



St. Louis Southwestern Railway Company

JUL 25 1988-2 40 PM

Southern Pacific Building • One Market Plaza • San Francisco, California 94105

INTERSTATE COMMERCE COMMISSION

1 5740
REGISTRATION NO. FROM 1988

8 207A057

JUL 25 1988-2 40 PM July 20, 1988

INTERSTATE COMMERCE COMMISSION

Secretary
Interstate Commerce Commission
12th Street & Constitution Ave., N.W.
Washington, D.C. 20423

#6. JUL 25 1988
Date
Fee \$ 26.00

ICC Washington, D. C.

Re: St. Louis Southwestern Railway Company - Conditional Sale Agreement and Agreement and Assignment

Enclosed please find an original and one copy of the following documents described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

The documents submitted are as follows:

- (i) Conditional Sale Agreement, a Primary Document, dated as of July 1, 1988
- (ii) Agreement and Assignment, a Secondary Document, dated as of July 1, 1988

The documents referred to in (i) and (ii) are being filed concurrently.

We hereby request that the assignment referred to in (ii) be cross-indexed.

The names and addresses of the parties to the documents are as follows:

Conditional Sale Vendors:

General Electric Company
2901 East Lake Road - Bldg. 14-4
Erie, Pennsylvania 16531

General Motors Corporation
Electro Motive Division
9301 West 55th Street
LaGrange, Illinois 60525

ICC OFFICE OF THE SECRETARY
JUL 25 2 41 PM '88
MOTOR OPERATING UNIT

Alan M. Cloud

Purchaser:

St. Louis Southwestern Railway Company
Southern Pacific Building
One Market Plaza
San Francisco, California 94015
Attention: Treasurer

Vendor-Assignee:

Irving Trust Company
One Wall Street
New York, New York 10015
Attention: Corporate Trust Dept - Administration

A description of the equipment covered by the documents follows:

- (1) 35 General Electric 4000 horsepower, 4-axle road freight locomotives bearing road numbers 8040-8074
- (2) 15 General Motors 3800 horsepower, 4-axle road freight locomotives bearing road numbers 9620-9634 and serial numbers 876054-1 to 876054-15, respectively.

A fee of \$26.00 is enclosed. Please return the original to:

S. Michael Whang
Brown & Wood
One World Trade Center, 57th Floor
New York, New York 10048

A short summary of the documents to appear in the index as follows:

- (i) Primary document: Conditional Sale Agreement, dated as of July 1, 1988, by and among St. Louis Southwestern Railway Company, General Electric Company, General Motors Corporation, covering 35 General Electric 4000 horsepower, 4-axle road freight locomotives bearing road numbers 8040 to 8074, and 15 General Motors 3800 horsepower, 4-axle road freight locomotives bearing road numbers 9820 to 9834 and serial numbers 870654-1 to 870654-15, respectively.

The addresses of the Parties:

St. Louis Southwestern Railway Company
Southern Pacific Building
One Market Plaza
San Francisco, California 94015
Attention: Treasurer

General Electric Company
2901 East Lake Road - Bldg. 14-4
Erie, Pennsylvania 16531

General Motors Corporation
Electro Motive Division
9301 West 55th Street
LaGrange, Illinois 60525

- (ii) Secondary document: Agreement and Assignment, dated as of July 1, 1988, by and among Irving Trust Company, as Assignee, General Electric Company and General Motors Corporation assigning the Vendors, rights to the Conditional Sale Agreement, dated as of July 1, 1988, by and among St. Louis Southwestern Railway Company, General Motors Corporation and General Electric Company covering 35 General Electric 4000 horsepower 4-axle road freight locomotives bearing road numbers 8040 to 8074, and 15 General Motors 3800 horsepower 4-axle road freight locomotives bearing road numbers 9620 to 9634 and Serial numbers 870654-1 to 870654-15, respectively.

