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RECORDATION NO. 19542 FILED 1995
JUL 28 1995 - 11 00 AM
INTERSTATE COMMERCE COMMISSION

ALVORD AND ALVORD
ATTORNEYS AT LAW
918 SIXTEENTH STREET, N.W.
SUITE 200
WASHINGTON, D.C.
20006-2973
(202) 393-2266
FAX (202) 393-2156

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

OF COUNSEL
URBAN A. LESTER

July 28, 1995

RECEIVED
OFFICE OF THE
SECRETARY
JUL 28 10 50 AM '95
LICENSING BRANCH

Mr. Vernon A. Williams
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are two (2) copies of an Agreement, dated as of July 24, 1995, a primary document as defined in the Commission's Rules for the Recordation of Documents under 49 C.F.R. Section 1177.

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

Lessor: General Electric Company
2901 East Lake Road
Erie, Pennsylvania 16531

Lessee: National Railroad Passenger Corporation
60 Massachusetts Avenue, N.E.
Washington, DC 20002

A description of the railroad equipment covered by the enclosed document is:

Ten (10) Dash 8-32 locomotives AMTK 700 - AMTK 709, inclusive.

Quik.
Counterpart -

Mr. Vernon A. Williams
July 28, 1995
Page 2

Also enclosed is a check in the amount of \$21.00 payable to the order of the Interstate Commerce Commission covering the required recordation fee.

Kindly return one stamped copy of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "R. Alvord", written in a cursive style.

Robert W. Alvord

RWA/bg
Enclosures



Interstate Commerce Commission
Washington, D.C. 20423-0001

Office Of The Secretary

Robert W. Alvord
Alvord and Alvord
918 Sixteenth Street, N.W.
Washington, DC. 20006-2973

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 7-28-95 at 11:AM, and assigned recordation number(s). 19542.

Sincerely yours,

Vernon A. Williams
Secretary

Enclosure(s)

\$ 21.00 The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

Signature

JUL 28 1995 - 11 00 AM

THIS AGREEMENT, dated as of July 24, 1995, between GENERAL ELECTRIC COMPANY, a New York corporation ("GE") and NATIONAL RAILROAD PASSENGER CORPORATION ("Amtrak").

W I T N E S S E T H :

WHEREAS, GE and Amtrak have entered into an agreement dated December 31, 1990, and amended from time to time in accordance with its terms (as so amended, the "Purchase Agreement") calling for GE to manufacture and deliver to Amtrak, and Amtrak to accept and pay for, among other things, ten (10) Dash 8-32 BPH locomotives, also referred to as ten (10) AMD 110 AC Dual Mode locomotives (collectively, the "Locomotives"); and

WHEREAS, Amtrak intends to finance the purchase of the Locomotives from GE pursuant to one or more permanent forms of financing (the "Financing"), but delivery of the Locomotives is scheduled to begin prior to the time Amtrak will have completed said Financing; and

WHEREAS, Amtrak desires that it be permitted to use the Locomotives pending establishment of such Financing, solely as a bailee thereof, and GE is willing to grant such temporary custody and possession to Amtrak upon the terms and conditions hereinafter provided;

NOW THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound hereby, the parties hereto agree as follows:

1. GE, as lessor, hereby agrees to deliver pursuant to the Purchase Agreement the Locomotives (as more particularly described in Exhibit A) to Amtrak, as lessee, FOB GE's Erie, Pennsylvania plant, as of the date each of them is tendered pursuant to the Purchase Agreement for acceptance by Amtrak. Amtrak covenants to GE that the Financing will be established and the purchase price for the Locomotives paid, not later than December 15, 1995 (time being of the essence) for all Locomotives. On the date the purchase price of any Locomotives is paid to GE, GE shall deliver a bill of sale to Amtrak, and this Agreement shall automatically terminate with respect to such Locomotive without further action by or notice to either party hereto, except for those provisions which, in order to be given effect, should survive termination.

2. Amtrak agrees to pay to GE daily rent for each such Locomotive equal to the unit price for such Locomotive, multiplied by three-month LIBOR plus 125 basis points determined two days prior to acceptance of the first Locomotive delivered to Amtrak and divided by 365, for each day commencing on the first day of the month immediately following the month in which such Locomotive is delivered by GE to Amtrak and ending on the day immediately preceding the date Amtrak pays to GE the purchase price for such Locomotive; provided, however, in the event the purchase price for any Locomotive is not paid by December 15, 1995, daily rent after such date shall be calculated on the basis of a floating rate of interest equal to the annual prime or reference rate of interest charged from time to time by Citibank N.A. plus 250 basis points. Accrued rent shall be paid in arrears monthly within 10 days of receipt of invoice and, with respect to any Locomotive, on the date the purchase price for such Locomotive is paid to GE. .

