



Daniel A Rowley
Counsel

General Electric Company
2901 East Lake Road Erie PA 16531
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0100015052

October 12, 1993

VIA FEDERAL EXPRESS

Ms. Mildred Lee
Interstate Commerce Commission
12th and Constitution Avenue, N.W.
Room 2302
Washington, D.C. 20423

18437
RECEIVED NO. FILED

OCT 14 1993 - 3 16 PM

INTERSTATE COMMERCE COMMISSION

Subject: Recordation of Locomotive Lease

Dear Ms. Lee:

Enclosed for recordation, under the provisions of 49 U.S.C. §11303 and the regulations thereunder, is an original and one copy/counterpart of an Interim User Agreement, dated as of October 10, 1993, between General Electric Company ("Lessor"), and National Railroad Passenger Corporation ("Lessee"), a primary document.

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

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

LESSEE: National Railroad Passenger Corporation
60 Massachusetts Avenue, S.E.
Washington, D.C. 20002

LICENSING BRANCH

OCT 14 3 16 PM '93

RECEIVED
OFFICE OF THE
SECRETARY

A general description of the locomotive(s) covered by the enclosed documents is attached hereto as Schedule I. Also enclosed is a remittance in the amount of \$18.00 for the required recording fee.

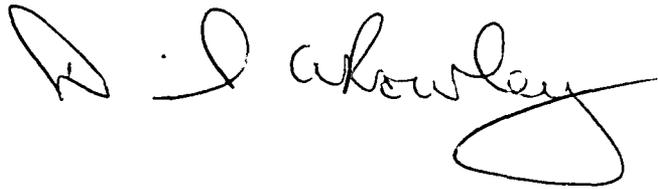
The undersigned is Counsel and Attesting Secretary of General Electric Company. Please return the original and any extra copies not needed by the Commission for recordation to Daniel A. Rowley, General Electric Company, 2901 East Lake Road, Building 14-5, Erie, Pennsylvania 16531.

A short summary of the document to appear in the index follows:

PRIMARY DOCUMENT

Interim User Agreement, dated as of October 10, 1993, between General Electric Company ("Lessor") and National Railroad Passenger Corporation ("Lessee"), relating to 19 General Electric Diesel Electric Locomotives bearing Road Numbers 825-843.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. J. Crowley". The signature is written in a cursive style with a large, looping flourish at the end.

Enclosures

/am

SCHEDULE I

Description of Locomotives

<u>Type of Equipment</u>	<u>Number of Units</u>	<u>Road Numbers</u>
General Electric Diesel Electric Locomotives	19	825-843

Interstate Commerce Commission
Washington, D.C. 20423

10/14/93

10/15/93

OFFICE OF THE SECRETARY

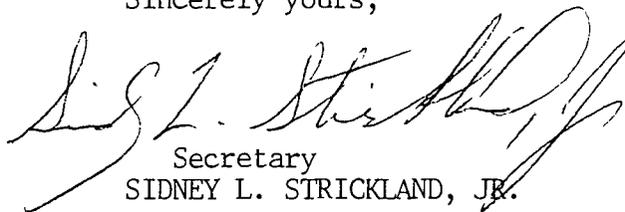
Daniel A. Rowley
Counsel
General Electric Company
2901 East Lake Road
Erie, Pennsylvania 16531

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 10/14/93 at 3:25pm, and assigned
recording number(s).
18437

Sincerely yours,



Secretary
SIDNEY L. STRICKLAND, JR.

Enclosure(s)

THIS AGREEMENT, dated as of October 10, 1993, between GENERAL ELECTRIC COMPANY, a New York corporation ("GE") and NATIONAL RAILROAD PASSENGER CORPORATION ("Amtrak").

REC-100 10437

OCT 14 1993 3:00 PM

WITNESSETH:

INTERSTATE COMMERCE COMMISSION

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, nineteen (19) AMD series Dash 8-40BPH 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 released pursuant to the Purchase Agreement from manufacturing, for acceptance by Amtrak in Erie, Pennsylvania for all units numbers 825-843. Amtrak covenants to GE that the Financing will be established and the purchase price for the Locomotives paid, not later than December 31, 1993, (time being of the essence) for all Locomotives delivered on or before December 31, 1993. Amtrak may pay the purchase price for any of the Locomotives in advance of December 31, 1993. On the date the purchase price of any Locomotive 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. On the date the purchase price for the Locomotives is paid, Amtrak agrees to pay to GE, as rent for each such Locomotive, a sum equal to the unit price for such Locomotive, multiplied by four percent, and divided by 365, for each day from the last calendar day in the month during which Amtrak has accepted such Locomotive pursuant to Section 1 until payment of the purchase price is received. In the event, payment of the purchase price is not received by GE and GE grants a further

extension of this Agreement beyond December 31, 1993, the rent for each such Locomotive will be calculated as indicated above at an annual rate of LIBOR plus 200 basis points for a period from January 1, 1994 until payment of the purchase price. Nothing in the preceding shall be deemed a waiver of any other rights GE may have whether under this Agreement, by law or otherwise.

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 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, as amended hereby.

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 that are subject to this Agreement. 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 that are subject to 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 that are subject to this Agreement 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 whatsoever, 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 cause this Agreement to be executed by its authorized representative effective as of the date first above written.

NATIONAL RAILROAD PASSENGER
CORPORATION

BY _____
TITLE _____

GENERAL ELECTRIC COMPANY

BY Robert J. Warden
TITLE President, TSO

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

NATIONAL RAILROAD PASSENGER CORPORATION

BY *[Signature]*
TITLE Treasurer

GENERAL ELECTRIC COMPANY

BY _____
TITLE _____

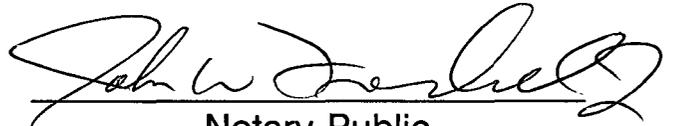
ANNEX A

LOCOMOTIVES

<u>Description of GE Locomotives</u>	<u>Road Numbers</u>	<u>GE Serial Numbers</u>
AMD Series Dash 8-40BP Locomotives more particularly described in the Purchase Agreement	825-843	

On this 11th day of October, 1993, before me personally appeared Richard I. Klein, to me personally known, who, being by me duly sworn, says that he is Treasurer of National Railroad Passenger Corporation, that the foregoing instrument was executed on behalf of said corporation, 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: 1/1/95