The addresses of the Parties:

Irving Trust Company
One Wall Street
New York, New York 10015
Attn: Corporate Trust Dept. - Administration

General Electric Company
2901 East Lake Road - Bldg. 14-4
Erie, Pennsylvania 16531

General Motors Corporation
Electro Motive Division
9301 West 55th Street
LaGrange, Illinois 60525

Sincerely,



E. F. Grady
Treasurer

Interstate Commerce Commission
Washington, D.C. 20423

7/25/88

OFFICE OF THE SECRETARY

E.F. Grady

Treasurer
Southern Pacific Building
One Market Plaza
San Francisco, Calif. 94105

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 7/25/88 at 2:50pm, and assigned recordation number(s). 15740 & 15740-A

Sincerely yours,

Narta L. McGee

Secretary

Enclosure(s)

1
RECORDATION NO. 5740
FBI FILE

JUL 25 1988-2 20 PM

INTERSTATE COMMERCE COMMISSION

AGREEMENT AND ASSIGNMENT
(Conditional Sale Indebtedness Due 2003)

Dated as of July 1, 1988

Between

Each of

GENERAL ELECTRIC COMPANY,

and

GENERAL MOTORS CORPORATION,
Builders,

and

IRVING TRUST COMPANY, as Agent,
Assignee

AGREEMENT AND ASSIGNMENT

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AGREEMENT AND ASSIGNMENT dated as of July 1, 1988, between IRVING TRUST COMPANY, as agent (the "Assignee"), for each of the investors (the "Investors") listed on Schedule A of the Finance Agreement, dated as of July 1, 1988 (the "Finance Agreement") among the Assignee, the Railroad and each of the Investors, under the Finance Agreement, and each of GENERAL ELECTRIC COMPANY and GENERAL MOTORS CORPORATION (individually called the "Builder" and collectively the "Builders").

The Builders and ST. LOUIS SOUTHWESTERN RAILWAY COMPANY, a Missouri corporation (the "Railroad"), have entered into a Conditional Sale Agreement (Conditional Sale Indebtedness Due 2003) dated as of the date hereof (the "CSA"), covering the construction, sale and delivery, on the conditions therein set forth, by the Builders, severally, and the purchase by the Railroad of the new railroad equipment described in Schedule B to the CSA (said equipment being hereinafter called collectively the "Equipment", each locomotive included in the Equipment being hereinafter called a "unit" of the Equipment and the Equipment constructed, sold and delivered by each Builder being hereinafter sometimes called "such Builder's Equipment" or "its Equipment").

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (this "Assignment") WITNESSETH: That, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Assignee to each Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties do hereby agree as follows:

SECTION 1. Each Builder hereby assigns, transfers and sets over unto the Assignee, its successors and assigns (who is pursuant to this assignment deemed to be the Vendor under the CSA), as agent for the Investors:

(a) all the right, title and interest of such Builder in and to each unit of its Equipment when and as delivered to and accepted by the Railroad, subject to payment by the Assignee to such Builder of the amount required to be paid to such Builder under Section 4 hereof;

(b) all the right, title and interest of such Builder in and to the CSA (except the right to construct and deliver its Equipment and the right to receive the payments specified in the third paragraph of Article 3 thereof, in the first paragraph of Article 4 thereof, in subparagraph (a) of the third paragraph

of Article 4 thereof, and the last paragraph of Article 16 thereof and reimbursements for taxes paid or incurred by such Builder as provided in Article 5 thereof), and in and to any and all amounts which may be or become due or owing by the Railroad or any insurer to such Builder under the CSA in respect of the Purchase Price (as defined in the CSA) of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under the CSA, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) hereof, all such Builder's rights, powers, privileges and remedies under the CSA;

without any recourse against such Builder for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the CSA; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the liability of such Builder to construct and deliver its Equipment in accordance with the CSA or with respect to its obligations contained or referred to in Article 14 of the CSA (it being understood that these are the only duties of the Builders provided for in the CSA), or relieve the Railroad from its obligations to and agreements with such Builder contained or referred to in Articles 2, 3, 4, 5, 13, 14 and 16 of the CSA, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 16 of the CSA, all obligations of such Builder to the Railroad with respect to its Equipment shall be and remain enforceable by the Railroad and Assignee, their respective successors and assigns, against and only against such Builder. In furtherance of the foregoing assignment and transfer, each Builder hereby authorizes and empowers the Assignee, in the Assignee's own name or in the name of the Assignee's nominee, or in the name of and as attorney hereby irrevocably constituted for such Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and to ask, demand, sue for and enforce compliance by the Railroad with the terms and agreements on its part to be performed under the CSA, but not at the expense or liability of the Builder, for the sole benefit of the Assignee.

