

11514
RECORDATION NO. Filed 1425

200

11514-A
RECORDATION NO. Filed 1425

FEB 20 1980 - 12 55 PM

FEB 20 1980 - 12 55 PM

INTERSTATE COMMERCE COMMISSION

11514-B February 20, 1980
RECORDATION NO. Filed 1425

0-051A092

FEB 20 1980 - 12 55 PM

11514

FEB 20 1980

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. Filed 1425

Date

11514
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

FEB 20 1980 - 12 55 PM

Fee \$ 200.00

FEB 20 1980 Dear Sir:

INTERSTATE COMMERCE COMMISSION

CC Washington, D.C.

INTERSTATE COMMERCE COMMISSION

Enclosed for recordation under the provisions of 49 U.S.C. §11303(a) and the regulations thereunder are the original and two counterparts of each of the following documents: (i) Conditional Sale Agreement dated today between The Chessie Corporation, as vendor, and Upper Merion and Plymouth Railroad, as vendee; (ii) Agreement and Assignment dated today between The Chessie Corporation, as assignor, and The Ohio National Life Insurance Company, as assignee (assigning certain interests in the Conditional Sale Agreement); (iii) Non-Negotiable Installment Promissory Note -- Security Agreement dated today between Funding Systems Railcars, Inc., as debtor, and The W-A Equipment Company, as secured party, (iv) Management and Maintenance Contract dated today between The W-A Equipment Company, as owner, and Upper Merion and Plymouth Railroad Company, as manager; and (v) Transferee Agreement dated today between The W-A Equipment Company, as transferee, and The Ohio National Life Insurance Company, as secured party, (assigning an interest in the Management and Maintenance Contract), with the Consent and Agreement of the manager attached thereto.

A general description of the railroad equipment covered by the enclosed documents is as follows:

Twenty (20) 100-ton open-top hopper cars bearing reporting marks and numbers UMP 7255 through UMP 7274, both inclusive.

The names and addresses of the parties to the enclosed documents are:

A. Conditional Sale Agreement

Vendor: The Chessie Corporation
2 North Charles Street
Baltimore, Maryland 21201

Handwritten notes:
C. Dudley
T. Kuyler

11514-0001850
\$ 50

Vendee: Upper Merion and Plymouth Railroad
c/o FSC Corporation
1000 RIDC Plaza
Pittsburgh, Pennsylvania 15230

B. Agreement and Assignment

Assignor: The Chessie Corporation
2 North Charles Street
Baltimore, Maryland 21201

Assignee: The Ohio National Life Insurance
Company
P. O. Box 237
Cincinnati, Ohio 45201
Attention: Securities Division

- A
\$0

C. Non-Negotiable Installment Promissory Note --
Security Agreement

Debtor: The W-A Equipment Company
1114 Avenue of the Americas
New York, New York 10036

Secured Party: Funding Systems Railcars, Inc.
c/o FSC Corporation
1000 RIDC Plaza
Pittsburgh, Pennsylvania 15230

- B
\$50

D. Management and Maintenance Contract

Owner: The W-A Equipment Company
1114 Avenue of the Americas
New York, New York 10036

Manager: Upper Merion and Plymouth Railroad
c/o FSC Corporation
1000 RIDC Plaza
Pittsburgh, Pennsylvania 15230

- C
\$50

E. Transferee Agreement

Transferee: The W-A Equipment Company
1114 Avenues of the Americas
New York, New York 10036

Secured Party: The Ohio National Life Insurance
Company
P. O. Box 237
Cincinnati, Ohio 45201
Attention: Securities Division

- D
\$50

Manager: Upper Merion and Plymouth Railroad
c/o FSC Corporation
1000 RIDC Plaza
Pittsburgh, Pennsylvania 15230

The undersigned is attorney-in-fact for Upper Merion and Plymouth Railroad Company and Funding Systems Railcars, Inc. mentioned in the enclosed documents and has knowledge of the matters set forth therein.

Please return the copies of the enclosed documents to Charles T. Kappler, Esq., Alvord and Alvord, 200 World Center Building, 918 Sixteenth Street, N.W., Washington, D.C. 20006, or to the bearer hereof.

Also enclosed is a remittance for the required recording fee.

