



Terminal Tower
P. O. Box 6419
Cleveland, Ohio 44101
216 623 2200

RECORDATION NO. **14345** FILED 1426

June 15, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUN 19 1984 - 3 20 PM

Ms. Agatha L. Mergenovich, Secretary
Interstate Commerce Commission
12th Street and Constitution Ave., N.W.
Washington, D.C. 20423

INTERSTATE COMMERCE COMMISSION o. **4-171A060**

Date: **JUN 19 1984**
Fee \$: **50.00**

Attention: Recordation Unit

ICC Washington, D. C.

Dear Ms. Mergenovich:

Enclosed are three executed counterparts of an Agreement dated as of July 1, 1984, between General Motors Corporation (Electro-Motive Division), The Chesapeake and Ohio Railway Company and The Baltimore and Ohio Railroad Company. This Agreement constitutes an interim user agreement, allowing use of the equipment described below pending establishment of permanent financing. The names and addresses of the parties are as follows:

- Bailor: General Motors Corporation
(Electro-Motive Division)
LaGrange, Illinois 60525
- Bailee and Sub-bailor: The Chesapeake and Ohio Railway Company
P. O. Box 6419
Cleveland, Ohio 44101
- Sub-bailee: The Baltimore and Ohio Railroad Company
P. O. Box 6419
Cleveland, Ohio 44101

RECEIVED
JUN 19 3 22 PM '84
I.C.C.
FEE OPERATION BR.

The equipment covered by the above documents consists of 20 3500 H.P. Model SD50 locomotives, to bear the Sub-bailee's Road Nos. 8576-8595, inclusive, AAR Mechanical Designation: BB. The equipment will be marked "The Baltimore and Ohio Railroad Company" or "B&O" or "Chessie System" or in some other appropriate manner and also will be marked "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION."



Ms. Agatha L. Mergenovich
Interstate Commerce Commission

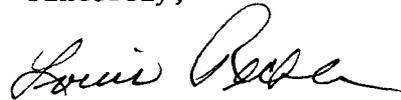
- 2 -

June 15, 1984

Also enclosed is a draft in the amount of \$50 representing the required recordation fee.

Pursuant to the Commission's rules and regulations for recordation of certain documents under 49 U.S.C. § 11303, you are hereby requested to file one of the enclosed counterparts for record in your office and to return the remaining copies to me.

Sincerely,



Louis Recher
Assistant General Solicitor

Enclosures (4)

Interstate Commerce Commission
Washington, D.C. 20423

6/20/84

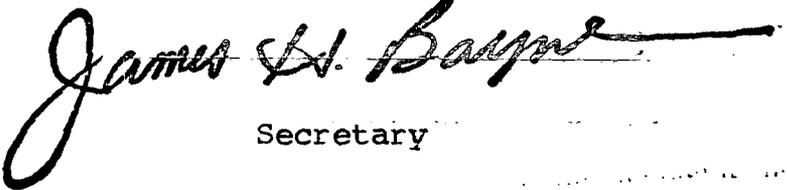
OFFICE OF THE SECRETARY

Louis Recher
Chessie System Railroad
Terminal Tower
P.O.Box 6419
Cleveland, Ohio 44101

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 6/19/84 at 3:30pm and assigned re-
recording number(s). 14345

Sincerely yours,


Secretary

Enclosure(s)

EXECUTED IN 4 COUNTERPARTS
OF WHICH THIS IS NO. 1

143457

RECORDATION NO. Filed 1425

JUN 19 1984 10 12 PM

INTERSTATE COMMERCE COMMISSION

INTERIM USER AGREEMENT

Dated as of July 1, 1984

among

GENERAL MOTORS CORPORATION
(Electro-Motive Division),

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

and

THE BALTIMORE AND OHIO RAILROAD COMPANY

Covering

20 3500 H.P. Model SD50 Locomotives

THIS AGREEMENT, dated as of July 1, 1984, among GENERAL MOTORS CORPORATION (Electro-Motive Division), a Delaware corporation (Manufacturer), THE CHESAPEAKE AND OHIO RAILWAY COMPANY, a Virginia corporation (C&O), and THE BALTIMORE AND OHIO RAILROAD COMPANY, a Maryland corporation (B&O):

WITNESSETH:

The Manufacturer and C&O heretofore entered into a Purchase Agreement (which Purchase Agreement is made a part hereof by reference), and such addenda thereto and modifications thereof as may have been made or may be agreed upon in writing between the Manufacturer and C&O, whereunder the Manufacturer agreed (among other things) to construct, at its LaGrange, Illinois plant in accordance with its Proposal No. 837081, dated January 11, 1984, and to deliver to C&O at Barr Yard, Illinois, or at such other point or points as directed by C&O, and C&O agreed to accept and pay for, 20 3500 H.P. Model SD50 locomotives (Locomotives), to bear B&O road numbers 8576-8595, inclusive.

C&O has agreed to sell the Locomotives to B&O pursuant to a Conditional Sale Agreement and the Locomotives will be used by B&O on its line of railroad.

