

OCT 1 - 1980 - 10 PM

INTERSTATE COMMERCE COMMISSION



LOUISVILLE & NASHVILLE RAILROAD COMPANY

908 W. BROADWAY • LOUISVILLE, KENTUCKY 40232 TELEPHONE (502) 587-5235

No. 0-2751044

LAW DEPARTMENT

Date ~~OCT 1 1980~~ September 29, 1980

DAVID M. YEARWOOD  
GENERAL ATTORNEY

Fee \$ 50.00

ICC Washington, D. C.

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

Dear Madam Secretary:

There is transmitted to you herewith for filing and recordation, pursuant to 49 U.S.C. Section 11303, three duly executed counterparts of an Agreement dated as of September 1, 1980, between The Chessie Corporation, whose address is Terminal Tower, P. O. Box 6419, Cleveland, Ohio 44101, and Louisville and Nashville Railroad Company, whose address is 908 West Broadway, P. O. Box 32290, Louisville, Kentucky 40232.

The equipment covered by this Agreement is:

462 100-ton open top hopper cars, bearing the Louisville and Nashville Railroad Company's road numbers 551100 to 551561, inclusive.

By this Agreement, The Chessie Corporation agreed to permit the Louisville and Nashville Railroad Company to use such equipment pending completion of financial arrangements covering such equipment.

There has been no prior recordation of any document relating to this transaction.

Attached hereto is a draft in the amount of \$50 payable to the Interstate Commerce Commission to cover the recordation fee for said Agreement.

This letter of transmittal is signed by an officer of Louisville and Nashville Railroad Company designated for the purpose hereof who has knowledge of the matters set forth herein.

*Open Report - Steam and Road*

OCT 1 12 09 PM '80  
I.C.C.  
FREE OPERATION BR.

After recordation, please return the recorded counterparts of said Agreement to:

Mr. David M. Yearwood  
General Attorney  
Louisville and Nashville Railroad Company  
908 West Broadway  
P. O. Box 32290  
Louisville, Kentucky 40232

Respectfully yours,

Louisville and Nashville Railroad Company

By David M. Yearwood  
David M. Yearwood  
General Attorney

Attachments.

Interstate Commerce Commission  
Washington, D.C. 20423

OFFICE OF THE SECRETARY

*Louisville & Nashville RR Co.*  
*908 W Broadway - Box 32290*  
*Louisville Kentucky 40232*

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 10/1/80 at 12:10PM, and assigned re-  
recording number(s). 12255

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

OCT 1 - 1980 10 PM

INTERSTATE COMMERCE COMMISSION

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**AGREEMENT**

**Dated as of September 1, 1980**

**between**

**THE CHESSIE CORPORATION**

**and**

**LOUISVILLE AND NASHVILLE RAILROAD COMPANY**

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**Covering**

**462 100-ton Open Top Hopper Cars**

THIS AGREEMENT, dated as of September 1, 1980, by and between THE CHESSIE CORPORATION, a Delaware corporation ("Manufacturer"), and LOUISVILLE AND NASHVILLE RAILROAD COMPANY, a Kentucky corporation ("Buyer"):

WITNESSETH:

The Manufacturer and the Buyer heretofore entered into an Agreement dated as of February 14, 1980 ("Manufacturing Agreement") a copy of which Agreement is made a part hereof by reference, whereunder the Manufacturer agreed to construct and deliver to the Buyer and the Buyer agreed to accept and pay for, the following railroad equipment (Cars):

462 100-ton open top hopper cars,  
to bear the Buyer's road numbers 551100  
to 551561 , inclusive.

Delivery of the Cars by the Manufacturer to the Buyer is scheduled to begin in September, 1980. However, inasmuch as the Buyer has not as yet consummated financing arrangements (pursuant to one or more Conditional Sales Agreements or Equipment Trust Agreements, or otherwise), it is not in position to accept delivery of and pay for the Cars under the terms of the Manufacturing Agreement at this time. The Buyer represents that such financing arrangements will be consummated, however, on or before December 1, 1980. The Buyer (in order that it may use the Cars pending completion of the above financing arrangements) has arranged with the Manufacturer to give it temporary custody and possession of the Cars on their completion, solely as a bailee of the Cars, and the Manufacturer is willing to do so upon the terms and conditions hereinafter stated.

In consideration of the premises, the Manufacturer hereby delivers to the Buyer and the Buyer hereby accepts from the Manufacturer the Cars as of the date each of them is delivered to the Buyer at Russell, Kentucky, or such other place as may be

specified by the Buyer, for the period ending on the earlier of December 1, 1980, or the date of consummation of the above financing arrangements. At such time this Agreement shall automatically be cancelled and superseded without further action by or notice to any part concerned.

Title to the Cars shall remain in the Manufacturer and the Buyer's right and interest therein is and shall be solely that of possession, custody, and use as bailee under this Agreement. Transfer of title shall be effected only at the time of delivery of the bills of sale. The Buyer, without expense to the Manufacturer, will promptly cause this Agreement to be filed with the Interstate Commerce Commission for recordation pursuant to 49 USC §11303. In addition, the Buyer shall do such other acts as may be required by law, or reasonably requested by the Manufacturer, for the protection of the Manufacturer's title to and interest in the Cars.