Very truly yours,



C. Martin Goldenberg

11514

RECORDATION NO. Filed 1425

FEB 20 1980 - 12 33 PM

TRANSFEEE AGREEMENT INTERSTATE COMMERCE COMMISSION

TRANSFEEE AGREEMENT, dated as of February 20, 1980 (the "Transferee Agreement") between THE W-A EQUIPMENT COMPANY, a New York partnership (the "Transferee"), and THE OHIO NATIONAL LIFE INSURANCE COMPANY, an Ohio corporation (the "Secured Party").

WHEREAS, pursuant to a Conditional Sale Agreement dated the date hereof (the "Conditional Sale Agreement") between The Chessie Corporation, as vendor ("Chessie"), and Upper Merion and Plymouth Railroad Company, as vendee ("UMP"), UMP purchased twenty (20) railroad hopper cars described on the annexed Schedule A (the "Equipment");

WHEREAS, by a Bill of Sale, Assignment and Assumption Agreement dated the date hereof between UMP and Funding Systems Railcars, Inc. ("Railcars"), UMP transferred the Equipment to Railcars;

WHEREAS, pursuant to a Purchase Agreement dated the date hereof (the "Purchase Agreement"), Railcars transferred the Equipment to the Transferee by Bill of Sale dated the date hereof;

WHEREAS, by the Conditional Sale Agreement, Chessie retained a security interest in the Equipment and the proceeds thereof (the "Equipment Security Interest") to secure the indebtedness of UMP thereunder (the "Conditional Sale Indebtedness");

WHEREAS, the Conditional Sale Indebtedness has been purchased by Secured Party from Chessie and UMP has issued to the Secured Party a Certificate of Interest, dated the date hereof (together with any Certificate of Interest issued in exchange therefor, collectively called the "Certificates" and individually called a "Certificate"), acknowledging such indebtedness, and Chessie has assigned the Equipment Security Interest to the Secured Party by an Assignment and Agreement dated the date hereof;

WHEREAS, in the Purchase Agreement, the Transferee has acknowledged and agreed that its interest in the Equipment is subject and subordinate to the Equipment Security Interest;

WHEREAS, the Transferee has entered into a Management and Maintenance Contract dated the date hereof (the "Management and Maintenance Contract") with UMP, pursuant to which UMP has agreed to manage and maintain the Equipment for the account of the Transferee on the terms and conditions therein contained, and FSC Corporation has executed and delivered to the Transferee a Guaranty Agreement dated the date hereof (the "Guaranty Agreement"), wherein FSC Corporation guaranteed payment and performance by UMP under the Management and Maintenance Contract; and

WHEREAS, in connection with the sale of the Conditional Sale Indebtedness by Chessie to Secured Party, and as an inducement to the Secured Party thereby providing permanent financing for the Equipment, the Transferee has agreed to enter into this Transferee Agreement.

NOW, THEREFORE, be it agreed:

SECTION 1. GRANT OF SECURITY AND ASSIGNMENT

1.1 Grant of Security and Assignment. The Transferee, in consideration of the premises and of the sum of Ten Dollars received by the Transferee from the Secured Party, and in order to secure the payment of the principal of and interest on the Conditional Sale Indebtedness according to the tenor and effect of the Conditional Sale Agreement and the Certificates, and to secure the payment of all other indebtedness secured by the Conditional Sale Agreement and the performance and observance of all covenants and conditions therein, in the Certificates and in this Transferee Agreement contained (all of the foregoing hereinafter collectively called the "obligations hereby secured"), does hereby convey, warrant, mortgage, pledge, assign, and grant the Secured Party, its successors and assigns, a security interest in all revenues of the Equipment, subject only to the exceptions, reservations and limitations contained in Sections 1.4 and 1.5 hereof (all properties to which this security interest extends are hereinafter collectively called the "Additional Collateral").

1.2 Management and Maintenance Contract; Guaranty Agreement. Additional Collateral includes, without limitation, all right, title, interest, claims and demands of the Transferee in, to and under the Management and Maintenance Contract and Guaranty Agreement, any and all amendments thereto whether now existing or hereafter entered into, and all extensions of the term thereof with all rights, powers, privileges, options and other benefits of the Transferee thereunder, including, without limitation, but subject always to the exceptions, reservations and limitations contained in Section 1.4 hereof:

(1) The immediate and continuing right to receive and collect all revenues, insurance proceeds, condemnation awards and other payments, tenders and security now or hereafter payable to or receivable by the Transferee under the Management and Maintenance Contract or pursuant thereto or with respect to the Equipment; and