In no event, whether as a result of breach of contract, warranty, tort (including negligence) or otherwise, shall either Builder or its suppliers be liable for any special, consequential, incidental or penal damages including, but not limited to, loss of profit or revenues, loss of use of the units of Equipment

manufactured by it or any associated equipment, damage to associated equipment, cost of capital, cost of substitute products, facilities, services or replacement power, down time costs, or claims of customers for such damages.

Any defined terms not otherwise defined herein shall have the meanings ascribed thereto in the CSA.

SECTION 2. Each Builder agrees that it shall construct its Equipment in full accordance with the CSA and will deliver the same upon completion to the Railroad in accordance with the provisions of the CSA; and that, notwithstanding this Assignment, it will perform and fully comply with each and every covenant and condition of the CSA set forth to be performed and complied with by such Builder. Each Builder further warrants to the Assignee and the Railroad, that at the time of delivery of each unit of its Equipment, it will have legal title to such unit and good and lawful right to sell such unit and title to such unit will be free of all claims, liens, security interests and other encumbrances (other than those created by the CSA); and each Builder further agrees that it will defend the title to each unit of its Equipment against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by such Builder under the CSA; subject, however, to the provisions of the CSA and the rights of the Railroad thereunder. No Builder will deliver any of its Equipment to the Railroad under the CSA until the filings and recordations required to be made pursuant to Article 20 of the CSA have been effected as of that date (the respective Builders, the Assignee and their counsel being entitled to rely on advice from special counsel for the Investors that such filings and recordations have been effected).

SECTION 3. Each Builder hereby agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the CSA for any installment of, or interest on, indebtedness in respect of the Purchase Price of its Equipment or to enforce any provision of the CSA, such Builder will indemnify, protect and hold harmless the Assignee and each Investor from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Railroad arising out of a breach by such Builder of any obligation with respect to the Equipment of such Builder or the manufacture, construction, delivery or warranty thereof, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by such Builder. Each Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, to the extent permitted by law and applicable procedural rules, on the basis of Article 16

of the CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the Railroad in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee's prompt notification to such Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving such Builder the right, at such Builder's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment.

The rights granted by Item 3(a) of Schedule A to the CSA shall apply to the Assignee to the same extent as if such provision was set forth herein and the references to the Railroad in such provision meant the Assignee. General Motors Corporation ("GM") hereby agrees to afford the Assignee the same rights and protection with respect to claims for patent infringement as those afforded the Railroad under Item 3(b) of Schedule A to the CSA, as if such provisions were set forth herein and the references to the Railroad in such provisions meant the Assignee; provided, however, that the Assignee shall not be responsible for any obligation pursuant to such provision, including without limitation, any obligation to indemnify or hold harmless GM or to give notice to GM pursuant to such provisions as incorporated herein.

Each Builder agrees that any amounts payable to it by the Railroad with respect to its Equipment, whether pursuant to the CSA or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof after the Closing with regard thereto (other than such as result from reassignment to such Builder in accordance with the last paragraph of Section 4 hereof).

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, shall pay, solely out of funds held by it pursuant to the Finance Agreement, to the Builder whose Equipment shall be included in such Group and to each Builder which shall submit a supplemental invoice for settlement on such Closing Date as contemplated in Article 4 of the CSA an amount equal to the Purchase Price of such Builder's Equipment as shown on the invoice therefor then being settled for, provided that there shall have been delivered to the Assignee for itself and the Investors, as provided in Article 16 of the CSA, counterpart copies of the following documents (with copies of each such document delivered to the special counsel to the Investors hereinafter mentioned) at least five business days

(as defined in said Article 4) prior to such Closing Date, each of which shall be in form and substance satisfactory to Investors and their special counsel (as certified to the Agent in writing by each Investor together with an approval of payment to the appropriate Builder) and in such number of counterparts as may be reasonably requested by said special counsel:

