12139
AUG 28 1980 - 11 35 AM
INTERSTATE COMMERCE COMMISSION
12139-A
AUG 28 1980 - 11 30 AM
INTERSTATE COMMERCE COMMISSION
12139-B
AUG 28 1980 - 11 30 AM
INTERSTATE COMMERCE COMMISSION

BERNARD D. ATWOOD
JAMES M. ESTABROOK
EDWARD H. MAHLA
JOHN C. MOORE
MacDONALD DEMING
GORDON W. PAULSEN
M. E. DeORCHIS
DAVID P. H. WATSON
RICHARD G. ASHWORTH
EDWARD L. JOHNSON
RICHARD B. BARNETT
MAURICE L. NOYER
SANFORD C. MILLER
FRANCIS X. BYRN
THOMAS R. H. HOWARTH
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WALTER E. RUTHERFORD
R. GLENN BAUER
THEODORE M. SYSOL
CARROLL E. DUBUC
THOMAS F. MOLANPHY
LENNARD G. RAMBUSCH
JAMES J. SENTNER, JR.*
RANDAL R. CRAFT, JR.
WILLIAM J. HONAN III
CHESTER D. HOOPER
EMIL A. KRATOVIL, JR.
JOHN J. REILLY
BARTON T. JONES
RICHARD D. BELFORD
BRIAN D. STARER
ROBERT B. HASEROT
JOHN K. WEIR
JUAN A. ANDUIZA
DONALD J. KENNEDY
RICHARD L. JARASHOW
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CARROLL E. DUBUC
RESIDENT PARTNER WASHINGTON

RALPH E. CASEY
JOHN W. McCONNELL, JR.
OF COUNSEL WASHINGTON

*ALSO ADMITTED TO PRACTICE IN NEW JERSEY

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August 28, 1980

No. 0-241A060
Date AUG 28 1980
Fee $ 100.00
ICC Washington, D. C.

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Secretary
Interstate Commerce Commission
Washington, D.C. 20423

GENERAL ELECTRIC CREDIT CORPORATION
FINANCING OF RAIL EQUIPMENT
LEASED TO BOSTON AND MAINE CORPORATION
Our file 4184-64

Dear Sir:

We are special counsel for General Electric Credit Corporation ("GECC"), and we enclose for filing (i) four counterparts of a Purchase Agreement dated as of January 15, 1980 (the "Purchase Agreement") between Robert W. Meserve, Benjamin H. Lacy, Trustees of the Property of Boston and Maine Corporation, Debtor (the "Lessee") and Portec, Inc. (Railcar Division) (the "Builder"); (ii) four counterparts of an Agreement and Assignment dated as of January 15, 1980 relating to the Purchase Agreement among the Builder, First Security Bank of Utah, N.A., not in its individual capacity but solely as Owner Trustee (the "Owner Trustee") under a Trust Agreement dated as of January 15, 1980 and the Lessee; and (iii) four counterparts of an Equipment Lease dated as of January 15, 1980 between the Lessee and the Owner Trustee. Each of these documents relates to the following equipment:

100, 3,000 cubic foot, 100-ton covered hopper cars, Portec Specifications No. H-100-780626, bearing identifying numbers BM 5200 through BM 5299, both inclusive.

Counterpart W. Berry

The relevant addresses for each of the parties to the transaction are as follows:

Builder:

Portec, Inc. (Railcar Division)
1800 Century Boulevard
Atlanta, Georgia 30345

Owner Trustee:

First Security Bank of Utah, N.A.,
as Owner Trustee
79 South Main Street
Salt Lake City, Utah 84111
Attention: Trust Department,
Corporate Trust Division

GECC:

General Electric Credit Corporation
P.O. Box 8300
Stamford, Connecticut 06904
Attention: Manager, Operations
Leasing & Industrial Loans

Lessee:

Boston and Maine Corporation
Iron Horse Park - High Street North
Billerica, Massachusetts 01862
Attention: Vice President - Equipment

Also enclosed is our check in the amount of $100, payable to the Interstate Commerce Commission to cover the prescribed filing fee.

Please return all additional copies of the enclosed counterparts not required for filing by the Interstate Commerce Commission to Mr. Schneider of our Washington Office.