(2) Upon the occurrence of an Event of Default hereunder, the right to take such action under the Management and Maintenance Contract which the Transferee could have taken had an Event of Default occurred thereunder, or an event which, with the lapse of time or giving of notice, of both, would constitute an Event of Default under the Management and Maintenance Contract, including the commencement, conduct and consummation of legal, administrative or other proceedings, as shall be permitted by the Management and Maintenance Contract or by law, and to do any and all other things whatsoever which the Transferee is or may be entitled to do under said Management and Maintenance Contract;

it being the intent and purpose hereof that subject always to the exceptions, reservations and limitations contained in Section 1.4 hereof, the assignment and transfer to the Secured Party of said rights, powers, privileges, options and other benefits shall be effective and operative immediately and shall continue in full force and effect, and the Secured Party shall have the right to collect and receive said revenues, insurance proceeds, condemnation awards and other payments for application in accordance with the provisions of Section 3 hereof at all times during the period from and after the date of this Transferee Agreement until the obligations hereby secured has been fully paid and discharged.

1.3 Duration of Security Interest. The Secured Party, its successors and assigns, shall have and hold the Additional Collateral forever; provided, always, however,

that if the obligations hereby secured shall be paid and discharged in full and Transferee and UMP shall observe, keep and perform all the terms and conditions, covenants and agreements herein and in the Conditional Sale Agreement contained, then these presents and the estate hereby granted and conveyed shall cease and this Transferee Agreement shall become null and void; otherwise to remain in full force and effect. Secured Party further acknowledges and agrees that upon receipt of payment in full the Secured Party will, at the option of UMP either: (i) release and discharge its lien; or (ii) assign its lien in the Additional Collateral to any third party institutional lender designated by UMP.

1.4 Excepted Rights in Collateral. There are expressly excepted and reserved from the security interest and operation of this Transferee Agreement the following described properties, rights, interests and privileges (hereinafter sometimes referred to as the "Excepted Rights in Collateral") and nothing herein or in any other agreement contained shall constitute an assignment of the Excepted Rights in Collateral to the Secured Party:

(a) Any insurance proceeds payable under general public liability policies maintained by or for the benefit of Transferee; and

(b) Any rights or interests obtained by Transferee pursuant to any transfer of its interest in accordance with Section 2.5(c) hereof.

1.5 Release. Secured Party agrees that, so long as no Event of Default shall have occurred and be continuing, all revenues (insurance proceeds and condemnation awards excluded) under the Management and Maintenance Contract in excess of the amounts required to discharge the installments of principal of and interest on the Conditional Sale Indebtedness which have matured on or before the date such revenues are required to be disbursed under the Management and Maintenance Contract shall be automatically released from the security interest of the Secured Party.

SECTION 2. COVENANTS AND WARRANTIES OF THE TRANSFEREE

The Transferee covenants, warrants and agrees as follows:

2.1 Transferee's Duties. The Transferee covenants and agrees well and truly to perform, abide by and to be governed and restricted by each and all of the terms, provisions, restrictions, covenants and agreements set forth in this Transferee Agreement, the Management and Maintenance Contract, and in each and every supplement thereto or amendment thereof which may at any time or from time to time be executed and delivered by the parties thereto or their

successors and assigns, to the same extent as though each and all of said terms, provisions, restrictions, covenants and agreements were fully set out herein.