3. Upon delivery of each Locomotive, Amtrak's representative shall inspect such Locomotive and, if acceptable as provided by the Purchase Agreement, shall execute an Acceptance Notice (Exhibit D of the Purchase Agreement) accepting such Locomotive, with such exceptions as may be appropriate under the Purchase Agreement. For purposes of securing all of Amtrak's obligations hereunder and under the Purchase Agreement with respect to the Locomotives, including, but not limited to, payment of the purchase price therefor, at all times during the term hereof GE shall and hereby does retain the full legal title to and property in the Locomotives, notwithstanding the delivery of the Locomotives to and the possession and use thereof by Amtrak as provided in this Agreement. Amtrak's rights and interest in the Locomotives shall be solely that of possession, custody and use hereunder.

4. Amtrak shall do such acts as may be required by law or reasonably requested by GE for the protection of GE's title to and security interest in the Locomotives.

5. Amtrak agrees that the execution by GE of this Agreement or the delivery by GE of the Locomotives as contemplated by this Agreement, shall not relieve Amtrak of its obligations to accept, take and pay for the Locomotives in accordance with the terms of the Purchase Agreement.

6. In issuing a Bill of Sale to Amtrak, GE shall only be obligated to warrant that title to the Locomotive was free of all claims, liens, security interests and other encumbrances arising from, under or through GE at the time of delivery hereunder, and GE shall not be responsible for claims, liens, security interests or other encumbrances arising thereafter from, under or through others, including, but not limited to, Amtrak.

7. Amtrak shall permit no liens or encumbrances of any kind to attach to the Locomotives. This provision shall apply until GE shall have been paid the purchase price for the Locomotives and shall have delivered its Bill of Sale. GE shall see that there shall be plainly, distinctly and conspicuously marked upon each Locomotive the following legend in letters not less than one inch in height:

OWNERSHIP SUBJECT TO SECURITY
AGREEMENTS FILED WITH THE
INTERSTATE COMMERCE COMMISSION

If, during the term of this Agreement, such marking shall at any time be removed, defaced or destroyed, Amtrak shall immediately cause the same to be restored or replaced. Amtrak hereby agrees to indemnify GE against and save GE harmless from any and all claims, damages, losses, expenses or liabilities of whatsoever kind incurred by GE as a result of Amtrak's failure to comply with this paragraph 7.

8. Except to the extent otherwise provided in the Purchase Agreement, Amtrak shall defend GE against and indemnify and save GE harmless from any and all claims, damages, losses, expenses or liabilities of whatsoever kind, including, but not limited to attorneys' fees and costs, which may arise during the time any of the Locomotives are in the possession of Amtrak under this Agreement, including but not limited to, claims of third parties (including, but not limited to,

employees of Amtrak) for personal injury (including, but not limited to, death) and claims of Amtrak or third parties for loss of, damage to or loss of use of any property, caused by or in any way related to the use or operation of the Locomotives. Except to the extent otherwise provided in the Purchase Agreement, Amtrak shall furthermore pay any and all fines, charges and penalties that may accrue or be assessed or imposed upon the Locomotives or GE because of GE's ownership thereof or because of the use, operation, management, maintenance, repair or handling of the Locomotives during the term of this Agreement. Amtrak agrees that GE shall not be liable for any tax (other than such a tax on income of GE) that may accrue or be assessed or imposed upon the Locomotives or GE by virtue of this Agreement or the arrangement contemplated hereby and shall promptly pay GE for any such tax accrued, assessed or imposed. The obligations of Amtrak described in this Paragraph 8 shall survive termination of this Agreement.

9. Amtrak shall, at its own expense, keep and maintain the Locomotives in good order and running condition, and shall, at its option, repair or promptly pay in full to GE the purchase price as set forth in the Purchase Agreement for any of the Locomotives which may be damaged or destroyed by any cause during the term of this Agreement other than any damage or destruction caused by a breach of the warranties provided by GE under the Purchase Agreement or by any action of GE for which GE has agreed to indemnify Amtrak under the Purchase Agreement.

10. By execution of this Agreement, neither of the parties waives any provisions of the Purchase Agreement relating to warranty, exclusion of certain warranties, remedies (and limitation of remedies) and limitation of liability and indemnities.