Very truly yours,

HAIGHT, GARDNER, POOR & HAVENS

By Thomas J. Whalen

Thomas J. Whalen

TJW:rb
Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Mr. Schneider
Federal Bar Building
1819 H. St. N. W.
Washington, D. C. 20006

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 8/28/80 at 11:35AM, and assigned re-recordation number(s). 12139, 12139-A, & 12139-B

Sincerely yours,

Agatha L. Mergenovich

Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

#5 Loan
Released by
C&D
Lease not released

RECORDATION NO. 12139 Filed 1425

AUG 28 1980 - 11 25 AM

INTERSTATE COMMERCE COMMISSION

PURCHASE AGREEMENT

Dated as of January 15, 1980

BETWEEN

ROBERT W. MESERVE and BENJAMIN H. LACY
Trustees of the Property of
BOSTON AND MAINE CORPORATION, Debtor

AND

PORTEC INC. (RAILCAR DIVISION)

PURCHASE AGREEMENT dated as of January 15, 1980, between PORTEC INC. (RAILCAR DIVISION) (hereinafter called the Builder) and ROBERT W. MESERVE and BENJAMIN H. LACY, TRUSTEES OF THE PROPERTY OF THE BOSTON AND MAINE CORPORATION, DEBTOR (hereinafter called the Purchaser).

WHEREAS, the Builder agrees to construct, sell and deliver to the Purchaser, and the Purchaser agrees to purchase, the railroad equipment described in Annex B hereto (hereinafter called the Equipment); and

WHEREAS, the Purchaser, pursuant to an Agreement and Assignment (hereinafter called the Assignment) dated as of the date hereof, will assign all right, title and interest hereunder to FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity but solely as Owner-Trustee (hereinafter called the Lessor) under a Trust Agreement dated as of the date hereof with GENERAL ELECTRIC CREDIT CORPORATION as beneficial owner (said owner being hereinafter called the Beneficiary).

WHEREAS, the Lessor is entering into an Equipment Lease dated as of the date hereof with the Purchaser, as lessee (hereinafter called the Lease), pursuant to which the Lessor will lease the Equipment to the Purchaser for a term of 18 years.

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

ARTICLE 1. CONSTRUCTION AND SALE.

Pursuant to this Agreement, the Builder shall construct the Equipment at its Plant set forth in Annex B hereto, and will sell and deliver to the Purchaser, and the Purchaser will purchase from the Builder and accept delivery of and pay for (as hereinafter provided), the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed

upon in writing between the Builder and the Purchaser (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of Equipment shall conform, on the date of completion of manufacture thereof, to all regulatory requirements and specifications reasonably interpreted as being applicable to equipment of the character of such unit, and each such unit will be new equipment.

ARTICLE 2. INSPECTION AND DELIVERY.

The Builder will deliver the units of the Equipment to the Purchaser at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Purchaser), freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto.

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

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Purchaser and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon completion of each unit or a number of units of the Equipment, such unit or units shall be presented to an inspector of the Purchaser for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable

thereto, such inspector or an authorized representative of the Purchaser shall execute and deliver to the Builder a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Purchaser and are marked in accordance with Article 6 hereof; provided, however, that the Builder shall not thereby be relieved of its warranties referred to in Article 7 hereof.

Upon tender of delivery, inspection and acceptance of each such unit at the place specified for delivery pursuant to this Article 2, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of its warranties referred to in Article 7 hereof.

ARTICLE 3. PURCHASE PRICE AND PAYMENT.

The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder, the Purchaser and the Lessor. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in the Builder's invoice or invoices delivered to the Purchaser and, if the Purchase Price is other than the base price or prices set forth in Annex B, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Lessor and the Purchaser (such invoice or invoices being hereinafter called the Invoices). If on any Closing Date (as hereinafter defined in this Article) the aggregate Purchase Price of Equipment for which settlement is then being made under this Agreement would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 4 of Annex A hereto (or such higher amount as the Purchaser and Lessor may at its option agree to prior to delivery of any unit or units of Equipment that, but for such agreement, would be excluded from this Agreement), the Builder and the Purchaser will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified

by the Purchaser, as will, after giving effect to such exclusion, reduce such aggregate Purchase Price under this Agreement to not more than the Maximum Purchase Price specified in Item 4 of Annex A hereto (or such higher amount as aforesaid) and the Purchaser shall take such other steps, including the execution of instruments of transfer, as it may be reasonably requested by the Builder for the purpose of acknowledging and perfecting the interest of the Builder in any unit of Equipment so excluded from this Agreement, and the Purchaser shall have no further obligation or liability hereunder in respect of units so excluded.