2.2 Transferee's Covenants. The Transferee acknowledges and agrees that the Equipment is subject and subordinate in all respects to the Equipment Security Interest. The Transferee shall pay or discharge any and all liens, charges or security interests on the Equipment or Additional Collateral claimed by any party from, through or under the Transferee, its successors or assigns not arising from transactions contemplated by the Conditional Sale Agreement (but including, without limitation, tax liens arising out of the receipt by Transferee of income and proceeds from the Equipment and the Additional Collateral) and claims which if unpaid might become such a lien, charge or security interest on or with respect to the Equipment and the Additional Collateral; provided, however, that Transferee shall not be required to discharge the lien of taxes, assessments or governmental charges or claims which are not at the time delinquent, or the lien of taxes, assessments or governmental charges or claims which are delinquent the validity of which is being contested in good faith by appropriate legal or administrative proceedings in any reasonable manner diligently pursued, provided that such proceedings shall suspend the collection of such taxes, assessments or governmental charges or claims and, in the written opinion of counsel to UMP or the Transferee, a copy of which opinion shall have been delivered to Secured Party, the Equipment Security Interest and the security interest of the Secured Party in the Additional Collateral or any part thereof, would not be adversely affected or forfeited during the period of such contest. The Transferee has full right, power and authority to execute and deliver and to carry out the terms and provisions of (i) the agreements and documents relating to the purchase of the Equipment from Railcars and management of the Equipment (the "Transfer Documents") and (ii) this Transferee Agreement. There are no proceedings pending, or to the knowledge of the Transferee threatened, against or affecting Transferee in any court or before any governmental authority or arbitration board or tribunal which, if adversely determined, would materially and adversely affect the right, power and authority of the Transferee to enter into the Transfer Documents or this Transferee Agreement or perform its obligations thereunder or hereunder. The Equipment acquired by Transferee is free and clear of any liens or encumbrances which result from claims against Transferee other than a security interest granted by the Transferee to Railcars under a Non-Negotiable Installment Promissory Note - Security Agreement dated the date hereof, the lien of taxes, assessments or governmental charges which are not delinquent, and the rights of UMP under the Management and Maintenance Contract. Transferee has not by affirmative act conveyed title to or a

security interest in any such Equipment to any person or entity or subjected the Equipment to any lien or encumbrance other than the security interest granted to Railcars described above and the rights of UMP under the Management and Maintenance Contract.

2.3 Further Assurances. The Transferee will do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, transfers and assurances necessary or proper for the perfection of the security interest being herein provided for in the Additional Collateral, whether now owned or hereafter acquired, subject to the provisions of Section 5.5 hereof. Without limiting the foregoing but in furtherance of the security interest herein granted in the revenues and other sums due and to become due under the Management and Maintenance Contract, the Transferee covenants and agrees that it will direct UMP to make all payments of revenues derived under the Management and Maintenance Contract, other than the Excepted Rights in Collateral, directly to the Secured Party or as the Secured Part may direct.

2.4 Recordation and Filing. The Transferee will cause this Transferee Agreement and any supplements hereto, the Management and Maintenance Contract, and any supplements thereto and all financing and continuation statements and similar notices required by applicable law, at all times to be kept, recorded and filed at the sole expense of UMP in such manner and in such places as may be required by law in order fully to preserve and protect the rights of the Secured Party hereunder.

2.5 Additional Covenants. The Transferee will not:

(a) Declare a default or exercise the remedies of the Transferee under, or terminate or modify or accept a surrender of, or offer or agree to, any termination or modification or surrender of or waiver with respect to, the Management and Maintenance Contract; provided, however, that Transferee shall have the right to terminate the Management and Maintenance Contract upon the occurrence of an event of default thereunder if (i) Transferee shall have entered into a new Management and Maintenance Contract substantially in the form of the Management and Maintenance Contract (or other form reasonably satisfactory to Secured Party) with a manager which has capacity and capability substantially equivalent to that of UMP to load railroad hopper cars on its tracks, and is reasonably satisfactory to Secured Party and (ii) the Transferee shall have expressly assigned and granted a security interest therein to Secured Party on the same terms and conditions herein set forth;

(b) Receive or collect or permit the receipt or collection of any payment under the Management and Maintenance Contract, prior to the date for payment thereof provided for by the Management and Maintenance Contract or

assign, transfer or hypothecate (other than to the Secured Party) any payment then due or to accrue in the future under the Management and Maintenance Contract, in respect of the Equipment; or

(c) Sell, mortgage, transfer, assign or hypothecate its interest in the Equipment or the Additional Collateral or any part thereof or in any amount to be received by it from the use or disposition of the Equipment without the prior written consent of the Secured Party, it being understood that the Secured Party will not unreasonably withhold its consent to a proposed sale or transfer of the Equipment but may take into consideration the financial condition of the proposed transferee in determining whether to grant such consent.

2.6 Power of Attorney in Respect of Management and Maintenance Contract. Transferee does hereby irrevocably constitute and appoint the Secured Party its true and lawful attorney with full power of substitution for it and in its name, place and stead, to ask, demand, collect, receive, receipt and sue for any and all income and other sums which are assigned under Section 1.1, 1.2 and 1.3 and to endorse the name of the Transferee on all commercial paper given in payment or in part payment thereof, and in its discretion to file any claim or take any other action or proceedings, either in its own name or in the name of the Transferee or otherwise, which the Secured Party may deem necessary or otherwise appropriate to protect and preserve the right, title and interest of the Secured Party in and to such revenues and other sums and the security intended to be afforded hereby.

