and said Agreement and Assignment on the date hereof.

6. The representations and warranties contained in the Conditional Sale Agreement are (except as affected by the transactions contemplated by the Conditional Sale Agreement) true on the date hereof with the same effect as though such representations and warranties had been made on and as of the date hereof, and no Event of Default specified in § 16 of the Conditional Sale Agreement and no event which, with the lapse of time or the notice and lapse of time specified in said § 16, would become such an Event of Default has occurred and is continuing.

7. Since December 31, 1978 there has been no material adverse change in the affairs or financial condition of the Railroad.

WITNESS my hand this _____ day of _____, 1979

_____

SCHEDULE 9

BURLINGTON NORTHERN INC.

CERTIFICATE OF INCUMBENCY

I, G. F. Steinhibel, hereby certify that I am an Assistant Secretary of Burlington Northern Inc. (the Company); that as such Assistant Secretary I am one of the keepers of the records and corporate seal of the Company; that each of the persons named below is the duly elected or appointed incumbent of the office of the Company set opposite his name and has been duly qualified and acting as such officer of the Company at all times since the date of his election or appointment to and including the date and delivery of this Certificate; and that the genuine signatures of said officers are set opposite their names:

Office		
Executive Vice President-Finance and Administration	Frank H. Coyne	_____
Vice President and Treasurer	R.C. Burton, Jr.	_____
Assistant Secretary	G.F. Steinhibel	_____

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Company this day of , 1979.

_____
Assistant Secretary

I, , of Burlington Northern Inc. (the Company), do hereby certify that G. F. Steinhibel is a duly appointed Assistant Secretary of the Company on the date hereof; that I am familiar with the signature of G. F. Steinhibel; and that the signature set opposite his name in the foregoing certificate is his genuine signature.

IN WITNESS WHEREOF, I have hereunto set my hand this day of December, 1979.

_____

SCHEDULE 10

RESOLUTIONS

OF

BURLINGTON NORTHERN INC.

I, _____, _____ of BURLINGTQN NORTHERN INC., a Delaware corporation, HERBY CERTIFY that the following resolutions were duly adopted at a meeting of the Board of Directors of said corporation duly called and held at , on , at which a quorum was present and acting throughout:

[Form of resolutions to be provided by the Railroad.]

I HEREBY FURTHER CERTIFY that said resolutions have not been modified and are still in full force and effect and that the form of said Conditional Sale Agreement submitted to said meeting was substantially the form in which it was executed.

IN WITNESS WHEREOF, I have signed this certificate this ____ day of December, 1979.

_____

SCHEDULE 11

CERTIFICATE

I, _____, Vice President of Burlington Northern Inc. (hereinafter caled the "Railroad"), do hereby certify that (i) there has been no change in the Railroad's Certificate of Incorporation or By-Laws subsequent to [the date of the Certificate exhibited in Schedule 8], (ii) after due inquiry I know of no proceeding for the dissolution or liquidation or threatening the existence of the Railroad and to my knowledge the Railroad is in good standing in the State of Delaware, (iii) all tax returns have been filed by the Railroad as required by law and all taxes have been paid except such taxes as are not yet due, (iv) the resolutions of the directors of the Railroad adopted on _____ have not been modified and are still in full force and effect, (v) each person duly elected or appointed incumbent of the office of the Railroad set opposite his name in the Certificate of Incumbency dated _____ is duly qualified and acting as such officer of the Railroad on the date hereof, (vi) the representations and warranties contained in the Conditional Sale Agreement (as mentioned below) are (except as affected by the transactions contemplated by said Conditional Sale Agreement) true on the date hereof with the same effect as though such representations and warranties had been made on and as of the date hereof, and no Event of Default specified in § 16 of the Conditional Sale Agreement and no event which, with the lapse of time or the notice and lapse of time specified in said § 16, would become such an Event of Default has occurred and is continuing, and (vii) since December 31, 1978 there has been no material adverse change in the affairs or financial condition of the Railroad.

I am familiar with the terms of the Conditional Sale Agreement dated as of October 1, 1979 (herein called the "Conditional Sale Agreement") between Transportation Products Company and the Railroad covering railroad equipment therein referred to and I am familiar with the terms and conditions of the various documents mentioned and described in the Conditional Sale Agreement. Terms defined

in the Conditional Sale Agreement have the same meanings when used herein.

As to matters hereinbelow set forth, I have personal knowledge or have obtained information from officers or employees of the Railroad in whom I have confidence and whose duties require them to have personal knowledge thereof, and I make this certificate pursuant to the provisions of § 6(i) of an Agreement and Assignment dated as of October 1, 1979 between the Manufacturer and its Assignee thereunder with the intention that this certificate shall be relied upon by the Assignee and certain Investors under a Finance Agreement dated as of October 1, 1979 as the basis for their making certain payments to the Manufacturer for delivery of railroad equipment to the Railroad on the date hereof.

Dated: , 1980

_____