The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by the Purchaser as is provided in Item 2 of Annex A hereto. The term "Group", as used herein, shall mean the group of units of Equipment being settled for on any Closing Date, which units had not theretofore been settled for, and which units had been delivered and accepted prior to seven business days before the Closing Date. The term "Closing Date" with respect to any such Group shall mean such date (not later than October 31, 1980, such date being herein called the Cut-Off Date), occurring not more than ten business days following presentation by the Builder to the Purchaser of the Invoices and of the Certificate or Certificates of Acceptance for the Equipment and written notice thereof by the Builder to the Purchaser, as shall be fixed by the Purchaser by written notice delivered to the Lessor at least six business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, or Chicago, Illinois, are authorized or obligated to remain closed.

The Purchaser on the Closing Date with respect to each Group hereby promises to pay in cash to the Builder at such place as the Builder may designate, the Purchase Price of the Equipment, making up such Group.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. All such payments may be made by the Purchaser to the Builder by wire transfer of Federal or other immediately available funds.

The obligation of the Purchaser to pay to the Builder the amount required to be paid pursuant to this Article 3 with respect to the Group shall be subject to the receipt by the Purchaser of the documents required to be furnished by the Builder pursuant to Section 4 of the Assignment in respect of the Group. Upon execution and delivery of the Assignment by the parties thereto and fulfillment of the conditions specified in Section 6 of the Assignment to be performed by the Purchaser, the Purchaser shall have no further obligation to the Builder to purchase the Equipment, it being understood and agreed that First Security Bank of Utah, N.A., as owner trustee for General Electric Credit Corporation, shall purchase the Equipment in accordance with the terms and conditions of the Assignment.

ARTICLE 4. TITLE IN THE EQUIPMENT.

The Builder shall and hereby does retain a security interest in the Equipment to secure the full payment of the Purchase Price until the Purchaser shall have made full payment of the Purchase Price under this Agreement.

Subject to the foregoing security interest, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Purchaser or the Lessor as assignee under the Assignment without further transfer or action on the part of the Builder upon acceptance by the Purchaser on behalf of the Lessor of each such unit.

ARTICLE 5. TAXES.

All payments to be made by the Purchaser hereunder will be free of expense to the Builder for collection or other charges and will be free of expense to the Builder with respect to the amount of any local, state, federal or foreign taxes (other than gross receipt taxes (except gross receipt taxes in the nature of or in lieu of sales or use or rental taxes), taxes measured by Builder's net income, Builder's value added taxes, excess profits taxes and similar taxes or general corporation, franchise or like taxes

measured by Builder's capital, capital stock or net worth) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which such impositions the Purchaser assumes and agrees to pay on demand in addition to the Purchase Price of the Equipment.

ARTICLE 6. MARKING OF THE EQUIPMENT.

The Builder will cause each unit of Equipment to be numbered with the identifying number as set forth in Annex B hereto and will plainly, distinctly, and conspicuously mark on each side of each unit, in letters not less than one inch in height, the words "OWNERSHIP HELD BY FIRST SECURITY BANK OF UTAH, N.A., AS OWNER-TRUSTEE", or other appropriate words designated by the Purchaser.

ARTICLE 7. INDEMNITIES AND WARRANTIES

The Purchaser assumes the risk of and agrees to indemnify, protect and hold harmless the Builder from and against all losses, damages, injuries, liabilities, claims (including without limitation claims for strict liability in tort) and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, penalties and interest, arising out of or as the result of the entering into or the performance of this Agreement, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment, except any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort by the Builder, or out of any breach of warranty or failure to perform any covenant hereunder by the Builder.