SECTION 3. APPLICATION OF REVENUES AND CERTAIN OTHER MONEYS RECEIVED BY THE SECURED PARTY

3.1 Application of Revenues; Certain Prepayments. Transferee and Secured Party hereby expressly consent and agree that, so long as there exists no Event of Default, or event which with the lapse of time or giving of notice, or both, would constitute an Event of Default under the Conditional Sale Agreement, (i) all amounts from time to time received by the Secured Party constituting payment of revenues under the Management and Maintenance Contract shall be applied by Secured Party, first to the payment of Conditional

Sale Indebtedness then due and owing (in each instance to payment of interest and then to payment of principal), and second any balance shall be released promptly to UMP for application pursuant to the Management and Maintenance Contract, and (ii) all casualty insurance proceeds and condemnation awards from time to time received by Secured Party shall be applied by Secured Party in the manner and priority set forth in Article 7 of the Conditional Sale Agreement.

SECTION 4. DEFAULTS AND OTHER PROVISIONS

4.1 Events of Default. The term Event of Default shall mean one or more of the following:

(a) Default in payment of an installment of the principal of, or interest on, the Conditional Sale Indebtedness when and as the same shall become due and payable, whether at the due date thereof or at the date fixed for any prepayment or by acceleration or otherwise, and any such default shall continue unremedied for five business days after the date such payment is due and payable.

(b) An Event of Default, as defined and set forth in the Management and Maintenance Contract, shall occur and be continuing unless the Management Contract shall have been terminated under the conditions permitted and in compliance with Section 2.5(a) of this Transferee Agreement.

(c) Default on the part of UMP or the Transferee in the due observance or performance of any covenant or agreement to be observed or performed by the Transferee under this Transferee Agreement or by the UMP under the Conditional Sale Agreement, and such default shall continue unremedied for 30 days after written notice from the Secured Party to UMP and the Transferee specifying the default and demanding the same to be remedied.

(d) Any representation or warranty on the part of UMP or the Transferee made herein, in the Conditional Sale Agreement, or in the Management and Maintenance Contract or in any report certificate, financial or other statement furnished in connection with this Transferee Agreement, the Conditional Sale Agreement, or the Management and Maintenance Contract shall prove to be false or misleading in any material respect materially adverse to the Secured Party when made and, if the same is susceptible of being cured, the same is not cured within 30 calendar days.

(e) Any claim, lien or charge other than Permitted Liens, as hereinafter defined, shall be asserted against or levied or imposed upon the Equipment, and such claim, lien or charge shall not be discharged or removed within thirty calendar days. As used herein, "Permitted Liens" shall mean (i) the Equipment Security Interest; (ii) the lien of taxes, assessments or governmental charges which are not at the time delinquent; (c) the lien of taxes, assessments or governmental charges which are delinquent but the validity of which is being contested in good faith by appropriate legal or administrative proceedings in any reasonable manner diligently pursued, provided that such proceedings shall suspend the collection of such taxes, assessments or governmental charges and, in the written opinion of counsel to UMP or the Transferee, a copy of which opinion shall have been delivered to the Secured Party, the Equipment Security Interest and the security interest of the Secured Party in the Additional Collateral, or any part thereof, would not be adversely affected or forfeited during the period of such contest; (iv) the rights of UMP under the Management Contract which are subject and subordinate to the security interest of the Secured Party hereunder; and (v) the security interest granted to Railcars and described in Section 2.2 hereof.

(f) Any proceeding commenced by or against UMP or the Transferee for any relief which includes or might result in any modification of the obligations of UMP or the Transferee under the Conditional Sale Agreement under any bankruptcy or insolvency law or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions, or if commenced against UMP or the Transferee such proceedings shall not have been dismissed within 90 days.

Anything in this Section 4.1 or Section 4.2 hereof to the contrary notwithstanding, in the event of a default in payment of any installment of Conditional Sale Indebtedness (herein called a "Payment Default"), the Secured Party nevertheless agrees not to exercise any of its rights or remedies under said Sections, including, without limitation, the acceleration of payments due under the Conditional Sale Agreement, solely by reason of such Payment Default if, within 10 days after the Secured Party shall have given written notice of such Payment Default to the Transferee, (i) the Transferee shall have made all payments required by the Conditional Sale Agreement, nonpayment of which shall have occasioned the Payment Default, including interest at the overdue rate set forth therein, and (ii) no event of default under the Conditional Sale Agreement

or this Transferee Agreement other than such Payment Default shall have occurred and be continuing; provided however, that the Transferee shall be entitled to cure not more than four Payment Defaults, no more than two of which may be consecutive. The Secured Party agrees to give notice, as aforesaid, upon the occurrence of a Payment Default, but its failure to do so shall not affect its rights to proceed against UMP or any other party liable for the payment of Conditional Sale Indebtedness.