11. In the event Amtrak shall breach any term or provision of this Agreement including, without limitation, (i) any failure to cause the proceeds of any Financing to be applied to the payment in full of the purchase price for the Locomotives as invoiced by GE, or, (ii) if any Financing is not entered into on or before the dates required by Paragraph 1, any failure to pay in full the purchase price for the Locomotives on or before such date, then GE may, in addition to any other remedies it may have to recover such purchase price and any unpaid amount hereunder (and no other amounts except as provided under clause (c) below), enter upon the premises of Amtrak or such other premises where the Locomotives may be and take possession of the Locomotives, and thenceforth hold, possess and enjoy the same free from any right of Amtrak or its successors or assigns. In such event, unless GE has received the purchase price and any amount due hereunder for the Locomotives (in which case GE shall return the Locomotives and convey title thereto to Amtrak), GE may use the Locomotives for any purposes whatever, and may sell (in a commercially reasonable manner) and deliver the Locomotives to others upon such terms as GE may reasonably see fit, it being understood and agreed that Amtrak shall remain liable to GE for: (a) An amount equal to any difference in the price paid by such other parties and the purchase price due from Amtrak under the Purchase Agreement, plus: (b) Any other unpaid amount hereunder, plus: (c) An amount equal to all expenses of GE incident to such sale including, but not limited to, the expenses of withdrawing the Locomotives from the service of Amtrak, providing for the care and custody of the Locomotives, and preparing the Locomotives for sale, and GE shall, in such event, return to Amtrak any remaining portion of the proceeds from any such third-party sale left after deduction of the foregoing and any other amounts due GE. In

the event that the amounts due GE exceed any remaining portion of the proceeds from any such third-party sale, Amtrak shall pay to GE such additional amounts due upon demand by GE.

12. Amtrak and GE each represent and warrant to the other that:

(a) It is a duly organized and validly existing corporation in good standing under the laws of its state of incorporation, duly qualified to do business in such jurisdictions as are necessary to carry out the transactions contemplated by this Agreement and that it has power and authority to own its properties and carry on its business as now conducted;

(b) The execution and delivery of this Agreement is within its corporate authority, has been authorized by proper corporate proceedings and will not contravene any provision of law or of its charter or by-laws nor contravene nor constitute a default under the provisions of any agreement or other instrument binding upon it, and this Agreement is a valid and binding obligation, enforceable, subject to applicable insolvency, bankruptcy or moratorium laws, against it in accordance with its terms;

(c) No governmental authorizations, approvals or exemptions are required for the execution and delivery of this Agreement or for the validity and enforceability hereof or the bailment of the Locomotives hereunder on the terms and conditions provided herein, or, if any such authorizations are required, they have been obtained and, if any such shall hereafter be required, they will promptly be obtained.

13. To the extent inconsistent herewith, the terms of the Purchase Agreement shall be superseded by the terms of this Agreement.

14. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any party hereto may execute this Agreement by signing one or more counterparts.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its authorized representative effective as of the date first above written.

NATIONAL RAILROAD PASSENGER
CORPORATION

By: 
Name: Brian Adam
Title: Treasurer

GENERAL ELECTRIC COMPANY

By: _____
Name: Robert H. Swan
Title: Manager
Transportation Finance Operation

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its authorized representative effective as of the date first above written.

NATIONAL RAILROAD PASSENGER
CORPORATION

By: _____
Name: Brian Adam
Title: Treasurer

GENERAL ELECTRIC COMPANY

By: Robert N. Swan
Name: Robert H. Swan
Title: Manager
Transportation Finance Operation

ANNEX A

LOCOMOTIVES

<u>Description of GE Locomotives</u>	<u>Road Numbers</u>	<u>GE Serial Numbers</u>
AMD 110 AC Dual Mode Locomotives more particularly described in the Purchase Agreement	700-709	47921-47929

Commonwealth of Pennsylvania)
) ss:
County of Erie)

On this 21st day of July, 1995 before me personally appeared Robert Swan, to me personally known, who, being by me duly sworn, says that he is Manager of Transportation Finance Operations of General Electric Company, that the foregoing instrument was executed 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]



Notary Public

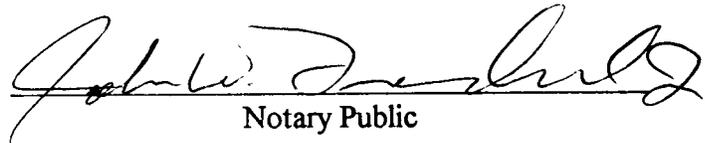
My Commission expires:

Notarial Seal
Carol A. Wahlen, Notary Public
Erie, Erie County
My Commission Expires Dec. 12, 1998
Member, Pennsylvania Association of Notaries

District of Columbia)
) ss:
)

On this 24th day of July, 1995, before me personally appeared Brian Adam, to me personally known, who, being by me duly sworn, says that he is the Treasurer of National Railroad Passenger Corporation, that the foregoing instrument was executed 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]


Notary Public

My Commission expires: 11/12000