(a) a bill of sale from such Builder to the Assignee transferring to the Assignee the title of such Builder in such Builder's Equipment in such Group, warranting to the Assignee and to the Railroad that at the time of delivery of such units under the CSA such Builder had legal title to such units and good and lawful right to sell such units and that title to such units was free of all claims, liens, security interests and other encumbrances (other than those created by the CSA), and covenanting to defend the title to such units against the demands of all persons whomsoever based on claims originating prior to the delivery of such units by such Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to the units of such Builder's Equipment in such Group as contemplated by Article 3 of the CSA, accompanied by an Officers' Certificate (as defined in Article 8 of the CSA) to the effect that the inspection as contemplated by such Article 3 has been completed as to such unit or units and that each such unit conforms to the Specifications, requirements and standards applicable thereto pursuant to such Article 3;

(c) an invoice of such Builder for the units of such Builder's Equipment in such Group and any supplemental invoice (as contemplated by the last sentence of the third paragraph of said Article 4) accompanied by or having endorsed thereon an Officers' Certificate (as defined in Article 8 of the CSA) to the effect that the prices of such units are correct and approved by the Railroad and represent the fair market value of such units;

(d) an opinion of Messrs. Brown & Wood, who are acting as special counsel for the Investors, dated as of such Closing Date, to the effect that (i) the CSA has been duly authorized, executed and delivered by the Railroad and each Builder and is a legal, valid and binding instrument enforceable against the Railroad and each Builder in accordance with its terms, (ii) this Assignment has been duly authorized, executed and delivered by each Builder and the Assignee and is a legal, valid and binding instrument, (iii) the Finance Agreement has been duly authorized, executed and delivered by the Assignee, the Railroad and the

Investors and is a legal, valid and binding instrument, (iv) the CSA and this Assignment have been duly filed and recorded with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 and financing statements have been duly filed and recorded with the Office of the Secretary of State of the State of California, the State of Illinois and the Commonwealth of Pennsylvania, respectively, in respect of this Assignment, the CSA and the Equipment in accordance with the applicable provisions of the Uniform Commercial Code of the State of California, the State of Illinois and the Commonwealth of Pennsylvania, respectively, and such actions are sufficient for the purpose of, and no further action, nor any filing or refiling of the aforesaid documents and/or financing statements or continuation statements (except as specified) is necessary for, the protection of the rights of the Assignee under this Assignment and of its status as first priority lienholder with respect to the Equipment in any State of the United States of America or in the District of Columbia, (v) such counsel has caused the register maintained pursuant to 49 U.S.C. § 11303 to be searched and no record has been found of any interest in or claim, lien, security interest or other encumbrance against any unit of the Equipment in such Group or against the CSA which would rank prior to or equal with rights of the Assignee in such units or in the Conditional Sale Agreement, (vi) registration of the CSA, this Assignment or the Certificates of Interest issued under the Finance Agreement is not required under the Securities Act of 1933, as amended, and qualification of an indenture with respect thereto is not required under the Trust Indenture Act of 1939, as amended, and (vii) the opinions of counsel specified in clauses (e) and (f) of this Section 4 are satisfactory in scope and form to such special counsel and such counsel believes that the Investors are justified in conclusively relying thereon; and such opinion shall also cover such other matters as may reasonably be requested by the Investors;

(e) an opinion of counsel for the Railroad, dated as of such Closing Date, in substantially the form of Exhibit A hereto;

(f) an opinion of counsel for each Builder whose Equipment is being settled for on such Closing Date, dated as of such Closing Date, stating that (i) such Builder is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the CSA has been duly authorized, executed and delivered by such Builder and,

assuming the due authorization, execution and delivery thereof by the other parties thereto, is a legal and valid instrument binding upon such Builder and enforceable against such Builder in accordance with its terms and (iii) this Assignment has been duly authorized, executed and delivered by such Builder and, assuming the due authorizations, execution and delivery hereof by the other parties hereto, is a legal and valid instrument binding upon such Builder, (iv) the Assignee is vested with all the rights, title, interests, powers and privileges purported to be assigned to it by such Builder under this Assignment and (v) title to the units of the Equipment in such Group attributable to such Builder is validly vested in the Assignee and title to such units, at the time of delivery thereof to the Railroad under the CSA, was free from all claims, liens, security interests and other encumbrances (other than those created by the CSA);