4.2 Secured Party's Rights. The Transferee agrees that when any Event of Default has occurred and is continuing, the Secured Party shall have the rights, options, duties and remedies of a secured party, and the Transferee shall have the rights and duties of a debtor, under the Uniform Commercial Code of the Commonwealth of Pennsylvania (regardless of whether such code or a law similar thereto has been enacted in a jurisdiction wherein the rights or remedies are asserted) and the Secured Party shall have the following rights and remedies:

(a) The Secured Party may, by notice in writing to the Transferee declare the entire unpaid balance of the Conditional Sale Indebtedness to be immediately due and payable; and thereupon all such unpaid balance, together with all accrued interest thereon, shall be and become immediately due and payable. Notwithstanding anything to the contrary contained herein, the Transferee shall have the right to redeem all but not less than all of the Equipment owned by it by paying to Secured Party, within ten (10) days of the receipt by Transferee of the notice from the Secured Party, an amount equal to the Redemption Value (as hereinafter defined) for the Equipment to be redeemed. For the purposes of this Section 4.2(a), the Redemption Value shall be an amount equal to the then outstanding amount of the obligations hereby secured.

(b) The Secured Party may proceed to exercise all rights, privileges and remedies of the Transferee under the Management and Maintenance Contract and may exercise all such rights and remedies either in the name of the Secured Party taking such action or in the name of the Transferee for the use and benefit of the Secured Party.

4.3 Application of Sales Proceeds. The proceeds and/or avails of any sale of the Equipment, or any part thereof, and the proceeds and the avails of any remedies hereunder, including proceeds of the Management and Maintenance Contract, shall be paid to and applied as follows:

(a) First, to the payment of costs and expenses of foreclosure or suit, if any, and of such sale, and of all proper expenses, liability and advances, including legal expenses and attorneys' fees, incurred or made hereunder by the Secured Party, and of all taxes, assessments or liens superior to the lien of these presents, except any taxes, assessments or other superior lien subject to which said sale may have been made;

(b) Second, to the payment of the Conditional Sale Indebtedness in the amount then owing or unpaid for principal and interest; and in case such proceeds shall be insufficient to pay in full the whole amount so due, owing or unpaid upon the Conditional Sale Indebtedness, then the first to unpaid interest thereon, and second, to unpaid principal thereof.

(c) Third, to the payment of the surplus, if any, to the Transferee or to whomsoever may be lawfully entitled to receive the same.

4.4 Cumulative Remedies. No delay or omission of the Secured Party to exercise any right or power arising from any default on the part of UMP or Transferee shall exhaust or impair any such right or power or prevent its exercise during the continuance of such default. No waiver by the Secured Party, of any such default, whether such waiver be full or partial, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom except as may be otherwise provided herein. The Secured Party may exercise any one or more or all of the remedies hereunder and no remedy is intended to be exclusive of any other remedy but each and every remedy shall be cumulative and in addition to any and every other remedy given hereunder or otherwise existing now or hereafter at law or in equity; nor shall the giving, taking or enforcement of any other or additional security, collateral or guaranty for the payment of the indebtedness secured under this Transferee Agreement operate to prejudice, waive or affect the security of this Transferee Agreement or any rights, powers or remedies hereunder, nor shall the Secured Party be required to first look to, enforce or exhaust such other or additional security, collateral or guaranties.

SECTION 5. MISCELLANEOUS

5.1 Successors and Assigns. Whenever any of the parties hereto is referred to such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements in this Transferee Agreement contained by or on behalf of the Transferee or by

or on behalf of the Secured Party, shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not. Following any transfer permitted hereunder all references to Transferee shall be deemed to refer solely to such permitted transferee.

5.2 Partial Invalidity. The unenforceability or invalidity of any provision or provisions of this Transferee Agreement shall not render any other provision or provisions herein contained unenforceable or invalid.