The Buyer agrees that it will permit no liens of any kind to attach to the Cars, and that it will

- (a) indemnify and save harmless the Manufacturer from any and all claims, expenses, or liabilities of whatsoever kind, and
- (b) pay any and all taxes, fines, charges, and penalties that may accrue or be assessed or imposed upon the Cars or the Manufacturer because of its ownership or because of the use, operation, management, or handling of the Cars by the Buyer during the term of this Agreement.

The Buyer's obligations contained in this paragraph shall survive the termination by mutual agreement or otherwise of this Agreement.

The Buyer will, at its own expense, keep and maintain the Cars in good order and running condition and will, at its option, repair or replace or promptly pay to the Manufacturer the purchase price in cash of those Cars which may be damaged or destroyed by any cause during the term of this Agreement.

Prior to the delivery of each Car to the Buyer under this Agreement, it will be numbered with a road number as hereinbefore indicated, and there shall be plainly, distinctly, permanently, and conspicuously marked upon each side of each Car, in contemplation of the financing heretofore referred to, the following legend in letters not less than one inch in height:

**OWNERSHIP SUBJECT TO A SECURITY AGREEMENT  
FILED WITH THE INTERSTATE COMMERCE COMMISSION.**

The Buyer hereby agrees to indemnify the Manufacturer against any liability, loss, or expense incurred by it as a result of the placing of the aforementioned markings on the Cars.

In case, during the continuance of this Agreement, such markings shall at any time be removed, defaced, or destroyed on any Car, the Buyer shall immediately cause the same to be restored or replaced.

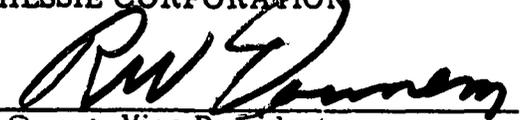
All or any of the rights, benefits, or advantages of the Manufacturer, including the right to receive the purchase price of the Cars as provided in the Manufacturing Agreement, may be assigned by the Manufacturer and reassigned by any assignee at any time or from time to time, provided, however, that no such assignment shall subject any such assignee to any of the Manufacturer's warranties, indemnities, or any other obligations contained in this Agreement or in the Manufacturing Agreement relating to the Cars. In the event the Manufacturer assigns its rights to receive the payments herein and/or under the Manufacturing Agreement, and the Buyer receives written notice thereof from the Manufacturer, together with a counterpart of such assignment stating the identity and the post office address of the assignee, all payments thereafter to be made by the Buyer under this Agreement shall, to the extent so assigned, be made to the assignee against proper receipt therefor in form satisfactory to the Buyer.

In the event of any assignment by the Manufacturer of its rights to receive any payments under this Agreement or under the Manufacturing Agreement, the rights of such assignee to such payments as may be assigned, together with any other rights hereunder which can be and are so assigned, shall not be subject to any defense, set-off, counter-claim or recoupment whatsoever arising out of any breach of any obligation of the Manufacturer in respect to the Cars, or by reason of any other indebtedness or liability at any time owing to the Buyer by the Manufacturer. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Buyer, its successors and assigns, only against the Manufacturer and its successors and assigns (other than assignees as such of rights, benefits or advantages assigned pursuant to this Agreement).

The Buyer agrees with the Manufacturer that the execution by the Manufacturer of this Agreement or the delivery by the Manufacturer to the Buyer of the cars, as contemplated by this Agreement, shall not relieve the Buyer of its obligations to accept, take, and pay for the Cars in accordance with the terms of the Manufacturing Agreement, or impair any of the Manufacturer's rights under the Manufacturing Agreement.

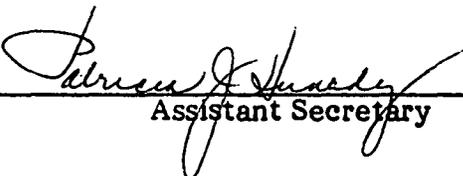
THE CHESSIE CORPORATION

By

  
SENIOR Vice President

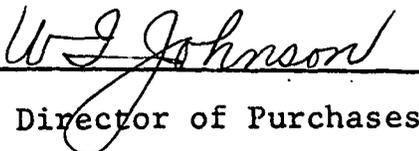
[ Corporate Seal ]

Attest:

  
Assistant Secretary

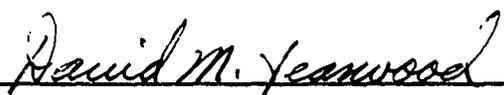
LOUISVILLE AND NASHVILLE  
RAILROAD COMPANY

By

  
Director of Purchases

[ Corporate Seal ]

Attest:

  
Attesting Officer

STATE OF OHIO )  
 ) SS:  
COUNTY OF CUYAHOGA )

On this 30th day of September, 1980, before me personally appeared R.W. DONNEM to me personally known, who, being by me duly sworn, says that he is SENIOR VICE PRESIDENT of THE CHESSIE 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]

Clara Masuga  
CLARA MASUGA, Notary Public  
State of Ohio - Cuyahoga County  
My Commission Expires April 21, 1984

STATE OF Kentucky )  
 ) SS:  
COUNTY OF Jefferson )

On this 29th day of September, 1980, before me personally appeared W.D. Johnson, to me personally known, who, being by me duly sworn says that he is Director of Purchases of LOUISVILLE AND NASHVILLE 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.

[Notarial Seal]

Norma J. Jones  
Notary Public, State of Kentucky, at Large  
My Commission expires March 4, 1981