(g) a receipt from each Builder whose Equipment is being delivered on said Closing Date for any payment required to be made on such Closing Date to such Builder with respect to its Equipment;

(h) an Officers' Certificate dated as of such Closing Date, to the effect (i) that there has been no amendment to the charter or By-laws of the Railroad since July 21, 1988, (ii) that the representations and warranties of the Railroad contained in Article 15 of the CSA and Paragraph 10 of the Finance Agreement are true and correct, (iii) that no Event of Default (as defined in the CSA), or event which with the lapse of time and/or demand provided for in the CSA could constitute an Event of Default, shall have occurred and is then continuing, (iv) that no tax liens (including tax liens filed pursuant to Section 6323 of the Internal Revenue Code of 1986, as amended) have been filed and are currently in effect which would adversely affect the security interest of the Assignee in the Equipment, (v) that no taxes, assessments or governmental charges or levies are delinquent as to the Equipment and (vi) that no units of equipment presented for settlement on such Closing Date shall have suffered in any material respect any Casualty Occurrence (as defined in Article 8 of the CSA); and

(i) a certificate of each Builder, dated as of such Closing Date, signed by an authorized representative of such Builder to the effect that the representations and warranties contained in Section 6 hereof are true and correct as of such date.

In giving the opinions specified in subparagraphs (d), (e) and (f) of this Section 4, counsel may qualify any opinion to the effect that any agreement is a legal, valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. In giving the opinions specified in subparagraphs (d) and (e) of this Section 4, counsel may rely on the opinion of counsel for each Builder as to title to such Builder's Equipment at the time of delivery thereof under the CSA; and in giving the opinion specified in said subparagraph (d), counsel may rely, without independent investigation, as to any matter governed by the law of any jurisdiction other than New York or the United States, on the opinion of counsel for either Builder or the opinion of counsel for the Railroad as to such matter. Prior to any Closing Date, any document specified in subparagraphs (d), (e), (f), (g), (h) and (i) of this Section 4 delivered to the Assignee pursuant to the first paragraph of this Section 4 in respect of such Closing Date shall be deemed to be held by the Assignee in escrow for the benefit of the party delivering such document, and shall be deemed released from such escrow into the possession of the Assignee on such Closing Date unless, prior to such Closing Date, the Assignee shall have received telephone direction from such party, promptly followed by written confirmation, to return such document to such party upon which the Assignee shall comply with such direction and such document shall not be deemed to have been delivered to the Assignee pursuant to the first paragraph of this Section 4, in which event the Assignee shall not make payment for the Equipment pursuant to that paragraph.

The Assignee shall not make payment for the Equipment assigned hereunder if it has actual knowledge of an Event of Default, or any event which with the lapse of time and/or demand provided for in the CSA could constitute an Event of Default (a "Default"), which has occurred and is continuing under the CSA. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to such Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee, except that, if the Assignee shall not make payment in respect of a supplemental invoice for any Equipment after having made a payment in respect of a preliminary invoice for such Equipment, the Assignee shall retain all right, title and interest in and to such Equipment, but such Builder shall retain, as an unsecured obligation, the right to receive and collect from the Railroad (but not from the Assignee) the payment due under such supplemental invoice.

SECTION 5. The Assignee may assign all or any of its rights under this Assignment and the CSA, including the right to receive any payments due or to become due to it from the Railroad thereunder, without the consent of the Builders. In the event of any such assignment any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. Each Builder hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the CSA and this Assignment have been duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery hereof and thereof by the other parties hereto and thereto, each of the CSA and this Assignment is a valid agreement binding upon it in accordance with its terms and that each of the CSA and this Assignment is in force without amendment thereto;

(b) agrees to the assignment under the Finance Agreement by the Railroad to the Assignee and its successors and assigns of all of the Railroad's rights, powers, privileges and remedies under the CSA against such Builder, subject to any limitation of liability of such Builder set forth in Schedule A to the CSA, including, without limitation, the Railroad's rights under the warranties provided by such Builder under Article 14 of the CSA and any agreements by any vendors of specialties obtained by such Builder pursuant to its warranties, provided that such assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Railroad toward such Builder under the CSA, and provided further that such assignment shall exclude, and the Railroad shall retain its rights to the indemnification under such Article 14 as described in Item (3) of Schedule A attached to the CSA; provided further that the Railroad shall continue to be bound by any limitation of liability of a Builder set forth in Schedule A to the CSA;