5.3 Communications. All communications provided for herein shall be in writing and shall be deemed to have been given (unless otherwise required by the specific provisions herein in respect of any matter) when deposited in the United States certified mails, first class, postage prepaid, addressed as follows:

To the Transferee: The W-A Equipment Company
1114 Avenue of the Americas
New York, New York 10036

With a copy to: Bergreen & Bergreen
660 Madison Avenue
New York, New York 10021

To the Secured Party: The Ohio National Life Insurance Company
P. O. Box 237
Cincinnati, Ohio 45201
Attention: Securities Division

or to the Transferee or the Secured Party at such other address as the Transferee or the Secured Party may designate by notice duly given in accordance with this Section to the other party.

5.4 Release. The Secured Party shall release this Transferee Agreement and the security interest granted hereby by proper instrument or instruments upon presentation of satisfactory evidence that all obligations hereby secured have been fully paid or discharged.

5.5 Non-Recourse. Notwithstanding anything to the contrary contained in this Transferee Agreement or any document collateral thereto, it is expressly understood and agreed that the liabilities and obligations of the Transferee shall be non-recourse and enforceable exclusively against the Equipment and the Additional Collateral and Transferee does not assume any of the provisions of the Conditional Sale Agreement and Transferee shall not be personally liable for and Secured Party shall not seek any deficiency or other money judgment against Transferee in any event.

5.6 Governing Law. This Security Agreement and Assignment and the Note shall be construed in accordance with and governed by the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. Section 11303 and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the secured jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

5.7 Counterparts. This Transferee Agreement may be executed, acknowledged and delivered in any number of counterparts, each of such counterparts constituting an original but all together only one Transferee Agreement.

5.8 Headings. Any headings or captions preceding the text of the several sections hereof are intended solely for convenience of reference and shall not constitute a part of this Security Agreement and Assignment nor shall they affect its meaning, construction or effect.

IN WITNESS WHEREOF, the Transferee and the Secured Party intending to be legally bound hereby, have executed this Security Agreement as of the day and year first above written.

Witness:

[Handwritten Signature]

THE W-A EQUIPMENT COMPANY

By

Alan S. Weiler
Its Partner

STATE OF NEW YORK)
COUNTY OF NEW YORK)

) SS:
)

On this 12th day of February, 1980, before me, personally appeared Alan G. Weiler to me personally known, who being by me duly sworn, said that he is a Partner of The W-A Equipment Company, a general partnership organized under the laws of the State of New York that the foregoing instrument was signed and sealed on behalf of said partnership by authority of its general partners and he acknowledged that the execution of the foregoing instrument was the free act and deed of said partnership.

[Handwritten Signature]
Notary Public

STODDARD D. PLATT
Notary Public, State of New York
No. 31-3118308
Qualified in New York County
Commission Expires March 30, 1981

(SEAL)

Witness:

Edward B. [Signature]

THE OHIO NATIONAL LIFE INSURANCE COMPANY

By

[Signature]
Its Joseph P. Brom, Vice Pres., Securities

STATE OF Ohio

COUNTY OF Hamilton

)
) ss.
)

On this 19th day of February, 1980, before me, personally appeared Joseph P. Brom to me personally known, by me duly sworn, said that he is a Vice President for The Ohio National Life Insurance Company, 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.

[Signature]
Notary Public

(SEAL)

Teresa Boothby
Notary Public, State of Ohio
My Commission Expires Oct. 16, 1982

SCHEDULE A

TO TRANSFEREE AGREEMENT

The Equipment consists of twenty (20) 100 ton Chessie System Design, open top hopper cars bearing identifying numbers as follows:

UMP 7255 through UMP 7274, inclusive, manufactured by The Chessie Corporation under Conditional Sale Agreement made with Upper Merion and Plymouth Railroad Company dated the date hereof.

UPPER MERION AND PLYMOUTH RAILROAD COMPANY

Consent and Agreement

The Ohio National Life Insurance
Company
P.O. Box 237
Cincinnati, Ohio 45201
Attention: Securities Division

February 20, 1980

Gentlemen:

Reference is made to the Conditional Sale Agreement dated the date hereof between The Chessie Corporation, as vendor, and Upper Merion and Plymouth Railroad Company, as vendee (the "Conditional Sale Agreement"), the interests of the vendor under which were assigned by The Chessie Corporation to The Ohio National Life Insurance Company (the "Secured Party"). Further reference is made to the Transferee Agreement dated the date hereof (the "Transferee Agreement") among The W-A Equipment Company ("W-A") and the Secured Party. The capitalized terms used herein shall have the respective meanings set forth in the Transferee Agreement unless the context otherwise requires.