The Purchaser will bear the responsibility for and risk of, and shall not be released from its obligations under this Agreement in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

The Builder represents and warrants to the Purchaser that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, the Purchaser or its Assignee the Lessor will receive good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except the rights of the Lessee under the Lease and the security interest retained by the Builder pursuant to Article 4 hereof.

Except in cases of articles or materials specified by the Purchaser and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Purchaser and not developed or purported to be developed by the Builder, the Builder agrees to indemnify, protect and hold harmless the Purchaser, the Lessor and the Beneficiary from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Purchaser, the Lessor, the Beneficiary, its or their assigns or the users of the Equipment because of the use in, or about, the construction or operation of any of the Equipment of any design, system, process, formulae, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Purchaser every claim, right and cause of action which the Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Purchaser and purchased or otherwise acquired by the Builder for use in or about the construction or operation of any of the Equipment on the ground that any such design, system, process, formulae, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. The Builder further agrees to execute and deliver to the Purchaser or the Lessor or the Beneficiary or the users of the Equipment all and every such further assurance as may be reasonably requested by the Lessor, the Purchaser or the Beneficiary to more fully effectuate the assignment and delivery of every such claim,

right and cause of action. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, the satisfaction and discharge of this Agreement or the termination of this Agreement in any manner.

The Builder represents that it is not entering into this Agreement, or entering into any assignment of this Agreement, directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (other than a governmental plan) with respect to which it is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

The agreement of the parties relating to the Builder's warranty of material and workmanship is set forth in Item 3 of Annex A hereto.

ARTICLE 8. SUCCESSORS AND ASSIGNS.

The Builder will not transfer, sell, assign or otherwise dispose of its rights under this Agreement without the prior written consent of the Purchaser.

All or any of the rights, benefits and advantages of the Purchaser under this Agreement may be assigned by the Purchaser to the Lessor pursuant to the Assignment.

ARTICLE 9. APPLICABLE STATE LAWS.

Any provision of this Agreement prohibited by any applicable law or of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement.

ARTICLE 10. ARTICLE HEADINGS; EFFECT AND MODIFICATION OF AGREEMENT.

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

Except for the Assignment, this Agreement, including the Annexes hereto, exclusively and completely states the rights as between the Builder and the Purchaser with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Builder and the Purchaser and consented to in writing by the Lessor.

ARTICLE 11. NOTICE.

Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it by first class mail, postage prepaid, at the following addresses:

(a) To the Builder at: The address specified in Item 1 of Annex A hereto.

(b) To the Purchaser at: Boston and Main Corporation, Iron Horse Park - High Street, North Billerica, Massachusetts 01862, Attention: Vice President, Equipment.

(c) To the Lessor at: 79 South Main Street, Salt Lake City, Utah 84111, Attention: Trust Department, Corporate Trust Division, with a copy to Comdisco Financial Services, Inc., 530 Bush Street, San Francisco, California 94108.

(d) To the Beneficiary at : P.O. Box 8300, Stamford, Connecticut 06904, Attention: Manager - Operations, Leasing and Industrial Loans, with a copy to the same address marked Attention: Manager - Rail Component,

or such other address as may have been furnished in writing by such party to the other parties to this Agreement. Any such notice shall be deemed to be effective three days after its deposit.

ARTICLE 12. LAW GOVERNING.

The Purchaser warrants that its chief place of business is located in the state specified in Clause (b) of Article 11 hereof. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the state of Illinois.

ARTICLE 13. EXECUTION.

This Agreement may be executed in any number of counterparts, such counterparts together constituting but one and the same contract, but the counterpart marked "ORIGINAL COUNTERPART" delivered to the Assignee pursuant to the Assignment shall be deemed the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Agreement is dated 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 executed or caused this instrument to be executed all as of the date first above written.