As contemplated by said Purchase Agreement, C&O intends to finance the purchase of the Locomotives from the Manufacturer pursuant to an Equipment Trust Agreement to be dated as of August 15, 1984, but deliveries of the Locomotives are scheduled to begin on or about July 30, 1984, and C&O will not have established said financing arrangement by that time. C&O represents that such financing arrangement will be established, however, on or before December 1, 1984. C&O, in order that B&O may use the Locomotives pending establishment of such financing arrangement, has arranged with the Manufacturer to give B&O temporary custody and possession of the Locomotives upon their completion, solely as a bailee of the Locomotives, 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 C&O and C&O hereby accepts from the Manufacturer and C&O hereby delivers to B&O and B&O hereby accepts from the Manufacturer the Locomotives as of the date each of them is delivered to C&O and B&O at Barr Yard, Illinois, or such other point or points as may be directed by B&O for the period ending on the earlier of December 1, 1984, or the date of establishment of said financing arrangement. On such termination date, this Agreement shall automatically be cancelled and superseded without further action by or notice to any party concerned.

Upon delivery of each Locomotive to the delivery point, C&O's and B&O's representative will execute a certificate of acceptance acknowledging the receipt of delivery of such Locomotive under this Agreement. Title to the Locomotives shall remain in the Manufacturer and C&O's and B&O's rights and interests therein are and shall be solely that of possession, custody and use as bailee under this Agreement. Notwithstanding anything to the contrary contained in the Purchase Agreement, transfer of title shall be effected only at the time of delivery of bills of sale. C&O, without expense to the Manufacturer, will promptly cause this Agreement to be filed with the Interstate Commerce Commission for recordation under 49 U.S.C. section 11303. In addition, C&O and B&O 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 Locomotives.

C&O and B&O agree they will permit no liens of any kind to attach to the Locomotives; and that they 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 Locomotives or the Manufacturer,

because of the Manufacturer's ownership or because of the use, operation, management or handling of the Locomotives by B&O during the term of this Agreement. C&O's and B&O's obligations contained in this paragraph shall survive the termination of this Agreement.

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

Prior to the delivery of each Locomotive to C&O and B&O under this Agreement, each such Locomotive 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 Locomotive, in contemplation of said financing arrangement, as hereinbefore mentioned, the following legend in letters not less than one inch in height:

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

C&O and B&O hereby agree 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 Locomotives. In case, during the continuance of this Agreement, such markings shall at any time be removed, defaced or destroyed on any Locomotives, B&O 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 Locomotives as provided in the Purchase 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 Purchase Agreement. In the event the Manufacturer assigns its rights to receive the payments herein and/or under the Purchase Agreement, and C&O and B&O shall receive 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 C&O or B&O under this Agreement shall, to the extent so assigned, be made to the assignee against proper receipt therefor in form satisfactory to C&O and B&O.

In the event of any assignment by the Manufacturer of its rights to receive any payments under this Agreement or under the Purchase Agreement, the rights of such assignee to such payments as may be assigned shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Manufacturer in respect to the Locomotives, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to C&O or B&O by the Manufacturer. Any and all such obligations, howsoever arising, shall be and remain enforceable

by C&O and B&O, their 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).

C&O and B&O agree with the Manufacturer that the execution by the Manufacturer of this Agreement or the delivery by the Manufacturer to C&O and B&O of the Locomotives, as contemplated by this Agreement, shall not relieve C&O of its obligations to accept, take and pay for the Locomotives in accordance with the terms of the Purchase Agreement, or impair any of the Manufacturer's rights under said Purchase Agreement.

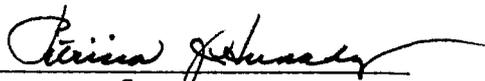
Attest:
(CORPORATE SEAL)


Assistant Secretary

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

By 
Vice President

Attest:
(CORPORATE SEAL)


Secretary

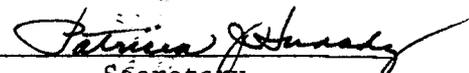
THE CHESAPEAKE AND OHIO
RAILWAY COMPANY

By 
Senior Vice President-Finance

App'd.


AGS

Attest:
(CORPORATE SEAL)


Secretary

THE BALTIMORE AND OHIO
RAILROAD COMPANY

By 
Senior Vice President-Finance

App'd.


AGS

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

On this ^{12th} day of June, 1984, before me personally appeared
P. K. HOGLUND, to me personally known who, being by me duly sworn, says
that he is a Vice President of GENERAL MOTORS CORPORATION (Electro-Motive Divi-
sion), that one of the seals affixed to the foregoing instrument is the corpo-
rate 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 ac-
knowledged that the execution of the foregoing instrument was the free act and
deed of said Corporation.



[NOTARIAL SEAL]

Guamita Acantelas
Notary Public

My Commission Expires April 17, 1988

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

On this ^{6th} day of June, 1984, before me personally appeared
P. R. GOODWIN, to me personally known who, being by me duly sworn, says that he
is Senior Vice President-Finance of THE CHESAPEAKE AND OHIO RAILWAY COMPANY,
that one of the seals affixed to the foregoing instrument is the corporate seal
of said Company, that said instrument was signed and sealed on behalf of said
Company 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 Company.

Louis Recher

LOUIS RECHER, Attorney
NOTARY PUBLIC-STATE OF OHIO

My Commission has no expiration date.
Section 147.03 R.C.

[NOTARIAL SEAL]

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

On this ⁰⁴ day of June, 1984, before me personally appeared P. R. GOODWIN, to me personally known who, being by me duly sworn, says that he is Senior Vice President-Finance of THE BALTIMORE AND OHIO RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Company, that said instrument was signed and sealed on behalf of said Company 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 Company.



LOUIS RECHER, Attorney
NOTARY PUBLIC-STATE OF OHIO
My Commission has no expiration date.
Section 147.03 R.C.

[NOTARIAL SEAL]