As an inducement to and as part of the consideration for the permanent financing to be provided by the Secured Party for the Equipment, UMP represents, warrants and agrees as follows:

1. Title. Except for the security interest granted by the Conditional Sale Agreement, and the subordinate security interest granted by W-A to Funding Systems Railcars, Inc. and described in Section 2.2 of the Transferee Agreement, no mortgage, deed of trust or other lien of any nature whatsoever which now covers or affects any property or interest therein of UMP, now attaches or hereafter will attach to any item of Equipment or in any manner affects or will affect adversely the right, title and interest of W-A or security interest of the Secured Party therein.

2. Insurance. The Equipment is covered by the insurance required by the Management Contract and the Condi-

tional Sale Agreement and all premiums due on or prior to the date hereof in respect of such insurance have been paid in full.

3. Amendments to Management Contract. Until such time as the Conditional Sale Indebtedness and all other obligations of UMP to the Secured Party have been paid and discharged, UMP will not enter into or permit any amendment, modification or termination of the Management Contract or assign or transfer its interest thereunder to any party without the prior written consent of the Secured Party.

4. Rights of Secured Party. UMP acknowledges receipt of a copy of the Transferee Agreement and consents to the terms and provisions thereof, and further acknowledges that notwithstanding any provision of the Management Contract to the contrary, (i) its rights under the Management Contract are subject and subordinate to the security interest of the Secured Party under the Conditional Sale Agreement and Transferee Agreement; (ii) upon the occurrence of an Event of Default, as defined in the Conditional Sale Agreement, the Secured Party shall have all the rights described in Articles 15 and 16 of the Conditional Sale Agreement and may exercise any of the same without any liability to UMP; and (iii) upon the occurrence of an Event of Default, as defined in the Transferee Agreement, the Secured Party shall have the rights described in Section 4 of the Transferee Agreement and may exercise any of the same without liability to UMP. UMP agrees that all revenues under the Management Contract are payable to the Secured Party for application as provided in the Transferee Agreement; provided, however, that until notified to the contrary by the Secured Party, at the address specified in the Management Contract for notice to UMP, UMP shall not be required to make any payments in excess of the amounts necessary for application pursuant to clause (i) first of Section 3.1 of the Transferee Agreement. Secured Party agrees not to send such notice to UMP unless and until an Event of Default has occurred and is continuing under the Management Agreement.

Payments to Secured Party shall be by bank wire transfer of Federal or other immediately available funds, to The First National Bank of Cincinnati, P.O. Box 1038, Cincinnati, Ohio 45201, Attention: Mr. William Trimpe, for the account of The Ohio National Life Insurance Company, No. 910-275-7, in each case with sufficient information to identify the source and application of such funds, or in such other manner or to such other address in the United States as Secured Party may designate in writing to the Debtor.

5. Notices Under Management Contract. UMP will forward to Secured Party, by first class mail postage pre-paid, copies of all reports and notices required to be delivered by UMP to W-A under the Management Contract, including without limitation the annual report required to be delivered under Section 2.4 thereof, notice of any change in the Maintenance Fee required to be delivered under Section 8.3 thereof, status reports required to be delivered under Section 13.1 thereof and reports of foreign usage required to be delivered under Section 21 thereof.

6. Default. UMP shall not be in default in the performance of its obligations under this Consent and Agreement until the receipt of written notice by UMP and W-A specifying the occurrence of such default and such default shall continue unremedied for a period of ten days after receipt of such notice. If such default is not remedied, W-A and Secured Party shall have the right to deem such default hereunder to be an Event of Default by UMP under the Management Contract.

7. Amendment or Modification. Neither this Consent and Agreement nor the Conditional Sale Agreement shall be amended or modified or terminated without the prior written consent of W-A.

UPPER MERION AND PLYMOUTH
RAILROAD COMPANY

WITNESS:

Donald F. Stumbras

By C. Mart Sold
Its attorney in fact

Agreed to this 20th day of February, 1980.

WITNESS:

Edward B. Krehela

THE OHIO NATIONAL LIFE INSURANCE
COMPANY

By Joseph P. Brom
Its Joseph P. Brom, Vice Pres., Securit