PORTEC INC. (RAILCAR DIVISION)

By S. A. Kovach

Title Vice President

(CORPORATE SEAL)

ATTEST:

J. C. Hutton

Vice President and Secretary

ROBERT W. MESERVE AND BENJAMIN H. LACY, TRUSTEES OF THE PROPERTY OF BOSTON AND MAINE CORPORATION, DEBTOR

Robert W. Meserve

As trustee and not individually

Benjamin H. Lacy

As trustee and not individually

STATE OF ILLINOIS)
) ss.:
COUNTY OF DU PAGE)

On this 25th day of August, 1980, before me personally appeared S. A. Kovach, to me personally known, who, being by me duly sworn, says that he is a Vice President of PORTEC INC. (RAILCAR DIVISION), 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.

Carol S. Stuntevant
Notary Public

My Commission Expires:

(Notarial Seal)

MY COMMISSION EXPIRES SEPT. 10. 1983

COMMONWEALTH OF MASSACHUSETTS)
) ss.:
COUNTY OF SUFFOLK)

On this 26th day of Aug., 1980, before me personally appeared BENJAMIN H. LACY, to me personally known, who, being by me duly sworn, says that he is a Trustee of the Property of Boston and Maine Corporation, Debtor, and that said instrument was signed on behalf of said Debtor by authority of the United States District Court for the District of Massachusetts, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Trustee.

Katherine M. McCarte
Notary Public

My Commission Expires: Jan. 26, 1981.

(Notarial Seal)

COMMONWEALTH OF MASSACHUSETTS)
) ss.:
COUNTY OF SUFFOLK)

On this 26th day of Aug., 1980, before me personally appeared ROBERT W. MESERVE to me personally known, who, being by me duly sworn, says that he is a Trustee of the Property of Boston and Maine Corporation, Debtor, and that said instrument was signed on behalf of said Debtor by authority of the United States District Court for the District of Massachusetts, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Trustee.

Katherine M. McCarte
Notary Public

My Commission Expires: Jan. 26, 1984

(Notarial Seal)

ANNEX A

TO

PURCHASE AGREEMENT

ITEM 1: PORTEC INC. (RAILCAR DIVISION), having its address at 1800 Century Blvd., Atlanta, Georgia 30345.

ITEM 2: Unless the Purchaser, the Builder and the Lessor otherwise agree, the Equipment shall be settled for in not more than two groups of units of Equipment; the first group shall consist of 50 UNITS, and shall be settled for on or about September 29, 1980; the second group shall consist of 50 UNITS and shall be settled for on or about October 31, 1980.

ITEM 3: The Builder warrants that its Equipment will be built in accordance with the Specifications and the standards and requirements set forth in Article 1 of the Purchase Agreement to which this Annex A is attached (hereinafter called the Agreement) and warrants the Equipment will be free from defects in material and workmanship under normal use and service, the Builder's obligation under this Item 3 being limited to making good at its plant any part or parts of any unit of the Equipment which shall, within one year after the delivery of such unit to the Builder, be returned to the Builder with transportation charges prepaid and which the Builder's examination shall disclose to its satisfaction to have been thus defective.

THE FOREGOING WARRANTY OF THE BUILDER IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED 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 BUILDER, EXCEPT FOR ITS OBLIGATIONS UNDER ARTICLES 1, 2, 3 AND 7 OF THE AGREEMENT, AND THE BUILDER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF ITS EQUIPMENT, EXCEPT AS AFORESAID. THE BUILDER SHALL NOT BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES OF WHATEVER NATURE.

The Builder further agrees with the Purchaser that neither the inspection as provided in Article 2 of the Agreement, nor any examination, nor the acceptance of any units of its Equipment as provided in said Article 2 shall be deemed a waiver or a modification by the Purchaser of any of its rights under this Item 3.

ITEM 4: The Maximum Purchase Price referred to in Article 3 of the Agreement is $4,730,000.

ANNEX B

TO

PURCHASE AGREEMENT

Type	Builder's Specification	Builder's Plant	Quantity	Estimated Unit Base Price	Estimated Total Base Price	Road Numbers	Estimated Time And Place Of Delivery
3,000 Cubic Ft. 100-Ton Covered Hopper Car	PORTEC Specifications No. H-100-780626 Dated March 15, 1979; Portec Drawing No. H-780626 and Specialty List of August 10, 1979 as modified December, 1979	Clinton, Illinois	100	$45,000	$4,500,000	BM5200 through BM5299, both Inclusive	August-October 1980 at Clinton, Illinois