(c) represents, assuming the completeness and accuracy of the representations of the Investors (as defined in the Finance Agreement) set forth in Paragraph 10 of the Finance Agreement, that it has not entered into the CSA and is not entering into this Assignment, directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"));

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

(e) agrees that, upon request of the Assignee, its successors and assigns, it will execute any and all instruments which may be necessary or proper in order to discharge of record the CSA or any other instrument evidencing any interest of such Builder therein or in the Equipment of such Builder.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all the rights conferred by 49 U.S.C. § 11303 and such additional rights arising out of filing, recording, or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this agreement or any assignment hereof or any finance agreement or financing statement or other similar instrument in respect of this agreement or any assignment hereof shall be filed, recorded or deposited.

SECTION 8. The rights and obligations of the Builders under this Agreement are several in accordance with their interests and not joint. Accordingly, whenever this Agreement, by the use of such designation as "the Builder", "such Builder" or other similar term, confers a right or imposes an obligation upon any corporation named in the first paragraph hereto or its successor, such right or obligation shall be construed to accrue to or to be enforceable against only the specific corporation furnishing the units of Equipment giving rise to such right or obligation and its successors as herein provided.

SECTION 9. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. Although this Assignment is dated for convenience as of the date first set forth above, 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.

SECTION 10. The representations, warranties and the covenants of each Builder made herein shall remain operative and in full force and effect regardless of (a) any investigation made

by or on behalf of the Assignee or the Investors, or (b) payment for or the assignment of any unit or units of Equipment hereunder.

SECTION 11. All documents and notices deliverable hereunder to the Assignee shall be delivered to its address at One Wall Street, New York, New York 10015, Attention: Corporate Trust Administration, or as the Assignee may otherwise specify. All documents and notices deliverable hereunder to Brown & Wood shall be delivered to its address at One World Trade Center, 58th Fl., New York, New York 10048, Attention: Richard D. Rudder.

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

GENERAL ELECTRIC COMPANY

[CORPORATE SEAL]

by

Attest:

[Name]
[Title]

[Title]

GENERAL MOTORS CORPORATION

[CORPORATE SEAL]

by

Attest:

[Title]

[Title]

IRVING TRUST COMPANY,
as Agent, Assignee

[CORPORATE SEAL]

by

Attest:

Authorized Officer

Assistant Secretary

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

On this ___ day of July, 1988, before me personally appeared W. S. Butler, to me personally known, who, being by me duly sworn, says that he is the

_____ of GENERAL ELECTRIC COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[NOTARIAL SEAL]

My Commission expires:

)
) ss.:
)

On this ___ day of July, 1988, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is _____ of GENERAL MOTORS CORPORATION, Electro Motive Division, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[NOTARIAL SEAL]

My Commission expires:

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

On this ____ day of July, 1988, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that she is an Assistant Vice President of IRVING TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[NOTARIAL SEAL]

My Commission expires:

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY hereby acknowledges due notice of and consents to the assignment made by the foregoing Agreement and Assignment as of July 1, 1988.

ST. LOUIS SOUTHWESTERN RAILWAY
COMPANY

By _____
Treasurer

Form Approved:

Attorney

AGREEMENT AND ASSIGNMENT

July 20, 1988

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

I, MARGARETH.C.HZEIH, do hereby certify that I am a notary public in and of the State of New York and further certify that I have examined a fully executed and acknowledged counterpart of a certain agreement and assignment, dated as of July 1, 1988, by and among Irving Trust Company, General Electric Company and General Motors Corporation and compared it to the copy being submitted herewith and have found the copy to be complete and identical to the original in all respects.

Margaret H. C. Hzeih
Notary Public

[Seal]

My Commission Expires:

MARGARET H. C. HZEIH
Notary Public, State of New York
No. 41-4845432
Qualified in Queens County
Certificate Filed in New York County
Commission Expires January 5, 1990